

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's Review )  
of Chapters 4901:2-9 and 4901:2-15 of the ) Case No. 14-1590-TR-ORD  
Ohio Administrative Code. )

ENTRY

The Commission finds:

- (1) Pursuant to R.C. 106.03 and R.C. 111.15 all state agencies are required 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 rules in Ohio Adm.Code Chapter 4901:2-9, which set forth the requirements for the payment and crediting of fees for shipping radioactive material, and the rules in Ohio Adm.Code Chapter 4901:2-15, which set forth the requirements for interstate motor carrier registration.
- (2) R.C. 106.03(A) requires 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  - (a) Whether the rules should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute(s) under which the rules were adopted;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 or rescission to eliminate unnecessary paperwork;
  - (d) Whether the rules incorporate 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 R.C.

121.74, and whether the incorporation by reference meets the standards stated in R.C. 121.71, 121.75, and 121.76;

- (e) Whether the rules duplicate, overlap, or conflict with other rules;
  - (f) Whether the rules have an adverse impact on businesses, as determined under R.C. 107.53; and,
  - (g) Whether the rules contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive.
- (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 R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, 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 R.C. 121.82, to provide the Common Sense Initiative (CSI) office the draft rules and the BIA.
- (5) On October 21, 2014, the Commission held a workshop in this proceeding to enable interested stakeholders to propose

revisions to the rules found in Ohio Adm.Code Chapters 4901:2-9 and 4901:2-15. One stakeholder from the Ohio State Highway Patrol was present at the workshop and had a question regarding the escort of radioactive shipments in Ohio Adm.Code Chapter 4901:2-9.

- (6) Staff has evaluated the rules contained in Ohio Adm.Code Chapters 4901:2-9 and 4901:2-15 and proposes the following changes:
  - (a) Staff proposes to rescind Ohio Adm.Code Chapter 4901:2-9, as the statutory authority, under R.C. 4905.801 enabling these rules, was rescinded.
  - (b) Staff proposes revising the definitions in Ohio Adm.Code 4901:2-15-01 to provide additional clarity and to align and make consistent the new or modified definitions with changes to the Revised Code and the Unified Carrier Registration (UCR) Agreement.
  - (c) Staff proposes to replace current Ohio Adm.Code 4901:2-15-02 with a rule that defines the chapter's intended purpose and scope, adds waiver language, and indicates which version of the Code of Federal Regulations (C.F.R.) has been incorporated.
  - (d) Staff proposes to revise Ohio Adm.Code 4901:2-15-03 to ensure the registration requirements are consistent with other provisions of the Ohio Administrative Code, the C.F.R., and the UCR Agreement.
  - (e) Staff proposes to replace current Ohio Adm.Code 4901:2-15-04 with a rule that identifies the procedures to be followed when a registered carrier changes its name, business address or principal place of business, or ownership.

- (7) Staff's proposed changes to Ohio Adm.Code Chapter 4901:2-15 (Attachment A), the rescission of Ohio Adm.Code Chapter 4901:2-9 (Attachment B), and the BIA (Attachment C), are posted on the Commission's Docketing Information System (DIS) website at <http://dis.puc.state.oh.us/>. To minimize the expense of this proceeding, the Commission will serve a paper copy of this Entry only. Interested persons are directed to input the case number 14-1590-TR-ORD into the Case Lookup Box to view this Entry, as well as Staff's proposed changes to the rules and the BIA or to contact the Commission's Docketing Division to request a paper copy.
- (8) The Commission requests comments from interested persons to assist in the review required by R.C. 106.03, R.C. 111.15, and Executive Order 2011-01K. Comments should be filed, via electronic filing or in hard copy, by November 28, 2014.

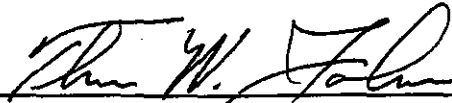
It is, therefore,

ORDERED, That all interested persons or entities wishing to file comments with the Commission regarding the proposed rules and the BIA do so no later than November 28, 2014. It is, further,

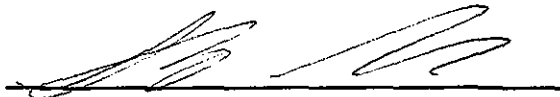
ORDERED, That a copy of this Entry, with the attached rules and the BIA, be submitted to CSI in accordance with R.C. 121.82. It is, further,

