

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Request for a)
Temporary Exemption from the) Case No. 15-528-TR-UNC
Requirement Related to the)
Transportation of Hazardous Materials.)

ENTRY

The Commission finds:

- (1) By Finding and Order issued May 14, 2014, the Commission approved amendments to Ohio Adm.Code Chapter 4901:2-5, that became effective on October 30, 2014. Included was an amendment to Ohio Adm.Code 4901:2-5-04(A), which required that no motor carrier, or excepted carrier, shall operate or permit the operation of a commercial motor vehicle transporting hazardous materials in a quantity or of a type that requires the motor vehicle to be placarded pursuant to 49 C.F.R. 172, in intrastate commerce, by a person under the age of twenty-one years.
- (2) On March 18, 2015, the Ohio AgriBusiness Association (OABA) filed a request for an exemption from Ohio Adm.Code 4901:2-5-04(A). OABA states that this change in the law occurred late this past fall and it will be very challenging for agribusinesses, specifically those companies delivering anhydrous ammonia to farms, to comply by this spring, as it will be difficult to find licensed eligible drivers in rural areas of Ohio in a relatively short period of time. OABA requests that the Commission grant an exemption from this rule for the hauling of anhydrous ammonia for the period of April 1, 2015, through June 30, 2015, within a travel distance of 150 air-mile radius from the source. According to OABA, this temporary exemption will allow agribusinesses to properly serve their customers this spring and provide them with additional time to adjust their business model and identify/hire new drivers for future compliance with this rule.
- (3) On March 19, 2015, Staff filed comments in response to OABA's request. Staff indicated that a one-time temporary waiver of the rule is reasonable and would allow the

agricultural community additional time to adjust to the new requirements for the transportation of anhydrous ammonia. Staff recommends that the waiver should be conditioned so that it is limited to a three-month period (April 1, 2015, through June 30, 2015); it would be applicable only to anhydrous ammonia; applicable only to the agricultural community; limited to a 150 air mile radius from the source; and applicable only to intrastate commerce. Staff believes that under these conditions, there will not be a measurable increase in risk to public safety by providing the industry additional time to comply with the regulations.

- (4) Ohio Adm.Code 4901:2-5-02(B) provides that the Commission may, upon an application filed by a party, waive any requirement of this chapter, for good cause shown.
- (5) Upon review, the Commission finds that OABA's request for a one-time waiver of the age requirement set forth in Ohio Adm.Code 4901:2-5-04(A) is reasonable and should be granted. The Commission recognizes that there may be adjustments necessary for affected businesses regarding the requirement set forth in the amendment to this rule that became effective on October 30, 2014, and our limited waiver will allow affected entities a reasonable, limited, period of time in which to adjust to the new requirement. Accordingly, the age requirement set forth in Ohio Adm.Code 4901:2-5-04(A) should be waived to allow the hauling of anhydrous ammonia, for the period of April 1, 2015, through June 30, 2015, within a travel distance of 150 air-mile radius from the source, within intrastate commerce, for drivers less than 21 years of age. While we are granting this limited waiver of this rule, we are not waiving any other safety or training requirement applicable to drivers or carriers or to the transportation of hazardous materials. It is expected that no further requests for a similar waiver will be forthcoming in the future.

It is, therefore,

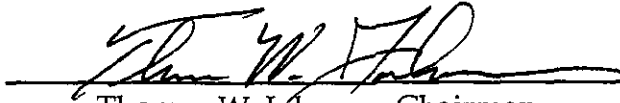
ORDERED, That the request of OABA for a waiver be granted. It is, further,

ORDERED, That the age requirement set forth in Ohio Adm.Code 4901:2-5-04(A) be waived to allow the hauling of anhydrous ammonia, for the period of April 1,

2015, through June 30, 2015, within a travel distance of 150 air-mile radius from the source, within intrastate commerce, for drivers less than 21 years of age. It is, further,

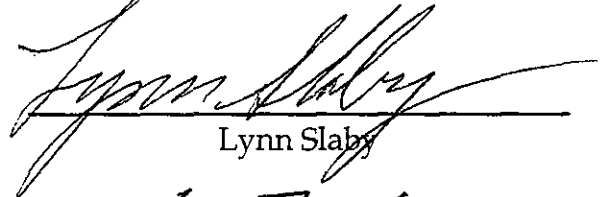
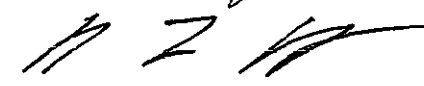
ORDERED, That copies of this Entry be served upon Ohio AgriBusiness Association, Ohio Farm Bureau Federation, Ohio Highway Patrol, Ohio Department of Transportation, and any other interested person of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman


Steven D. Lesser

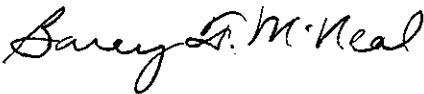

M. Beth Trombold


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SEF/dah

Entered in the Journal

APR 02 2015


Barcy F. McNeal

Barcy F. McNeal
Secretary