

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Amendment of)
Rules 4901:2-3 and 4901:2-15, Ohio) Case No. 10-77-TR-ORD
Administrative Code.)

ENTRY

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies, every five years, to conduct a review of its rules and determine whether to continue their rules without change, amend their rules, or rescind their rules. Chapter 4901:2-3, Ohio Administrative Code (O.A.C.), sets forth the rules governing insurance coverage required for equipment leased by an authorized carrier, while Chapter 4901:2-15, O.A.C., governs the registration of motor carriers operating under authority issued by the Interstate Commerce Commission.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine:
 - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;
 - (b) Whether the rule needs amendment or rescission to give more flexibility at the local level;
 - (c) Whether the rule needs amendment to eliminate unnecessary paperwork; and
 - (d) Whether the rule duplicates, overlaps with, or conflicts with other rules.
- (3) In addition, on February 12, 2008, the governor of the state of Ohio issued Executive Order 2008-04S, entitled "Implementing Common Sense Business Regulation," (executive order) which sets forth several factors to be considered in the promulgation of rules and requires the Commission to review its existing

body of promulgated rules. Specifically, among other things, the Commission must review its rules to ensure that each of its rules is needed in order to implement the underlying statute; must amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that unnecessarily impede economic growth, or that have had unintended negative consequences; and must reduce or eliminate areas of regulation where federal regulation now adequately regulates the subject matter.

- (4) The staff of the Commission has proposed rescinding Chapter 4901:2-3, O.A.C. Staff explains that the operations covered in Rule 4901:2-3-01, O.A.C., are no longer regulated; accordingly, the accompanying insurance requirements in Rule 4901:2-3-02, O.A.C., no longer apply.
- (5) Staff recommends the adoption of a new Rule 4901:2-15-04, O.A.C., establishing penalties to be assessed for violations of Chapter 4901:2-15, O.A.C. Staff explains that the new penalty provision establishes a system of fines for violations associated with the uniform carrier registration (UCR) program. Staff notes that the fines are permitted by federal regulations and that Section 4919.76, Revised Code, requires that the Commission's motor carrier registration rules be consistent with and equivalent to the United States Department of Transportation's registration rules.
- (6) The Commission requests comments from interested persons to assist in the review required by Section 119.032(C), Revised Code. Comments should be filed in this docket, in writing, with the Commission's Docketing Division by April 28, 2010. Reply comments should be filed by May 14, 2010. All comments must be sent to: The Public Utilities Commission of Ohio, Docketing Division, 11th floor, 180 East Broad Street, Columbus, Ohio 43215.

It is therefore,

ORDERED, That comments on the attached amended rules by filed in accordance with Finding (6). It is, further,

ORDERED, That a copy of this entry be served upon the Ohio Petroleum Marketers Association, the Ohio Trucking Association, National Tank Truck Carriers, Inc., Ohio Department of Transportation, Ohio State Highway Patrol, and all other interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella
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Entered in the Journal

MAR 31 2010

Renee J. Jenkins

Renee J. Jenkins
Secretary

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TO BE RESCINDED

4901:2-3-01 **Definitions.**

As used in this chapter.

- (A) "Authorized carrier" means any corporation, company, association, joint stock association, person, firm, or co-partnership, their lessees, legal or personal representatives, trustees, receivers, or trustees appointed by any court whatsoever, authorized by the public utilities commission of Ohio, to engage in transportation of property as a "motor transportation company" or "common carrier by motor vehicle" or "contract carrier by motor vehicle" under the provisions of sections 4921.01 to 4921.99 and 4923.01 to 4923.99, inclusive, of the Revised Code of Ohio.

- (B) "Equipment" means a motor vehicle, straight truck, tractor, semitrailer, full trailer, or a combination tractor and semitrailer or combination straight truck or full trailer.

