

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review)
of Chapter 4901:2-5, Ohio Administrative) Case No. 13-1106-TR-ORD
Code, Regarding Transportation Safety)
Standards.)

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. At this time, the Commission is reviewing the Transportation Safety Standards rules contained in Chapter 4901:2-5 of the Ohio Administrative Code (O.A.C.).
- (2) Section 119.032(C), Revised Code, requires that the Commission determine:
 - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;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) Whether the rules need amendment or rescission to give more flexibility at the local level;
 - (c) Whether the rules need amendment to eliminate unnecessary paperwork; and
 - (d) Whether 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 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 evaluate the rules against the business impact analysis. If there will be an adverse impact on businesses, 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) On May 30, 2013, Staff held a workshop in this matter to elicit feedback on any proposed revisions to the rules. No stakeholders attended the May 30, 2013, workshop. The Commission finds that, prior to issuing Staff's proposed revisions to the rules for comment, it is appropriate to require Staff to hold another 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. An attorney examiner from the Commission's legal department will serve as a moderator for the workshop. 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 a workshop should be scheduled for July 22, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-D, Columbus, Ohio 43215. 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 a workshop be scheduled for July 22, 2013, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-D, Columbus, Ohio. It is, further,

ORDERED, That a 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, and all other interested persons.

THE PUBLIC UTILITIES COMMISSION OF OHIO

s/Bryce McKenney

By: Bryce A. McKenney
Attorney Examiner

JRJ/sc

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in

Case No(s). 13-1106-TR-ORD

Summary: Attorney Examiner Entry schedules a workshop for 07/22/2013 at 10:00 a.m. in Rm. #11-D at the offices of the Commission, 180 E. Broad St., 11th Flr., Columbus, Ohio. - electronically filed by Sandra Coffey on behalf of Bryce McKenney, Attorney Examiner, Public Utilities Commission of Ohio