ORDERED, That a copy of this Entry, without any attachments, be served upon the Ohio Petroleum Marketers Association, National Tank Truck Carriers, Inc., Ohio State Highway Patrol, the Ohio Trucking Association, Ohio Department of Health, Ohio Department of Public Safety, Ohio Department of Transportation, Ohio Farm Bureau, Ohio Emergency Management Agency, Ohio Association of Chiefs of Police, Buckeye State Sheriff's Association, Ohio State Firefighters Association, Ohio Fire Chief's Association, Ohio Association of Professional Fire Fighters, Ohio Municipal League, County Commissioners' Association of Ohio, Ohio Township Association, The Emergency Management Association of Ohio, U.S. Department of Energy, MDS Nordion, Steris Corporation, and the Transportation list-serve.

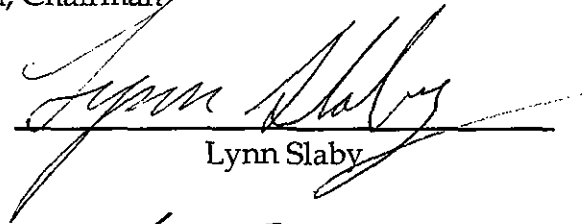
THE PUBLIC UTILITIES COMMISSION OF OHIO



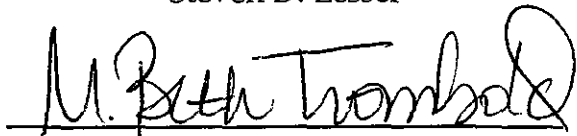
Thomas W. Johnson, Chairman



Steven D. Lesser



Lynn Slaby



M. Beth Trombold



Asim Z. Haque

SEF/dah

Entered in the Journal

**NOV 12 2014**



Barcy F. McNeal  
Secretary

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**"Rescind"**

**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.~~
- (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.~~

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- (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.~~

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

- (A) "Applicant" means any entity that submits to the commission the forms necessary to register pursuant to the unified carrier registration agreement.
- (B) "Base state" means a participating state in which a motor carrier, motor private carrier, broker, leasing company, or freight forwarder subject to the unified carrier registration agreement shall register and to which it shall pay its unified carrier registration fees.
- (C) "Broker" means a person who, for compensation, sells, arranges for, or offers to arrange the transportation of persons or property by motor carrier.
- (D) "Commission" means the public utilities commission of Ohio.
- (E) "Freight forwarder" means a person who, for compensation, arranges for or offers to arrange for the transportation of property belonging to others, utilizing motor carriers to provide the actual transportation, and in the ordinary course of its business:
- (1) Assembles and consolidates, or provides for assembling and consolidating, shipments and performs or provides for break-bulk and distribution operations of the shipments; and
  - (2) Assumes responsibility for the transportation from the place of receipt to the place of destination.
- (F) "Interstate commerce" has the same meaning as in 4921.01 of the Revised Code.
- (G) "Leasing company" means a person engaged in the business of leasing or renting, for compensation, motor vehicles without drivers to a motor carrier, motor private carrier, or freight forwarder.
- (H) "Motor carrier" means a person engaged in the business of transporting persons or property by motor vehicle for compensation, in interstate commerce.

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- (I) "Motor private carrier" means a person who is not a motor carrier but is engaged in the transportation of property by motor vehicle in interstate commerce in order to support its primary line of business.
- (J) "Motor vehicle" means a vehicle that is self-propelled by mechanical power and used upon the highways in the transportation of persons or property, or any combination thereof, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.
- (K) "Participating state" means a state that participates in the unified carrier registration plan.
- (L) "Principal place of business" means a single location that serves as a registrant's headquarters, and where the registrant maintains or can make available its operational records.
- (M) "Registrant" means a motor carrier, motor private carrier, broker, leasing company, or freight forwarder that has selected Ohio as its base state and has registered with the commission pursuant to the unified carrier registration agreement.
- (N) "Registration year" means a calendar year.
- (O) "Renewal period" means, with respect to a registration year, the period of October 1 through December 31 of the immediately preceding year, or as determined by the Unified Carrier Registration Board.
- (P) "Staff" means employees of the transportation department of the commission.
- (Q) "Submit" means to file electronically or via a paper application form.
- (R) "Unified carrier registration agreement" means the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration information and unified carrier registration fees paid by motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies pursuant to 49 U.S.C.14504a, as effective on the date referenced in paragraph (C) of rule 4901:2-15-02 of the Administrative Code.
- (S) "Unified carrier registration board" means the board of directors appointed by the United States secretary of transportation pursuant to 49 U.S.C. 14504a, as effective on the date referenced in paragraph (C) of rule 4901:2-15-02 of the Administrative Code.



