

Ohio Adm.Code 4901:2-21
Registration of Intrastate Motor Carriers
Case Number: 22-692-TR-ORD
Page 1 of 7



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 4901:2-21 Registration of Intrastate Property Carriers

Rule Number(s): 4901:2-21-01; 4901:2-21-02; 4901:2-21-03; 4901:2-21-04; 4901:2-21-05; 4901:2-21-06; 4901:2-21-07

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/ 3 rules (FYR? Yes)

Amended/ 4 rules (FYR? Yes)

Rescinded/ rules (FYR?)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 Sense Initiative, agencies must balance the critical objectives of regulations that have an

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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.

Ohio Adm.Code Chapter 4901:2-21 sets forth requirements for the registration of intrastate for-hire motor carriers, the issuance of certificates of public convenience and necessity, and the conditions under which a certificate may be suspended or revoke.

Any and all amendments to these proposed rules under Chapter 4901:2-21 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.

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- 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 4901:2-21 is authorized/amplified by the R.C. 4905.81, 4921.01, 4921.03, 4921.05, 4921.07, 4921.08, , 4921.13, and 4923.04.

- 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 rule in this chapter implements a federal requirement or is being adopted or amended to enable Ohio to obtain or maintain approval to administer or enforce a federal law.

- 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 rules in this chapter govern the process by which for-hire motor carriers will meet their requirements under the law. The public purpose of these rules is to create (1) a uniform and objective process for the issuance of a certificate of public convenience and necessity and (2) a consistent and objective process by which a certificate can be suspended or revoked. The agency believes these regulations are the minimum required to implement the statutory requirements.

- 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 enforce the requirements of R.C. 4921 to ensure a safe and efficient transportation of persons and property within the state. The Commission monitors the compliance with these rules through enforcement actions against drivers and carriers.

- 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 the stakeholders in attendance 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 comments were provided by stakeholders at the workshop.

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, because the rules mirror the statutory requirements placed upon the Commission and for-hire motor carriers pursuant to R.C. 4905.81, 4921.03, , 4921.05, 4921.07, 4921.08, 4921.13, and 4923.04. Accordingly, the Commission adopted rules that it considers best suited to meet these goals. 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 sole outcome desired by these rules is that for-hire motor carriers fulfill the statutory requirements of R.C. Chapter 4921 before operating. The options for achieving this outcome are limited by the statute as well as by matter of practicality. Therefore, the Commission did not consider a performance-based regulation.

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 4901:2-21 duplicates the rules of other state entities, ODOT was advised of this rulemaking, and no entities have advised the Commission that Ohio Adm.Code Chapter 4901:2-21 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 for-hire motor carriers and there is little to no discretion on the part of the Commission as to who is eligible to receive a certificate of public convenience and necessity. As long as the applicant fulfills the requirements, the certificate will be issued. Further, the standards for suspension and revocation of a certificate are objective in nature so that they will be applied consistently and predictably for the regulated community.

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

Rules in Ohio Adm.Code Chapter 4901:2-21 apply to all regulated motor carriers that are subject to Commission jurisdiction.

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

The rules impact the identified business community, in that the applicant must meet all the requirements of R.C. Chapter 4921, including completing an application, obtaining the necessary insurance, and paying all applicable taxes and fees in the amount required by that chapter.

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 impact will primarily be in terms of time and dollars spent by motor carriers in filing an application with the Commission for a certificate or to annually update a certificate, paying applicable taxes and fees, as well as obtaining proper insurance. The application form collects basic demographic and business information and should take an applicant no longer than 15-30 minutes to complete.

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 highway transportation of persons and property is conducted in a safe and efficient manner. Additionally, the Revised Code directs the Commission to adopt rules to carry out R.C. 4905.81, 4921.03, , 4921.05, 4921.07, 4921.08, 4921.13, and 4923.04. It is notable that the regulated community was not in attendance 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. The rules in Ohio Adm.Code Chapter 4901:2-21 implement statutory requirements that the Commission must apply to for-hire motor carriers. 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?

The rules in Ohio Adm.Code Chapter 4901:2-21 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 motor carriers to assist such companies 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.