

Chapter 4901:2-19 Ohio Adm.Code
Common Carriers Engaged in the
Transportation of Household Goods
Case No. 22-692-TR-ORD
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Common Sense Initiative

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Business Impact Analysis

Agency, Board, or Commission Name:

Public Utilities Commission of Ohio

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Regulation/Package Title (a general description of the rules' substantive content):

Ohio Adm.Code Chapter 4901:2-19, Transportation of Household Goods

Rule Number(s): 4901:2-19-01; 4901:2-19-02; 4901:2-03; 4901:2-19-04; 4901:2-19-05;

4901:2-19-06; 4901:2-19-07; 4901:2-19-08; 4901:2-19-09; 4901:2-19-10; 4901:2-19-11;

4901:2-19-12; 4901:2-19-14; 4901:2-19-15; 4901:2-19-16; 4901:2-19-17

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/_6___ rules (FYR? Yes)

Amended/_10 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Rescinded/___ rules (FYR?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 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 motor carrier safety compliance.

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.

| Rule | Statutory Authority/Amplification Ohio Revised Code |
|--------------|--|
| 4901:2-19-01 | 4921.30; 4921.38 |
| 4901:2-19-02 | 4921.30; 4921.38 |
| 4901:2-19-03 | 4921.30; 4921.38; 4921.13 |
| 4901:2-19-04 | 4921.30; 4921.38; 4921.13 |
| 4901:2-19-05 | 4921.07; 4921.38 |
| 4901:2-19-06 | 4921.09; 4921.38 |
| 4901:2-19-07 | 4921.38 |
| 4901:2-19-08 | 4921.36; 4921.38 |
| 4901:2-19-09 | 4921.36; 4921.38 |
| 4901:2-19-10 | 4921.36; 4921.38 |
| 4901:2-19-11 | 4921.36; 4921.38 |
| 4901:2-19-12 | 4921.36; 4921.38 |
| 4901:2-19-14 | 4921.36; 4921.38 |
| 4901:2-19-15 | 4921.09; 4921.38 |
| 4901:2-19-16 | 4921.38 |
| 4901:2-19-17 | 4921.38 |

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. This regulation implements state requirements only. No federal law or program is being implemented.

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

Not applicable, as the rules do not exceed any federal requirement.

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 public purpose of these rules is to establish requirements for the transportation of household goods which apply to all carriers of household goods regulated by the Commission.

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

The Commission is required by statute to adopt rules applicable to the transportation of property by motor carriers operating in Ohio. The Commission monitors the compliance with these rules by ensuring that all household goods carriers are registered with the Commission, have appropriate tariffs on file, provide appropriate information to consumers, and have the required liability insurance to cover all goods being transported.

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 all household goods carriers, Ohio Association of Movers, Ohio Brokers of household goods as identified by the Federal Motor Carrier Safety Administration, 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, 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?

No scientific data was provided or considered.

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 recommended. The Commission is authorized by statute to establish and enforce standards applicable to regulated entities that transport household goods. These rules provide the requirements for any person who is involved in the transportation of household goods. The Commission will consider any alternative proposals put forth in comments filed by stakeholders and the general public.

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.

The Commission did not consider a performance-based regulation. The rules in Ohio Adm.Code Chapter 4901:2-19 are required by the Revised Code and establish requirements for the transportation of household goods and consumer protections.

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

Although it is unlikely that Ohio Adm.Code Chapter 4901:2-19 duplicates the rules of other state entities, associations representing household goods carriers were advised of this rulemaking and no entities have advised the Commission that Ohio Adm.Code Chapter 4901:2-19 duplicates any of its rules. The Commission has also reviewed other Ohio regulations and found no duplicates, nor have any duplicates 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.

These rules are universally applicable to all regulated entities involved in the transportation of household goods.

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 for-hire carriers that provide household goods moving services operating in intrastate and interstate commerce.

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

The current rules impact the identified business community because they impose costs in terms of registration fees, having appropriate liability insurance coverage, tariffs, and language on customer forms, and the time to complete these required forms.

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 cost of these rules involves the time to complete moving estimates, record retention, and having appropriate tariffs on file with the Commission which are prepared in the normal course of business. For a typical business it should take no more than 30 minutes to complete the estimate, as it only requires information relating to moves between different cities and a determination of appropriate shipment weights.

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 is the only state agency charged with ensuring that the transportation of household goods is conducted in a safe and efficient manner with proper liability coverage for damaged goods and appropriate consumer protections. Additionally, the Ohio Revised Code directs the Commission to adopt rules to carry out the provisions of Chapters 4921 and 4923, Revised Code. 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. Regulated entities operating in Ohio are under the exclusive jurisdiction of the Public Utilities Commission of Ohio and may not be exempted from the requirements provided in Ohio Adm.Code Chapter 4901:2-19.

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?

Not applicable, the rules in Ohio Adm.Code Chapter 4901:2-19 do not impose fines or penalties for failure to comply.

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

Commission staff works with regulated entities to answer questions. 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.