

# THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S  
REVIEW OF CHAPTER 4901:2-15 OF THE  
OHIO ADMINISTRATIVE CODE.

CASE NO. 20-1218-TR-ORD

## ENTRY

Entered in the Journal on February 24, 2021

### I. SUMMARY

{¶ 1} The Commission directs all interested persons or entities to file comments no later than March 12, 2021, and reply comments no later than March 26, 2021, with the Commission regarding the Commission's review of Ohio Adm.Code Chapter 4901:2-15.

### II. DISCUSSION

{¶ 2} R.C. 111.15(B) and R.C. 106.03(A) require all state agencies to conduct a review of their rules every five years to determine whether those rules should be continued without change, be amended, or be rescinded. The Commission has opened this docket to review Ohio Adm.Code Chapters 4901:2-15, regarding registration of motor carriers pursuant to the Unified Carrier Registration (UCR) plan.

{¶ 3} In performing this review, R.C. 106.03(A) requires the Commission to determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;

- (d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by R.C. 121.74 and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;
- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determined under R.C. 107.52;
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and
- (h) Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 4} Also, under R.C. 121.82, in the course of developing draft rules, the Commission must evaluate whether those rules will have an adverse effect on businesses and prepare a business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the Commission is tasked to incorporate features into the draft rules to eliminate or adequately reduce the adverse business impact. R.C. 121.82 also requires the Commission to provide a copy of the draft rules and BIA to the Common Sense Initiative office for comment.

{¶ 5} On December 9, 2020, the Commission held a workshop in this proceeding to enable interested stakeholders the opportunity to propose any changes to Ohio Adm.Code Chapter 4901:2-15. No stakeholders offered comments at the workshop.

{¶ 6} The Commission and Staff have evaluated the rules contained in Ohio Adm.Code Chapter 4901:2-15. Staff proposes that the chapter be amended as described in the following paragraphs.

{¶ 7} In Ohio Adm.Code 4901:1-15-01 (Definitions), Staff proposes deletion of redundant or unnecessary definitions, or language within certain definitions, on the grounds that the process for registration is now contained by the UCR online portal, therefore relieving the Commission of any responsibility for registration. Staff recommends deleting the definition of “applicant,” because “registrant” is already defined for use in the chapter. Staff proposes amending the definition of “base state” to indicate that a “base state” is simply the state in which a carrier designates that it is subject to the UCR requirements; additional language indicating that the “base state” is where a carrier registers and pays UCR fees is deleted, as the registration process at the federal UCR website automatically directs a carrier to where to pay its UCR fees. The definitions for “renewal period,” “submit,” and “unified carrier registration agreement” are deleted, as those terms are already clarified and/or defined in federal UCR law. Finally, the definitions of “unified carrier registration board” and “unified carrier registration fees” are deleted, as those terms are not contained in other rules currently in this chapter.

{¶ 8} In Ohio Adm.Code 4901:2-15-02 (Purpose and Scope), Staff amends the language that specifies the effective date of the United States Code and the Code of Federal Regulations that this chapter complies with.

{¶ 9} In Ohio Adm.Code 4901:2-15-03 (Registration Requirements), Staff proposes that, because “unified carrier registration plan” is defined in Ohio Adm.Code 4901:2-15-01, language referring to the “unified carrier registration agreement” be amended to read “unified carrier registration plan.” Staff also proposes deleting language regarding submission of UCR registration fees to the Commission, as directions for payment of fees are contained in the federal UCR website. Similarly, Staff proposes deleting language concerning UCR registration via a national or regional electronic system; such language is unnecessary, as the only way for carriers to register is through a federal UCR website.

{¶ 10} Staff proposes deleting Ohio Adm.Code 4901:2-15-04 (Change of Name, Address, or Ownership), because it is unnecessary. The Commission’s intrastate

registration rules already require updating changes to name, address, or ownership within 15 days of such changes, and the Federal Motor Carrier Safety Administration registration rules establish procedures for interstate carriers to update changes to name, address, or ownership information.

{¶ 11} Attached to this Entry are proposed Ohio Adm.Code Chapter 4901:2-15 (Attachment A), and the BIA (Attachment B), which are also posted on the Commission's Docketing Information System website at <http://dis.puc.state.oh.us>. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Entry only. All interested persons are directed to input Case No. 20-1218 into the Case Lookup box to view this Entry, as well as the proposed changes, or to contact the Commission's Docketing Division to request a paper copy.