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TO BE RESCINDED

4901:2-3-02 **Insurance.**

No authorized carrier shall enter into a lease agreement for equipment, or shall otherwise use non-owned equipment, unless and until the owners thereof shall have obtained a certificate of liability insurance protecting the public against loss sustained by reason of death of or bodily injury to persons and their loss of or damage to property resulting from the negligence of such owner or his employees. Such policy shall:

- (A) Provide coverage in amounts of twenty-five thousand dollars for bodily injury to or death of one person, one hundred thousand dollars for bodily injuries to or death of all persons injured or killed in any one accident, and ten thousand dollars for loss of or damage to property of others (except cargo) in any one accident. Any policy which grants the coverage required hereunder may also grant any lawful coverage in excess of or in addition to such coverage. Such excess of additional coverage shall not be subject to the terms and conditions of this rule.

- (B) Not provide any coverage inuring to the benefit, either directly or indirectly, of any authorized carrier while the vehicle so insured as being operated under lease to or otherwise used by such carrier; nor shall any authorized carrier be named as an insured in the policy.

- (C) Be issued by an insurance company authorized to transact business in Ohio by the Ohio department of insurance.

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

- (A) "Base state" means a state which is in compliance with the requirements for state participation under the unified carrier registration (UCR) agreement and in which a carrier resides.
- (B) "Broker" means a person who, for compensation, arranges or offers to arrange the transportation of property and/or passengers by an authorized motor carrier.
- (C) "Commission" means the public utilities commission of Ohio.
- (D) "Freight forwarder" means a person, but not a pipeline, rail, motor, or water carrier, holding itself out to the general public to provide transportation of property for compensation and in the ordinary course of its business does any one of the following:
 - (1) Assembles and consolidates, or provides for assembling and consolidating shipments and performs or provides for break-bulk and distribution operations of shipments.
 - (2) Assumes responsibility for the transportation from the place of receipt to the place of destination.
 - (3) Uses for any part of the transportation a carrier regulated by the United States department of transportation (USDOT).
- (E) "Motor carrier" and "carrier" mean a person authorized to engage in the transportation of passengers or property, in interstate or foreign commerce, under the authority of the USDOT ~~United States department of transportation~~.
- (F) "Motor private carrier" means a motor carrier that transports persons or property, by commercial motor vehicle, and is not a for-hire motor carrier.
- (G) "Motor vehicle" means a self-propelled or motor driven vehicle operated by a motor carrier in interstate or foreign commerce under authority issued by the USDOT.
- (H) "Principal place of business" means a single location that serves as a motor carrier's headquarters, where the motor carrier maintains or can make available its operational records.
- (I) "UCR agreement" means the unified carrier registration agreement enacted as subtitle C of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users ("SAFETEA-LU"), section 4301 of Pub. L. No. 109-59, (2005).

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- (J) "UCR Board" means the board of directors appointed by the secretary of transportation pursuant to SAFETEA-LU.

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4901:2-15-02 **Registration requirements.**

- (A) All motor carriers, motor private carriers, brokers, freight forwarders and leasing companies shall register annually with the commission as required by the unified carrier registration (UCR) agreement.
- (B) Motor carriers, motor private carriers, brokers, freight forwarders and leasing companies shall, upon request by the commission, provide information regarding legal name, principle place of business, United States department of transportation registration number and number of motor vehicles subject to registration.
- (C) The registration year shall be the calendar year and registration will be accomplished by completion of forms provided by the commission.
- (D) All motor carriers, motor private carriers, brokers, freight forwarders and leasing companies whose base state of operations is in Ohio shall pay a fee based upon the size of its fleet. Such fee shall be set annually by the UCR board and published in the federal register.

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4901:2-15-03 **Change of name, address, or ownership of motor carrier.**

- (A) If a motor carrier changes its name or business address, the carrier shall submit information to the commission regarding the change made.
- (B) Upon a motor carrier's transfer of authority to new owners, the owner shall notify the commission of the change.

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4901:2-15-04 Penalties.

- (A) Any motor transportation company, private motor carrier, broker, freight forwarder or leasing agent that operates a motor vehicle in violation of this chapter shall be liable for a civil forfeiture of not more than five-hundred dollars for each occurrence.
- (B) Any motor transportation company, private motor carrier, broker, freight forwarder or leasing agent that fails to register and pay the applicable fee contemplated under this chapter shall be liable for a civil forfeiture of not more than one-thousand dollars.
- (C) Any motor transportation company, private motor carrier, broker, freight forwarder or leasing agent that provides false, or misleading information on an application under this chapter may be liable for a civil forfeiture of not more than five thousand dollars.