

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

FINDING AND ORDER

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  - (a) Whether the rule should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rule was adopted;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) On March 31, 2010, the Commission issued an entry of public notice and comment on the proposed rescission of Chapter 4901:2-3, O.A.C., and amendment of Chapter 4901:2-15, O.A.C., including 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. The rationale for the proposed amendments and rescission was provided in the March 31, 2010 entry. The comment period expired on April 28, 2010, and no comments were filed.
- (5) Following its review, the Commission finds that existing Rules 4901:2-15-01, O.A.C., should be amended as shown on the attachment, that existing Rules 4901:2-15-02 and -03 should be filed as no change rules, and proposed Rule 4901:2-15-04 should be adopted. In addition, we find that Chapter 4901:2-3, O.A.C., should be rescinded.

It is, therefore,

ORDERED, That existing Chapter 4901:2-3, O.A.C., be rescinded. It is, further,

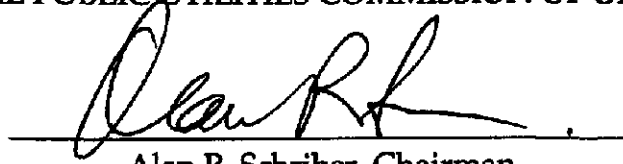
ORDERED, That attached amended Rule 4901:2-15-01 and new Rule 4901:2-15-04, O.A.C., are adopted and should be filed with the Joint Committee on Agency Rule Review, the Secretary of State, and the Legislative Service Commission in accordance with divisions (D) and (E) of Section 111.15, Revised Code. It is, further,

ORDERED, That existing Rules 4901:2-15-02 and -03, O.A.C., should 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 the amended rules be effective on the earliest day permitted by law. Unless ordered otherwise by the Commission the next review date for Chapter 4901:2-15 is May 31, 2015. 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, the Ohio Railroad Association, and all other interested persons of record.

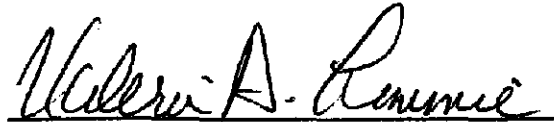
THE PUBLIC UTILITIES COMMISSION OF OHIO




Alan R. Schriber, Chairman



Paul A. Centolella



Valerie A. Lemmie



Steven D. Lesser



Cheryl L. Roberto

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Entered in the Journal

JUN 02 2010



Renee J. Jenkins  
Secretary

**\*\*\* DRAFT - NOT YET FILED \*\*\***

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).

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

**\*\*\* DRAFT - NOT YET FILED \*\*\***

**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.

**\*\*\* DRAFT - NOT YET FILED \*\*\***

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.