



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Angela Hawkins, Public Utilities Commission of Ohio

FROM: Ethan Wittkorn, Regulatory Policy Advocate

DATE: December 23, 2020

RE: CSI Review – Safety Standards (OAC 4901:2-5-01, 4901:2-5-02, 4901:2-5-03, 4901:2-5-04, 4901:2-5-05, 4901:2-5-07, 4901:2-5-08, 4901:2-5-10, 4901:2-5-11, 4901:2-5-13, 4901:2-5-14, and 4901:1-21-15)

On behalf of Lt. Governor Jon Husted, and pursuant to the authority granted to the Common Sense Initiative (CSI) Office under Ohio Revised Code (ORC) section 107.54, the CSI Office has reviewed the abovementioned administrative rule package and associated Business Impact Analysis (BIA). This memo represents the CSI Office's comments to the Commission as provided for in ORC 107.54.

Analysis

This Public Utilities Commission of Ohio (Commission) rule package consists of four amended and eight no change rules. The rules were submitted to the CSI Office on August 26, 2020, and the public comment period was open through September 25, 2020. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on August 26, 2020.

The proposed rules in this package include safety standards for motor carriers, excepted carriers, hazardous materials transporters, and offerors. The Commission proposes amendments to codify expectations that drivers comply with reasonable requests during an inspection and update the "planting and harvesting season" to recognize that farming is a year-long activity. Also, amendments reflect that the Commission will no longer issue new provisional medical certificates to drivers with diabetes mellitus treated with insulin or renewing existing certificates to drivers who fall under this category. The changes are being made to work with federal updates that provide a process for drivers

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with insulin-dependent diabetes mellitus to qualify as a commercial motor vehicle (CMV) operator in interstate commerce, making the medical waiver obsolete.

During the period of early stakeholder outreach, the Commission held a workshop with stakeholders to discuss any concerns with the rules. They shared a notification of the workshop with the Ohio Trucking Association, National Tank Truck Carriers, Inc., Ohio Department of Transportation (ODOT), Ohio State Highway Patrol (OSHP), the Ohio Railroad Association, interested parties of the railroad and transportation industries that requested notification, the Ohio State Legislative Board/United Transportation Union, and all other interested persons that request notification. The Commission said that no stakeholders participated in the workshop.

During the CSI public comment period, no parties submitted comments. However, Commission staff made some suggestions for some of the amendments mentioned above.

These rules affect motor carriers, excepted carriers (a for hire motor carrier), hazardous material transporters, and offerors. Adverse impacts identified by the Commission include time to comply with the rules-- time to ensure divers meet necessary qualifications, time to comply with safety standards, time for a CMV driver to obtain provisional medical certification, and time to provide the Commission with access to documents and property for inspections. Additional impacts include compliance with out-of-service declarations for vehicles deemed a hazard until defects have been remedied and with federal marking requirements. The Board states the purpose of the rules is to ensure that highway transportation of persons and property is safe and efficient; in addition to fulfilling statutory requirements in ORC 4923.04 to adopt applicable transportation rules. Furthermore, the Commission must ensure that rules are compatible with federal law to continue to receive funding through the Motor Carrier Safety Assistance Program; suggested staff updates help to meet this goal.

Recommendations

Based on the information above, the CSI Office has no recommendations on this rule package.

Conclusion

The CSI Office concludes that the Commission should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.