

Common Sense
InitiativeMike DeWine, Governor
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Business Impact Analysis**Agency, Board, or Commission Name:**

Public Utilities Commission of Ohio

Rule Contact Name and Contact Information:Angela Hawkins, Legal Director (Angela.Hawkins@puco.ohio.gov) 614-466-0122 office;
614-728-8373 fax**Regulation/Package Title (a general description of the rules' substantive content):**Ohio Adm.Code Chapter 4901:2-22 Towing of Motor Vehicles**Rule Number(s):** 4901:2-22-01; 4901:2-22-02; 4901:2-22-03; 4901:2-22-04; 4901:2-22-05; 4901:2-22-06; 4901:1-22-07**Date of Submission for CSI Review:** September 21, 2022**Public Comment Period End Date:** October 19, 2022**Rule Type/Number of Rules:**

New/___ rules

No Change/_4___ rules (FYR? Yes)

Amended/_3___ rules (FYR? Yes)

Rescinded/___ rules (FYR? ___)

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The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. ☐ Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. ☐ Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. ☐ Requires specific expenditures or the report of information as a condition of compliance.
- d. ☒ Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

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

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

The rules in Chapter 4901:2-22 provide for the safety standards for the type of equipment necessary to safely tow motor vehicles, establish standards for the removal of a vehicle, and establish an after-hours retrieval fee.

Any and all amendments to these proposed rules under Chapter 4901:5 are made pursuant to Ohio Revised Code 121.951(A)(1) that requires state agencies to reduce their total number of regulatory restrictions. The amendments have been made to streamline the procedure for ensuring towing safety standards.

- 3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.**

The statutory authority for the Commission to adopt the rules in Ohio Adm.Code Chapter 4901:2-22 is found in R.C. 4921.25 and R.C. 4513.67.

- 4. 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.

No.

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

Not applicable.

- 6. 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)?**

The purpose of this chapter is to establish safety standards and other requirements applicable to the operations of for-hire motor carriers engaged in the towing of motor vehicles in accordance with R.C. Chapters 4921.25 and 4513.67.

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

The Commission will measure success of these regulations by the degree which the Commission undertakes enforcement actions against for-hire carriers engaged in the towing of motor vehicles, the degree to which safety-related incidents involving tow trucks decrease, the degree to which complaints involving towing services decrease, and the extent to which courts direct the Commission to suspend or revoke tow truck operator certificates.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

Not applicable.

Development of the Regulation

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

If applicable, please include the date and medium by which the stakeholders were initially contacted.

On July 25, 2022, in Case No. 22-692-TR-ORD, the Commission issued an Entry indicating that a workshop would be conducted on August 23, 2022, to listen to stakeholders' concerns concerning rules in this chapter. The Entry was served upon the Ohio Petroleum Marketers Association, National Tank Truck Carriers, Inc., Ohio State Highway Patrol, the Ohio Trucking Association, Ohio Department of Public Safety, Ohio Department of Transportation, Ohio Association of Chiefs of Police, Buckeye State Sheriff's Association, Ohio Municipal League, County Commissioners' Association of Ohio, Ohio Township Association, WreckMaster Inc. USA, Towing and Recovery Association of America, North American Towing Academy, American Towing and Recovery Institute, Ohio Insurance Institute, Towing and Recovery Association of Ohio, AAA Ohio, all household goods carriers, Ohio Association of Movers, Ohio Brokers of household goods as identified by the Federal Motor Carrier Safety Administration, and the transportation list-serve. The workshop was conducted as scheduled.

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

No comments were provided by stakeholders at the workshop.

11. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?

Not applicable.

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

No alternative regulations were considered. The Commission is authorized by statute to establish rules concerning the towing of motor vehicles in Ohio.

13. Did the Agency specifically consider a performance-based regulation? Please explain.

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

No performance-based regulations were considered. The rules contained in Ohio Adm.Code Chapter 4901:2-22 are primarily regulatory in nature and are required by the Revised Code.

14. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?

The Commission has widely publicized notice of the consideration of these rules to those individuals in the transportation industry, as well as other governmental organizations and interest groups. The Commission has reviewed other Ohio regulations and found no duplicate, nor has a duplicate regulation been identified by any stakeholder.

15. 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 Commission conducted a workshop on August 23, 2022, to consider any rule changes proposed by stakeholders. Next, the Commission has issued an Entry containing Staff's proposed changes to the rules, to which stakeholders will have another opportunity to comment. Finally, following the comment period specified in the Entry, the Commission will issue a Finding and Order adopting the rules. All potential stakeholders will be notified that this chapter is under review by Staff and they will be provided an opportunity for feedback concerning the proposed changes to the rules in the chapter. Thus, stakeholders will have an opportunity to provide feedback to Staff concerning the efficiency and effectiveness of the rules in this chapter.

Adverse Impact to Business

16. 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; and

The impacted business community consists of motor carriers engaged in towing operations.

b. Identify the nature of all adverse impact (e.g., fees, fines, employer time for compliance,); and

The proposed rules impact the identified business community in terms employer time for compliance and the cost to ensure that towing equipment is in compliance with the proposed regulations.

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.

The anticipated adverse impact is expected to be minimal because the regulated industry is already operating in accordance with the standards, as there are no substantial amendments to the towing standards under this review.

17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?

The Commission has not identified an adverse impact on business as a result of the proposed revisions. In fact, the business impacts resulting from the proposed revisions are expected to be positive impacts for the business community because the purpose of the rule change is to remove regulatory restrictions.

The Commission does not make such a determination because the purpose of this chapter is to implement R.C. 4921.25. It is notable that the regulated community had no comments at the public workshop, nor has there been any indication from stakeholders that the rules in this chapter are particularly onerous.

Regulatory Flexibility

18. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.

No. Staff works with regulated entities to assist them with applicable requirements and provides guidance on how to achieve compliance.

19. 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?

The rules in Ohio Adm.Code Chapter 4901:2-22 do not impose fines or penalties for failure to comply. However, to the extent that the Commission issues a civil forfeiture to a regulated entity in an enforcement proceeding pursuant to R.C. 4923.99 for failure to comply, that entity may request a conference with the Commission staff. The conference may result in a waiver or reduced forfeiture depending on the nature and circumstances of the violation. An entity can avail itself of an administrative hearing before the Commission. Depending on the evidence and testimony provided at hearing, the Commission will determine whether a forfeiture is appropriate.

20. What resources are available to assist small businesses with compliance of the regulation?

Staff works with regulated entities to assist them with the applicable requirements and provides guidance on how to achieve compliance. Small businesses may contact the Commission at any time and may submit written comments on the proposed revisions during the public comment period once the proposed revisions are filed in the case docket.