

Ohio Adm.Code 4901:2-5-02,
4901:2-13-02, and 4901:2-19-02
Regulation of Motor Carriers
Case No. 23-693-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 4901:2-5-02(C), 4901:2-13-02(C), and 4901:2-19-02(E): Regulation of Motor Carriers

Rule Number(s): 4901:2-5-02(C), 4901:2-13-02(C), and 4901:2-19-02(E)

Date of Submission for CSI Review: August 25, 2023

Public Comment Period End Date: September 8, 2023

Rule Type/Number of Rules:

New/___ rules

No Change/___ rules (FYR?)

Amended/_3 rule (FYR? No)

Rescinded/___ rules (FYR?)

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

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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 amendment to these three rules updates the version of the federal regulations applicable in Ohio.

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 No.	Adopt	Amplify
4901:2-5-02	R.C. 4923.04	R.C. 4923.04, 4923.07, 4923.03
4901:2-13-02	R.C. 4921.09	R.C. 4921.09
4901:2-19-02	R.C. 4921.30, 4921.38	R.C. 4921.30, 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.

Ohio receives federal funding via a grant under the Motor Carrier Safety Assistance Program (MCSAP). To continue to be part of MCSAP, Ohio rules must be compatible with federal law. Consequently, Staff proposes to update the effective date for the references to the provisions of the code of federal regulations (CFR), as reflected in Ohio Adm.Code 4901:2-05-02 and 4901:2-13-02. Regarding Ohio Adm.Code 4901:2-19-02, Staff proposes to revise the effective date for the references to the CFR to better align state requirements with current federal regulations.

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 align the safety standards applicable to the operations of motor carriers, excepted carriers, hazardous materials transporters, and offerors and the consumer protections and service standards applicable to the transporters of household goods.

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 that govern the operation of motor carriers (Ohio Adm.Code Chapters 4901:2-5, and 4901:2-13) and to adopt rules applicable to the

transportation of property by motor carriers operating in Ohio (Ohio Adm.Code 4901:2-19). The Commission will measure the success of the regulation in terms of positive results from motor carrier investigations and inspections of commercial motor vehicles and drivers of commercial motor vehicles to ensure compliance with motor carrier safety code. The Commission can also monitor any complaints that are made to its hotline by consumers, as well as information that is reported by Ohio State Highway Patrol. The Commission also 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 August 23, 2023, in Case No. 23-693-TR-ORD, the Commission issued an Entry informing interested stakeholders that written comments could be filed with the Commission by September 8, 2023. The Entry was served on 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 Association of Movers, 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, the transportation industry service list, and all other interested persons of record.

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

Considering that the amendments are to align state motor carrier regulations with current federal regulations, the Commission does not anticipate comments from interested stakeholders. However, the Commission will review any comments received and update the BIA as appropriate.

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. 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 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 Chapters 4901:2-5, 4901:2-13, and 4901:2-19, are required by the Revised Code and establish requirements for safety of motor carriers and the traveling public and consumer protections for the transportation of household goods.

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

Although it is unlikely that these rules duplicate the rules of other state entities, associations representing affected carriers were advised of this rulemaking and no entities have advised the Commission that these rules duplicate the regulation of any other agency. 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.

On August 23, 2023, the Commission issued its Entry containing Staff's proposed change to Ohio Adm.Code 4901:2-5-02(C), 4901:2-13-02(C), and 4901:2-19-02(E) and notified potential interested stakeholders that written comments could be filed with the Commission by

September 8, 2023. Thus, stakeholders will have an opportunity to provide feedback to Staff concerning the efficiency and effectiveness of these rules.

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, motor carriers, excepted carriers, hazardous materials transporters, and offerors that provide transportation of persons or property in intrastate and interstate commerce within Ohio.

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

Ohio Adm.Code Chapters 4901:2-5, 4901:2-13 and 4901:2-19 impact the identified business community because the rules 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. However, Ohio Adm.Code 4901:2-5-02(C), 4901:2-13-02(C), and 4901:2-19-02(E) does not directly impose any adverse impacts.

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 adverse impact includes the time for a motor carrier, excepted carrier, hazardous materials transporter, and offeror to comply with the safety standards established and enforced pursuant to Ohio Adm.Code Chapters 4901:2-5 and 4901:2-13. Regulated entities should anticipate a minimal impact related to adhering to certification updates and cooperating with Commission personnel during inspections, when applicable. In regard to household goods carriers, the cost of the rule amendment 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.

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 better aligns state regulations with current federal regulations.

The Commission is charged with ensuring that the highway transportation of persons and property is conducted in a safe and efficient manner. In addition, R.C. 4923.04 directs the Commission to adopt rules applicable to the transportation of persons or property by motor carriers operating in interstate or intrastate commerce, as well as rules applicable to highway transportation and offering for transportation of hazardous materials by motor carriers. This amendment is proposed to ensure the rules in Ohio Adm.Code Chapters 4901:2-05, 4901:2-13 and 4901:2-19 are consistent with current federal motor carrier regulations. Further, the Commission is the only state agency that establishes and enforces certification requirements and consumer protection standards applicable to the identified carriers in conformity with specific provisions of the code of federal regulations. Additionally, the Ohio Revised Code directs the Commission to adopt rules to carry out the provisions of Chapters 4921 and 4923, Revised Code.

Regulatory Flexibility

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

No. The amendments to the rules is to align Ohio's regulations with the current version of the C.F.R. and is applicable to all the rules in the ensuing chapters. The rules in Ohio Adm.Code Chapter 4901:2-5, 4901:2-13, and 4901:2-19 implement motor carrier safety and hazardous materials safety rules and consumer protections that must apply uniformly to all motor carriers, offerors, hazardous materials transporters, and excepted carriers. Further, the potential harm to the public from noncompliance with such rules is the same for small business as it is for large. Thus, any alternative means of compliance would not be appropriate.

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.

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 revision during the public comment period.