{¶ 12} The Commission requests comments from interested persons to assist in the review required by R.C. 111.15 and R.C. 106.03. Comments should be filed, via electronic filing or in hard copy, by March 12, 2021. Reply comments should be filed by March 26, 2021.

### III. ORDER

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed rules do so no later than March 12, 2021 , and March 26, 2021, respectively. It is, further,

{¶ 15} ORDERED, That a copy of this Entry, with the rules and the BIA, be submitted to the Common Sense Initiative Office, in accordance with R.C. 121.82. It is, further,

{¶ 16} ORDERED, That a copy of this Entry be served upon Ohio Petroleum Marketers Association, National Tank Truck Carriers, Inc., Ohio State Highway Patrol, Ohio

Trucking Association, Ohio Department of Public Safety, Ohio Department of Transportation, and the transportation list-serve.

**COMMISSIONERS:**

***Approving:***

M. Beth Trombold  
Lawrence K. Friedeman  
Daniel R. Conway  
Dennis P. Deters

JML/hac

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**AMENDED**

**4901:2-15-01 Definitions.**

~~(A) "Applicant" means any entity that submits to the commission the forms necessary to register pursuant to the unified carrier registration agreement.~~

~~(BA)~~ "Base state" means a participating state in which a motor carrier, motor private carrier, broker, leasing company, or freight forwarder subject to the unified carrier registration agreement plan shall ~~register and to which it shall pay its unified carrier registration fees~~ designate.

~~(CB)~~ "Broker" means a person who, for compensation, sells, arranges for, or offers to arrange the transportation of persons or property by motor carrier.

~~(DC)~~ "Commission" means the public utilities commission of Ohio.

~~(ED)~~ "Freight forwarder" means a person who, for compensation, arranges for or offers to arrange for the transportation of property belonging to others, utilizing motor carriers to provide the actual transportation, and in the ordinary course of its business:

- (1) Assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments; and
- (2) Assumes responsibility for the transportation from the place of receipt to the place of destination.

~~(FE)~~ "Interstate commerce" has the same meaning as in section 4921.01 of the Revised Code.

~~(GF)~~ "Leasing company" means a person engaged in the business of leasing or renting, for compensation, motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.

~~(HG)~~ "Motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, in interstate commerce.

~~(IH)~~ "Motor private carrier" means a person who is not a motor carrier but is engaged in the transportation of property by motor vehicle in interstate commerce in order to support its primary line of business.

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- (~~H~~) "Motor vehicle" means a vehicle that is self-propelled by mechanical power and used upon the highways in the transportation of persons or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.
- (~~KJ~~) "Participating state" means a state that participates in the unified carrier registration plan.
- (~~LK~~) "Principal place of business" means a single location that serves as a registrant's headquarters, and where the registrant maintains or can make available its operational records.
- (~~ML~~) "Registrant" means a motor carrier, motor private carrier, broker, leasing company, or freight forwarder that has selected Ohio as its base state and has registered ~~with the commission-~~ pursuant to the unified carrier registration agreement.
- (~~NM~~) "Registration year" means a calendar year.
- ~~(O) "Renewal period" means, with respect to a registration year, the period of October first through December thirty first of the immediately preceding year, or as determined by the unified carrier registration board.~~
- (~~PN~~) "Staff" means employees of the transportation department of the commission.
- ~~(Q) "Submit" means to file electronically or via a paper application form.~~
- ~~(R) "Unified carrier registration agreement" means the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration information and unified carrier registration fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to 49 U.S.C. 14504a, as effective on the date referenced in paragraph (C) of rule 4901:2-15-02 of the Administrative Code.~~
- ~~(S) "Unified carrier registration board" means the board of directors appointed by the United States secretary of transportation pursuant to 49 U.S.C. 14504a, as effective on the date referenced in paragraph (C) of rule 4901:2-15-02 of the Administrative Code.~~
- ~~(T) "Unified carrier registration fees" means the fees determined by the United States secretary of transportation based upon recommendation by the unified carrier registration board.~~
- (~~UO~~) "Unified carrier registration plan" means the organization of state, federal, and industry representatives responsible for developing, implementing, and administering the unified carrier

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registration agreement.

