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MEMORANDUM

TO: Scott Farkas, Chief, Transportation Section, Public Utilities Commission of Ohio

FROM: Meredith Rockwell, Regulatory Policy Advocate

DATE: February 4, 2013

RE: CSI Review – Hazardous Materials Carriers Registration (OAC 4901:2-6-01 through 4901:2-6-14)

On behalf of Lt. Governor Mary Taylor, 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This package consists of nine amended and five rescinded rules, all being reviewed under the five-year review requirement of ORC 119.032. The rules set forth requirements for the registration and permitting of carriers of hazardous materials and the conditions under which a permit may be suspended or revoked. The Public Utilities Commission of Ohio proposed changes to the rules in response to recent statutory changes effective in June 2012. The purpose of these rules is to protect the public from harm arising from the improper or unsafe transportation of hazardous materials. To achieve that purpose, the Commission states in the BIA that it wishes to establish a uniform and objective process for the issuance, suspension, or revocation of a permit, which allows the Commission to identify the entities that are transporting hazardous materials so that compliance with safety regulations can be monitored and enforced.

The adverse impact that is created by these rules results directly from the permitting process. Anyone transporting hazardous materials, in commerce, within Ohio must complete an application

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and submit all applicable fees to the Commission. The Commission states that the base of the application should take no more than 30 minutes to complete, but the hazardous materials portion could vary substantially depending on the individual carrier's operations. The fees also vary from carrier to carrier, as the fees are calculated per vehicle. The fee in Ohio is \$20 per vehicle and, according to the Commission's BIA, is the lowest amount charged in all of the states participating in the Alliance for Uniform Hazmat Transportation Procedures.

Overall, the Commission completed the BIA in a comprehensive fashion and involved the stakeholders in the rule development and review process as the CSI Office would request. Furthermore, the Commission received no comments on this rule package during the Commission-conducted stakeholder workshop or the CSI public comment period.

Recommendations

For the reasons explained above, the CSI Office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Commission should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Elizabeth Stevens, Legal Director, Public Utilities Commission of Ohio
Mark Hamlin, Lt. Governor's Office



MEMORANDUM

TO: Scott Farkas, Chief, Transportation Section, Public Utilities Commission of Ohio

FROM: Meredith Rockwell, Regulatory Policy Advocate

DATE: February 4, 2013

RE: **CSI Review – Highway Routing of Non-Radioactive Hazardous Materials (OAC 4901:2-8-01 through 4901:2-8-04)**

On behalf of Lt. Governor Mary Taylor, 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 package consists of four amended rules, all being reviewed under the five-year review requirement of ORC 119.032. The rules set forth the procedures for the establishment of routing designations applicable to the highway transportation of nonradioactive hazardous materials through Ohio. The Public Utilities Commission of Ohio states in the BIA that these rules implement federal requirements. The Commission was delegated this responsibility after various train derailments and cargo tank accidents involving hazardous materials caused evacuations in 1986 and 1987. These rules ensure that the identification of specific routes will be appropriately developed and designated to ensure the safe and efficient transportation of nonradioactive hazardous materials through Ohio.

The adverse impact that is created by these rules results directly from the routing process. Any motor carriers subject to Commission and U.S. Department of Transportation jurisdiction that transport nonradioactive hazardous materials within Ohio must travel on specific routes within the

state. This impact, generally, is the time spent by those motor carriers to travel on the specified routes. The Commission feels this impact is justified, because it is required by statute and it helps fulfill the public purpose of avoiding public evacuations due to accidents.

Overall, the Commission completed the BIA in a comprehensive fashion and involved the stakeholders in the rule development and review process as the CSI Office would request. Furthermore, the Commission received no comments on this rule package during the Commission-conducted stakeholder workshop or the CSI public comment period.

