



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Sean McCullough, Director

MEMORANDUM

TO: Angela Hawkins, PUCO Chief Counsel

FROM: Sean McCullough, CSI Director

DATE: March 15, 2022

RE: CSI Review – Forfeiture and Compliance Orders (Ohio Admin. Code Chapter 4901:2-7)

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 Board as provided for in ORC 107.54.

Analysis

This Public Utilities Commission of Ohio (PUCO) rule package consists of 16 no-change and two amended rules. It was submitted to the CSI Office on July 28, 2021, and the public comment period was open through September 15, 2021. Unless otherwise noted below, this recommendation reflects the version of the proposed rules filed with the CSI Office on July 28, 2022.

The proposed rules govern civil forfeiture compliance of certain regulated entities such as motor carriers, drivers, shippers and hazardous waste transporters. These rules were proposed under the five-year rule review requirement.

On June 29, 2021, the PUCO held a workshop to enable stakeholders to propose amendments and comments to the proposed rules. No stakeholders attended the workshop. PUCO staff then proposed to the commission a few amendment to the rule. They proposed adding a video conference option for conferences with PUCO staff. The PUCO staff also proposed rising the minimum dollar level of civil forfeiture required to be approved by the PUCO to be raised from \$5,000 to \$10,000. The PUCO staff did not advise any additional changes. Through an entry issued on July 28, 2021, the

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PUCO submitted these rules for public comment open until September 15, 2021. There were no public comments submitted during the comment period.

The PUCO initially states that the business community for which for which adverse impacts occur pursuant to these rules includes motor carriers, hazardous materials transporters, drivers, and shippers operating in Ohio. However, the PUCO then states that there are no adverse impacts contained in the rules.

It may be useful to note that R.C. 119.03 requires an agency to determine if proposed rules contain adverse impacts to business. If the agency does identify adverse impacts, they are to be filed with CSI. If they do not, the agency shall then proceed to file with JCARR without filing with CSI. It may also be useful to note that if JCARR determines that rules filed directly with it do contain an adverse impact, JCARR may send those rules to CSI for review.

Recommendations

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

Conclusion

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