**AMENDED**

**4901:2-15-02 Purpose and scope.**

- (A) This chapter governs the establishment of requirements applicable to ~~registration of~~ motor carriers, motor private carriers, freight forwarders, brokers, and leasing companies, pursuant to the unified carrier registration plan.
- (B) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.
- (C) ~~Each citation contained within this chapter that is made to a section of the United States code or to a regulation in the code of federal regulations is intended, and shall serve, to incorporate by reference the particular version of the cited matter that was effective on February 13, 2015. The rules in this chapter are subject to sections of the United States code or the code of federal regulations applicable on the effective date of this chapter.~~

**AMENDED**

**4901:2-15-03 Registration requirements.**

- (A) All motor carriers, motor private carriers, brokers, freight forwarders and leasing companies that operate in interstate commerce within the borders of Ohio shall register as required by the unified carrier registration ~~agreement~~plan.
- (B) All motor carriers, motor private carriers, brokers, freight forwarders and leasing companies shall select their base state in accordance with the provisions of the unified carrier registration ~~agreement~~plan then in effect.
- (C) ~~Motor carriers, motor private carriers, brokers, freight forwarders and leasing companies selecting Ohio as their base state shall annually submit to the commission a complete and accurate unified carrier registration application form. The staff will maintain, and post on the commission's website, the most recent version of the application to provide to applicants. Such application shall be submitted within the renewal period of the year preceding the registration~~

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~~year. An applicant that intends to commence operating during a registration year may register at any time, but it must do so before it commences operating. At the time that an applicant submits its unified carrier registration application form, it shall also pay to the commission the applicable unified carrier registration fees. Upon request of an applicant, the staff will issue a receipt reflecting that the applicant has filed the required unified carrier registration application form and paid the applicable unified carrier registration fees.~~

~~(D) An applicant that completes its unified carrier registration requirements through a national or regional electronic system shall be deemed to be in compliance with the provisions of this rule.~~

(~~E~~C) Registrants are required to preserve the records upon which their annual unified carrier registration applications are based for three years from the due date or filing date, whichever is later, plus any time period included as a result of commission decisions or inquiries. Such records shall be made available for inspection by the staff upon demand.

(~~F~~D) Motor carriers, motor private carriers, brokers, freight forwarders and leasing companies that are required to select a participating state, other than Ohio, as their base state, must comply with that state's unified carrier registration requirements before operating within the borders of Ohio.

**RESCINDED**

**4901:2-15-04      Change of name, address, or ownership.**

~~(A) If a registrant changes its name, business address, or principal place of business, the registrant shall notify the staff, in writing, within ninety days after the date of such change.~~

~~(B) Upon a registrant's change of ownership that requires a new United States department of transportation number to be issued, the registrant shall notify the staff of such change. The new entity will be considered to be a new operation and it shall comply with the requirements of this chapter.~~



## Common Sense Initiative

**Mike DeWine**, Governor  
**Jon Husted**, Lt. Governor

**Carrie Kuruc**, Director

### Business Impact Analysis

Agency, Board, or Commission Name: Public Utilities Commission of Ohio

Rule Contact Name and Contact Information:

Angela Hawkins, Legal Director ([Angela.Hawkins@puco.ohio.gov](mailto:Angela.Hawkins@puco.ohio.gov))  
614-466-0122 office; 614-728-8373

Regulation/Package Title (a general description of the rules' substantive content):

Ohio Adm.Code Chapter 4901:2-15 Unified Carrier Registration

Rule Number(s): 4901:2-15 -01, 4901:2-15-02, 4901:2-15-03

Date of Submission for CSI Review: February 24, 2021

Public Comment Period End Date: March 26, 2021

Rule Type/Number of Rules:

New/\_\_\_ rules

No Change/\_\_\_ rules (FYR? \_\_\_)

Amended/\_\_\_3\_\_\_ rules (FYR? Yes)

Rescinded/\_\_\_1\_\_\_ rules (FYR? Yes)

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.***

Rules in this chapter concern registration of motor carriers, freight forwarders, brokers, and leasing companies pursuant to the federal Unified Carrier Registration (UCR) requirements. Proposed amendments to the chapter delete language that is unnecessary, given that such details are already spelled out in federal UCR law or in the Commission's own rules.

