



Common Sense Initiative

Mike DeWine, Governor
Jon Husted, Lt. Governor

Carrie Kuruc, Director

MEMORANDUM

TO: Angela Hawkins, Public Utilities Commission of Ohio

FROM: Jacob Ritzenthaler, Regulatory Policy Advocate

DATE: March 18, 2019

RE: **CSI Review – Transportation Section Rules (OAC 4901:2-6-01 through 4901:2-6-09, 4901:2-8-01 through 4901:2-8-04, 4901:2-21-01 through 4901:2-21-07, and 4901:3-1-01 through 4901:3-1-03)**

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 Agency as provided for in ORC 107.54.

Analysis

This rule package consists of nine amended rules, five no-change rules, and nine rescinded rules proposed by the Public Utilities Commission of Ohio (PUCO). The rule package was submitted to the CSI Office on July 25, 2018. In the Commission's original order, comments were due August 3, 2018. No comments were received during this time. The PUCO issued a Finding and Order on August 29, 2018.

The rules in this package set forth requirements regarding motor carriers and railroads under the purview of the Commission. The rules regulate the registration of hazardous materials carriers and intrastate motor carriers, highway routing of non-radioactive hazardous material, and track clearances for railroads. Ohio Administrative Code (OAC) 4901:2-6-01 through 4901:2-6-09 contain regulations regarding the registration of hazardous materials carriers. The rules in the Chapter are being proposed for rescission because their authorizing statutes, ORC 4921.15 and 4921.16, were repealed through House Bill 49 of the 132nd General Assembly. OAC Chapter 4901:2-8 sets forth routing requirements for carriers of non-radioactive hazardous materials. OAC

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4901:2-8-01 through 4901:2-8-03 are being amended to include the dates of referenced rules and OAC 4901:2-8-04, which sets forth permitted and restricted routes, is proposed without changes. OAC Chapter 4901:2-21 establishes the registration process for intrastate property carriers. The amended rules in this Chapter are largely being updated to include the term “certificate application” and the use of online applications. OAC Chapter 4901:3-1 details requirements for railroad track clearances and bridge safety. OAC 4901:3-1-02 is being amended to remove language requiring walks and railings on at least one side of bridges because the language has been preempted by the Federal Railroad Administration.

During early stakeholder outreach, PUCO sent the rules to the Ohio Trucking Association, the National Tank Truck Carriers, Inc., the Ohio Department of Transportation (ODOT), Ohio State Highway Patrol, the Ohio Railroad Association, the Commission’s Transportation and Railroad list-serves, and all interested persons of record and invited stakeholders to a workshop on March 27, 2018. No stakeholders attended the workshop, and no comments were received during this time or during the CSI public comment period.

The business communities impacted by these rules include all carriers of hazardous materials and intrastate property, as well as railroad operators. The adverse costs created by the rules include carrying material only via permitted routes, certification fees, and ensuring that bridges adhere to safety standards. Certification fees for carriers range from \$20 to \$30 depending on the type of vehicle. PUCO states in the BIA that these rules ensure that hazardous material is transported safely throughout Ohio and that railways are constructed in ways that adhere to federal and state statute.

Recommendations

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

Conclusion

The CSI Office concludes that the Public Utilities Commission of Ohio should proceed in filing the proposed rules with the Joint Committee on Agency Rule Review.