

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review of)
its Rules for Motor Carrier Tax Payment) Case No. 09-222-TR-ORD
Annual Reports and Records at Chapter)
4901:2-1, Ohio Administrative Code.)

ENTRY

The Commission finds:

- (1) Section 119.032, Revised Code, requires all state agencies, every five years, to conduct a review of each of its rules and to determine whether to continue its rules without change, amend its rules, or rescind its rules. Chapter 4901:2-1, Ohio Administrative Code (O.A.C.), sets forth the requirements for motor carrier tax payments and annual reports and records.
- (2) Section 119.032(C), Revised Code, requires that the Commission determine each of the following:
 - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted.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.
 - (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 (executive order), entitled "Implementing Common Sense Business Regulation," 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) In making the determinations required by Section 119.032(C), Revised Code, the Commission is required to consider those matters set forth in the executive order and in Section 119.032(C), Revised Code, as well as the continued need for the rules; the nature of any complaints or comments received concerning these rules; and any relevant factors that have changed in the subject matter area affected by the rules.
- (5) By entry of July 20, 2009, the Commission requested that interested persons file comments on proposed amendments to the Commission's rules governing motor carrier tax payments and annual reports and records, Chapter 4901:2-1, O.A.C. Specifically, Rule 4901:2-1-02, O.A.C., was amended to provide that any motor carrier, conducting intrastate operations only, that fails to register and fails to pay the applicable tax may be placed out of service, until the carrier has satisfied these requirements. No comments were filed on the proposed rule amendment.
- (6) Following its review, the Commission finds that existing Rule 4901:2-1-02, O.A.C., should be rescinded and that new Rule 4901:2-1-02, O.A.C., should be adopted as shown on the attachment. In addition, we find that existing Rules 4901:2-1-01, 4901:2-1-03, and 4901:2-1-04, O.A.C., should remain in effect without any changes.

It is, therefore,

ORDERED, That existing Rule 4901:2-1-02, O.A.C., be rescinded. It is further,

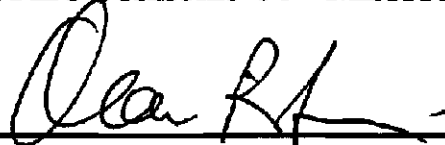
ORDERED, That existing Rules 4901:2-1-01, 4901:2-1-03, and 4901:2-1-04, O.A.C., be filed as no change rules with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That attached new Rule 4901:2-1-02, O.A.C., is adopted and should be filed with the Joint Committee on Agency Rule Review, the secretary of State , and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That the final rules be effective on the earliest day permitted by law. Unless, ordered otherwise by the Commission, the next review date for Chapter 4901:2-1, O.A.C., is November 30, 2014. 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.

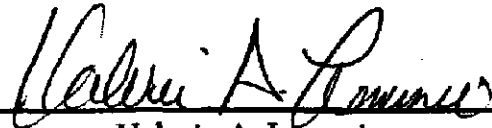
THE PUBLIC UTILITIES COMMISSION OF OHIO



Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser



Cheryl L. Roberto

SEF/sc

Entered in the Journal

JUN 02 2010



Renee J. Jenkins
Secretary

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4901:2-1-01

Inspection.

For the enforcement of the laws of the state of Ohio and the rules and regulations of this commission pertaining to motor transportation, any representative of the public utilities commission of Ohio is hereby authorized to inspect, examine, and copy all books, contracts, records, documents and papers of any motor carrier subject to the rules of this commission, and to have free and unobstructed access to, in, and upon any property, including motor vehicles, owned or operated by any such motor carrier.

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4901:2-1-02

Annual registration.

- (A) On or before July fifteenth of each year, each motor transportation company and contract carrier conducting intrastate operations only, shall file with the commission an annual renewal of registration. This filing shall satisfy the requirements of division (F) of section 4921.04 and division (D) of section 4923.03 of the Revised Code. This registration shall be made on the forms specified in rule 4901:2-21-03 of the Administrative Code.
- (B) Any motor carrier that fails to register under division (A) and fails to pay the tax contemplated under sections 4921.18 or 4923.11 of the Revised Code may be placed out-of-service under rule 4905:2-5-07 of the Administrative Code. Such order shall remain in effect until such time as the motor transportation company or private motor carrier has satisfied these requirements.

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4901:2-1-03

Records and accounts.

Every motor carrier for hire, operating under a certificate or permit from the public utilities commission, shall maintain accurate and adequate records of its business and operations. Each record, including bills of lading, freight bills, manifests, invoices, receipts and trip sheets or drivers' logs, shall be preserved for a period of three years.

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4901:2-1-04

Tax receipts.

- (A) The public utilities commission of Ohio will issue an original tax receipt as evidence that the tax assessed by sections 4921.18 and 4923.11 of the Revised Code has been paid on a particular vehicle. The receipt will specify its effective date. All tax receipts shall expire on the fifteenth day of July of the registration year for which they were issued.
- (B) The driver of a motor vehicle must present the original tax receipt for inspection by any authorized personnel of the public utilities commission or the department of public safety.
- (C) The tax receipt shall not be altered or copied by the motor carrier in any way. Any authorized personnel of the public utilities commission or the department of public safety is authorized to confiscate an altered or copied receipt on sight. A motor carrier may only transfer its tax receipts from vehicles taken out-of-service to their replacement vehicles.
- (D) Each motor carrier is required to retain records specifying the power unit to which each tax receipt was assigned.