- 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.**

R.C. 4905.06 authorizes enactment of the rules; 4921.11 amplifies the rules

- 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.*

The rules in 4901:2-15 implement the UCR plan, which is a federal requirement, pursuant to 49 U.S.C. 14504a. The proposed rules are necessary to participate in the UCR plan and are required pursuant to 4921.11.

- 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 purpose of this chapter is to implement the UCR plan as required by R.C. 4921.11. The UCR enables Ohio to identify interstate motor carriers domiciled in Ohio, while the fees provide funding for the non-railroad transportation activities of the Commission.

- 7. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Commission will measure success by whether the affected carriers or interested persons register as required by the UCR plan.

- 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 November 24, 2020, in Case No. 20-1218-TR-ORD, the Commission issued an Entry by U.S. Mail and e-mail indicating that a workshop would be conducted on December 9, 2020, to listen to stakeholders' concerns concerning rules in this chapter. The Entry was served upon the Ohio Petroleum Marketers Association, Ohio Trucking Association, National Tank Truck Carriers, Inc., Ohio Department of Transportation, Ohio State Highway Patrol, Ohio Department of Public Safety, the Transportation list-serve, and all interested persons of record in this case. The workshop was conducted as scheduled 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 stakeholders participated in the December 9, 2020 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?**

Not applicable.

- 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. The Commission is authorized by statute to establish a certification program for interstate carriers operating through Ohio.

- 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 Chapter 4901:2-15 are primarily regulatory in nature and are required by the Revised Code.

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

Although it is not likely that Ohio Adm.Code Chapter 4901:2-15 duplicates rules of the Ohio Department of Transportation or the Ohio State Highway Patrol, these two parties were notified of the workshop described in paragraph 9 of this BIA. Neither ODOT nor OSP have indicated that this chapter duplicates any of their rules.

**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 November 24, 2020, in Case No. 20-1218-TR-ORD, the Commission issued an Entry by U.S. Mail and e-mail scheduling a workshop for December 9, 2020 to consider any rule changes proposed by stakeholders. Next, the Commission will issue 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 proposed rules changes. 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 express whether the proposed rules will be applied consistently and predictably.

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**

The impacted business community consists of for-hire motor carriers, private motor carriers, freight forwarders, leasing companies, and brokers operating in interstate commerce.

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

The current and proposed rules impact the identified business community because they impose costs in terms of registration fees and time to complete the registration form. However, the extent of this impact is unchanged by the proposed rules. The proposed rules simply shift where the registration and associated fees are processed from staff at the PUCO to the UCR Board.

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**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 cost of the current and proposed rules involves the time to complete the application form. For a typical business it should take no more than 10 minutes to complete the form, as it only requires demographic information and a disclosure of the number of vehicles the business operates. The registration fees are dependent on the number of vehicles the business operates based on a fee structure determined by the U.S. Secretary of Transportation and recommendations of the UCR Board. The expected adverse impact from the regulations will remain unchanged under the proposed rules.

**17. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The agency did not make such a determination because the purpose of this chapter is to set rules to implement the UCR plan as required by R.C. 4921.11.

**Regulatory Flexibility**

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

No. Staff works with regulated entities to assist them with applicable requirements and provides guidance on how to achieve compliance.

**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 4901:2-15 do not impose fines or penalties for failure to comply. However, to the extent that the Commission issues a civil forfeiture to a regulated entity in an enforcement proceeding pursuant to R.C. 4923.99 for failure to comply, that entity may request a conference with the Commission staff. The conference may result in a waiver or reduced forfeiture depending on the nature and circumstances of the violation. An entity can avail itself of an administrative hearing before the Commission. Depending on the evidence and testimony provided at hearing, the Commission will determine whether a forfeiture is appropriate.

**20. What resources are available to assist small businesses with compliance of the regulation?**

Staff works with regulated entities to assist them with the applicable requirements and provides guidance on how to achieve compliance.

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**in**

**Case No(s). 20-1218-TR-ORD**

Summary: Entry directing all interested persons or entities to file comments no later than March 12, 2021, and reply comments no later than March 26, 2021, with the Commission regarding the Commission's review of Ohio Adm.Code Chapter 4901:2-15. electronically filed by Ms. Mary E Fischer on behalf of Public Utilities Commission of Ohio