

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review    )  
of Chapters 4901:2-6, 4901:2-8, 4901:2-21,    )    Case No. 12-2107-TR-ORD  
and 4901:3-1, Ohio Administrative Code        )

ENTRY

The Attorney Examiner finds:

- (1) Section 119.032, Revised Code, requires all state agencies to conduct a review, every five years, of their rules and to determine whether to continue their rules without change, amend their rules, or rescind their rules. The rules in Chapter 4901:2-6, Ohio Administrative Code (O.A.C.), address hazardous materials carriers registration. The rules in Chapter 4901:2-8, O.A.C., address highway routing of non-radioactive hazardous materials. The rules in Chapter 4901:2-21, O.A.C., address registration of intrastate motor carriers. The rules in Chapter 4901:3-1, O.A.C., are the general provisions for railroads.
- (2) Section 119.032(C), Revised Code, requires the Commission to determine whether:
  - (a) The rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted;
  - (b) The rules need amendment or rescission to give more flexibility at the local level;
  - (c) The rules need amendment or rescission to eliminate unnecessary paperwork, or whether the rule incorporates 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 Section 121.74, Revised Code, and whether the incorporation by reference meets the standards stated in Sections 121.71, 121.75, and 121.76, Revised Code; and

- (d) The rules duplicate, overlap with, or conflict with other rules.
- (3) In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled "Establishing the Common Sense Initiative," which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance properly the critical objectives of regulation and the cost of compliance by the regulated parties; and amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative unintended consequences, or unnecessarily impede business growth.
- (4) Additionally, in accordance with Section 121.82, Revised Code, in the course of developing draft rules, the Commission must conduct a business impact analysis regarding the rules. If there will be an adverse impact on business, as defined in Section 107.52, Revised Code, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to Section 121.82, Revised Code, to provide the Common Sense Initiative (CSI) office the draft rules and the business impact analysis. The Commission is to consider any recommendations made by CSI with regard to the draft rules and provide CSI with a memorandum explaining either how CSI's recommendations were incorporated into the rules or why the recommendations were not incorporated into the rules.
- (5) Prior to issuing Staff's proposed revisions to the rules for comment, it is appropriate for Staff to hold a workshop with interested stakeholders. At the workshop Staff should elicit feedback on any proposed revisions to the rules which Staff may have and may permit stakeholders to propose their own revisions to the rules for Staff's consideration. Interested stakeholders should come to the workshop prepared with necessary technical experts to provide appropriate feedback. After Staff has an opportunity to consider the feedback

received at the workshop, proposed rule amendments will be issued for comments and reply comments by interested parties.

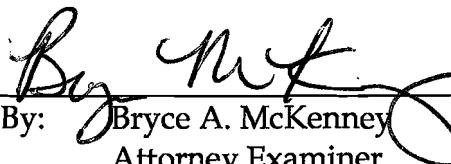
- (6) Accordingly, the Attorney Examiner finds that, at this time, a workshop should be scheduled for August 24, 2012, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio. To allow broader access to the workshop, it will be webcast. Persons wishing to view the workshop via the web should access the Commission's website at [www.puco.ohio.gov](http://www.puco.ohio.gov) and select Webcasts. The workshop is intended as an opportunity for Staff to receive feedback from interested stakeholders before it issues draft rules and opens them up for formal comment. Any interested stakeholder that cannot or does not choose to participate in the workshop may file formal comments with the Commission once the draft rules have been issued.

It is, therefore,

ORDERED, That, in accordance with finding (6), a workshop be scheduled for August 24, 2012. It is, further,

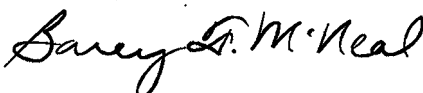
ORDERED, That a notice or copy of this entry be served upon the Ohio Trucking Association, National Tank Truck Carriers, Inc., Ohio Department of Transportation, Ohio State Highway Patrol, the Ohio Railroad Association, the Transportation list-serve, the Railroad list-serve, and all other interested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

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
By: Bryce A. McKenney  
Attorney Examiner

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Entered in the Journal JUL 19 2012



Barcy F. McNeal  
Secretary