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- (T) "Unified carrier registration fees" means the fees determined by the United States secretary of transportation based upon recommendation by the unified carrier registration board.
- (U) "Unified carrier registration plan" means the organization of state, federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement.

**"Rescind"**

**~~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.~~

**4901:2-15-02      Purpose and Scope**

- (A) This chapter governs the establishment of requirements applicable to registration of motor carriers, motor private carriers, freight forwarders, brokers, and leasing companies, pursuant to the unified carrier registration plan.
- (B) The commission may, upon an application or a motion filed by a party, waive any requirement of this chapter, other than a requirement mandated by statute, for good cause shown.
- (C) Each citation contained within this chapter that is made to a section of the United States code or to a regulation in the code of federal regulations is intended, and shall serve, to incorporate by reference the particular version of the cited matter

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that was effective on [latest date possible].

**“Rescind”**

~~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.~~

**4901:2-15-03 Registration Requirements.**

- (A) All motor carriers, motor private carriers, brokers, freight forwarders and leasing companies that operate in interstate commerce within the borders of Ohio shall register as required by the unified carrier registration agreement.
- (B) All motor carriers, motor private carriers, brokers, freight forwarders and leasing companies shall select their base state in accordance with the provisions of the unified carrier registration agreement then in effect.
- (C) Motor carriers, motor private carriers, brokers, freight forwarders and leasing companies selecting Ohio as their base state shall annually submit to the commission a complete and accurate unified carrier registration application form. The staff will maintain, and post on the commission's website, the most recent version of the application to provide to applicants. Such application shall be submitted within the renewal period of the year preceding the registration year. An applicant that intends to commence operating during a registration year may register at any time, but it must do so before it commences operating.

At the time that an applicant submits its unified carrier registration application form, it shall also pay to the commission the applicable unified carrier registration fees.

Upon request of an applicant, the staff will issue a receipt reflecting that the applicant has filed the required unified carrier registration application form and paid the applicable unified carrier registration fees.

- (D) An applicant that completes its unified carrier registration requirements through a national or regional electronic system shall be deemed to be in compliance with the provisions of this rule.

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- (E) Registrants are required to preserve the records upon which their annual unified carrier registration applications are based for three years from the due date or filing date, whichever is later, plus any time period included as a result of commission decisions or inquiries. Such records shall be made available for inspection by the staff upon demand.
- (F) Motor carriers, motor private carriers, brokers, freight forwarders and leasing companies that are required to select a participating state, other than Ohio, as their base state, must comply with that state's unified carrier registration requirements before operating within the borders of Ohio.

**"Rescind"**

**~~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.~~

**4901:2-15-04 Change of Name, Address, or Ownership.**

- (A) If a registrant changes its name, business address, or principal place of business, the registrant shall notify the staff, in writing, within ninety days after the date of such change.
- (B) Upon a registrant's change of ownership that requires a new United States department of transportation number to be issued, the registrant shall notify the staff of such change. The new entity will be considered to be a new operation and it shall comply with the requirements of this chapter.

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**"Rescind"**

**4901:2-9-01 Definitions.**

As used in this chapter:

- ~~(A) "Cask" means a "radioactive package" or "packaging" as defined in section 173.403 of Title 49 of the Code of Federal Regulations (C.F.R.).~~
- ~~(B) "C.F.R." means code of federal regulations.~~
- ~~(C) "Commission" means the public utilities commission of Ohio.~~
- ~~(D) "Motor Carrier" means a "private motor carrier" as defined in section 4923.02 of the Revised Code or a "motor transportation company" as defined in 4921.02 of the Revised Code.~~
- ~~(E) "Railroad" has the same meaning as defined in section 4907.02 of the Revised Code.~~
- ~~(F) "Shipment" has the same meaning as defined in section 4163.07 of the Revised Code.~~
- ~~(G) "Shipper" has the same meaning as a "person who offers hazardous materials" as defined in section 171.8 of Title 49 of the C.F.R., effective in accordance with paragraph (B) of rule 4901:2-9-01 of the Administrative Code.~~