Recommendations

For the reasons explained above, the CSI Office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Commission should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Elizabeth Stevens, Legal Director, Public Utilities Commission of Ohio
Mark Hamlin, Lt. Governor's Office



MEMORANDUM

TO: Scott Farkas, Chief, Transportation Section, Public Utilities Commission of Ohio

FROM: Meredith Rockwell, Regulatory Policy Advocate

DATE: February 4, 2013

RE: **CSI Review – Registration of Intrastate Motor Carriers (OAC 4901:2-21-01 through 4901:2-21-09)**

On behalf of Lt. Governor Mary Taylor, 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 package consists of seven amended and two rescinded rules, all being reviewed under the five-year review requirement of ORC 119.032. The rules set forth the 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 revoked. The Public Utilities Commission of Ohio states in the BIA that the public purpose of these rules is both to establish a uniform and objective process for the issuance of a certificate of public convenience and necessity and to establish a consistent and objective process by which a certificate can be suspended or revoked.

The adverse impact created by these rules consists of completing an application, obtaining required insurance, paying all applicable taxes and fees, and following the suspension and revocation procedures, should the need arise. The rules also require an applicant to obtain a United States Department of Transportation number, which is no-cost and can be obtained online. The

applications form required should take no longer than 15-30 minutes to complete, according to the BIA, and the taxes, fees, and insurance all vary in cost. The Commission believes the impact is justified, because it ensures the highway transportation of persons and property is conducted in a safe and efficient manner. Furthermore, most of the requirements are derived directly from the ORC.

Overall, the Commission completed the BIA comprehensively and involved the stakeholders in the rule development and review process as the CSI Office would request. Additionally, the Commission received no comments on this rule package during the Commission-conducted stakeholder workshop or the CSI public comment period.

Recommendations

For the reasons explained above, the CSI Office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Commission should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Elizabeth Stevens, Legal Director, Public Utilities Commission of Ohio
Mark Hamlin, Lt. Governor's Office



MEMORANDUM

TO: Scott Farkas, Chief, Transportation Section, Public Utilities Commission of Ohio

FROM: Meredith Rockwell, Regulatory Policy Advocate

DATE: February 4, 2013

RE: **CSI Review – Minimum Track Clearances and Lateral Clearances for Railroads (OAC 4901:3-1-01 through 4901:3-1-03)**

On behalf of Lt. Governor Mary Taylor, 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 package consists of three no change rules being reviewed under the five-year review requirement of ORC 119.032. The rules set forth the requirements for minimum track clearances for new railroad track construction or reconstruction of yard tracks of railroads operating within Ohio, lateral clearance for permanent structures, and inspection, maintenance, and safety of railroad bridges. The Public Utilities Commission of Ohio states in the BIA that the public purpose of these rules is to ensure sufficient clearance between railroad tracks and structures in accordance with the ORC and to ensure railroad bridges are structurally maintained in accordance with provisions of the American Railway Engineering and Maintenance of Way Association Code of Rules.

The adverse impact created by these rules consists of completing inspections and conducting maintenance to ensure the safety of railroad bridges and subsequently reporting about those inspections to the Commission. The rules also require railroads to file an application with the

Commission if the railroad wishes to construct railroad tracks with less than standard lateral and vertical clearances between the track and a structure. The application process allows railroads to deviate from the general clearance requirements, which lessens the general adverse impact created by the clearance standards. The Commission justifies these impacts in the BIA, because they are required by statute and the Commission must ensure railroad safety and safety of motorists at highway-rail grade crossings.

Overall, the Commission completed the BIA comprehensively and involved the stakeholders in the rule development and review process as the CSI Office would request. Additionally, the Commission received no comments on this rule package during the Commission-conducted stakeholder workshop or the CSI public comment period.

Recommendations

For the reasons explained above, the CSI Office does not have any recommendations regarding this rule package.

Conclusion

Based on the above comments, the CSI Office concludes that the Commission should proceed with the formal filing of this rule package with the Joint Committee on Agency Rule Review.

cc: Elizabeth Stevens, Legal Director, Public Utilities Commission of Ohio
Mark Hamlin, Lt. Governor's Office