

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

Agency Name: Ohio Environmental Protection Agency

Regulation/Package Title: Water Pollution Control Loan Fund

Rule Number(s): Ohio Administrative Code Rule 3745-150-01 through 3745-150-15  
authorized by Ohio Revised Code 6111.036

Date: March 22, 2017

**Rule Type:**

New

X5-Year Review

Amended

Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

### **Regulatory Intent**

1. Please briefly describe the draft regulation in plain language.

*Please include the key provisions of the regulation as well as any proposed amendments.*

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*The following rules (Ohio Administrative Code Rules 3745-150-01 through 3745-150-15) help Ohio EPA implement the Ohio Water Pollution Control Loan Fund, authorized by Ohio Revised Code (ORC) Section 6111.036.*

**Please list the Ohio statute authorizing the Agency to adopt this regulation.** *Ohio Revised Code 6111.036*

- 2. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

*Yes – 40 CFR 33 and 40 CFR Part 35 Subpart K; 2 CFR 200 and 2 CFR 1500*

*U.S. Environmental Protection Agency – (U.S. EPA) intends to implement the State water pollution control revolving fund program in a manner that preserves for States a high degree of flexibility for operating their revolving funds in accordance with each State's unique needs and circumstances. The purpose of these regulations is to advance the general intent of title VI of the Clean Water Act, which is to ensure that each State's program is designed and operated to continue providing assistance for water pollution control activities in perpetuity.*

- 3. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

*Regulation does not exceed the federal requirement – the rules satisfy the federal requirement of Ohio receiving a clean water state revolving loan fund capitalization grant.*

- 4. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

*To ensure that the State's program is designed and operated to continue to provide assistance for water pollution control activities in perpetuity and according to federal regulations attached per Congressional appropriation, in order for the State of Ohio Environmental Protection Agency to receive annual capitalization grants.*

- 5. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

*The Agency will measure the success of this regulation by the following criteria:*

- a. Volume of loans provided to Ohio communities below market interest rates (i.e., in 2016 Ohio EPA provided over \$611 million dollars to local communities for wastewater infrastructure activities; and,*
- b. Improvements in Ohio's water quality (rivers, streams, etc.)*

## **Development of the Regulation**

- 6. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation.**

*Municipalities, counties, sewer districts and sewer authorities are the most frequent recipients of loans. An Email communication was sent to all of our interested parties on December 14<sup>th</sup>, and at the end of the 30-day comment period (January 9<sup>th</sup>, 2017), we received nothing from any interested party.*

- 7. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

*An Email communication was sent to all of our interested parties on December 14<sup>th</sup>, and at the end of the 30-day comment period (January 9<sup>th</sup>, 2017), we did not receive any public comments.*

- 8. What scientific data was used to develop the rule or the measurable outcomes of the rule? N/A How does this data support the regulation being proposed? N/A**

- 9. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? None. If none, why didn't the Agency consider regulatory alternatives?**

*Ohio EPA-DEFA mirrored their rules after the Ohio Administrative Code. 6111.036, as they mirror the federal requirements for operating a state revolving loan fund.*

- 10. Did the Agency specifically consider a performance-based regulation? No. Please explain.**

*Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.*

- 11. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation? The regulation follows the Ohio Administrative Code Section 6111.036.**

- 12. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community. (The Water Pollution Control Loan fund is a voluntary program communities are able to participate in to save their sewer rate payers monthly/quarterly fees as applicable.)**

### **Adverse Impact to Business**

- 13. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**
- a. **Identify the scope of the impacted business community;** *The community would benefit from the receipt of a clean water loan through the Water Pollution Control Loan fund as it's a below market interest rate program. Those infrastructure improvements would most likely also benefit businesses located in those communities.*
  - b. **Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and** *(There would be no adverse impact to our loan recipients, as we would be saving the communities rate payers payment on sewer bills).*
  - c. **Quantify the expected adverse impact from the regulation.** *The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact. (Not applicable)*
- 14. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?** *Not applicable.*

### **Regulatory Flexibility**

- 15. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.** *Not applicable – we are not a regulatory division.*
- 16. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?** *Not applicable – we are not a regulatory division.*
- 17. What resources are available to assist small businesses with compliance of the regulation?** *The Division of Environmental and Financial Assistance section (Project Coordination/Planning and Engineering staff) are able to assist communities with the completion of the loan nomination and application documents needed to apply for a clean or drinking water loan.*