**"Rescind"**

**4901:2-9-02 Purpose and scope.**

- ~~(A) This chapter governs the establishment, payment and crediting of fees applicable to the transportation of material subject to division (A)(1) of section 4163.07 of the Revised Code within, into or through the state of Ohio by railroad or motor carrier and the creation of the radioactive waste transportation fund.~~
- ~~(B) The regulations established in 49 Code of Federal Regulations (C.F.R.) 171.8, 100 through 185, and 173.403, shall be the versions adopted in final form.~~

**"Rescind"**

**4901:2-9-03 Fees.**

- ~~(A) For each shipment within, into, or through the state of Ohio, at least four days prior to the date of the shipment of a material subject to division (A)(1) of section 4163.07 of~~

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~~the Revised Code, but not excluded by section 4905.801 of the Revised Code, a motor carrier or railroad shall pay to the commission the following:~~

- ~~(1) Two thousand five hundred dollars for each shipment by a motor carrier;~~
  - ~~(2) Four thousand five hundred dollars for the first cask designated for transport by rail; and~~
  - ~~(3) Three thousand dollars for each additional cask designated for transport by rail that is shipped by the same person or entity in the same shipment.~~
- ~~(B) Payments shall be made using a certified check or money order payable to "Treasurer, state of Ohio", and mailed along with all requisite forms as provided in rule 4901:2-9-04 of the Administrative Code, to the director of transportation, or public utilities commission of Ohio designee, 180 E. Broad street, Columbus, Ohio 43215-3793.~~
- ~~(C) If a shipment will be escorted by a state or local police agency, and a fee for that service will be charged, the motor carrier or railroad required to pay a fee under paragraph (A) of this rule shall not be required to make payment until such time as the shipment has been completed. Within four days of the completion of a shipment, the motor carrier or railroad shall pay to the commission the fee due under paragraph (A) of this rule less the actual incurred costs paid to the police agency. Should the costs exceed the amount due, the fee shall be zero.~~

**"Rescind"**

**4901:2-9-04 Payment of fees.**

- ~~(A) A motor carrier or railroad required to pay fees pursuant to rule 4901:2-9-03 of the Administrative Code, shall submit payment and all requisite forms prescribed by the commission. Such forms shall, at a minimum, contain all of the following:~~
- ~~(1) The name of the entity that will be responsible for the shipment, including any doing business as (dba) names;~~
  - ~~(2) Contact person including name, title, organization name, email address, phone number(s); and address of physical principal place of business, including city, state, and zip code. Post office (PO) boxes are not acceptable;~~
  - ~~(3) In the case of a motor carrier, the motor carrier's United States department of transportation number shall also be provided;~~

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- ~~(4) The date of the shipment;~~
- ~~(5) The shipment origin;~~
- ~~(6) The shipment destination;~~
- ~~(7) List of radionuclides required to be documented on the hazardous material shipping paper(s) and label(s) as specified in Subpart C of Title 49, sections 100 through 185 of the C.F.R. effective in accordance with paragraph (B) of rule 4901:2-9-01 of the Administrative Code, and the activity of those radionuclides described in systems international units;~~
- ~~(8) For shipments by motor carriers, the state that will perform the commercial vehicle safety alliance, level VI inspection, prior to the arrival of the shipment in the state of Ohio;~~
- ~~(9) For rail shipments, the number of casks that will be shipped;~~
- ~~(10) The total amount of fees due; and~~
- ~~(11) The total amount of fees being paid.~~
- ~~(B) Upon payment and satisfactory completion of all forms, each motor carrier or railroad shall be issued a receipt that shall serve as proof that payment has been made.~~
- ~~(C) In the event that a form is incomplete, the commission shall, in a timely manner, contact the motor carrier or railroad using the contact information of record on file with the commission; to advise on all deficiencies of the forms in order that the motor carrier or railroad can correct any inadequacies. The motor carrier is responsible for providing the commission with updated contact information.~~
- ~~(D) The receipt shall be retained by the driver on the vehicle during the shipment.~~
- ~~(E) At the conclusion of the shipment, the driver shall provide the receipt to the motor carrier which shall retain the receipt for a period of eighteen months from the date of the shipment.~~
- ~~(F) Should a shipment be delayed or rescheduled to a date other than that which was contained in the original application, a motor carrier or railroad may request to change the applicable date. Such requests shall be made in writing to the commission and submitted immediately once the change of date is known. Any fees paid for the original shipment date shall be applied to the new date and a revised receipt shall be~~

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issued.

**"Rescind"**

**4901:2-9-05 Refund of payments.**

~~(A) A motor carrier or railroad required to pay fees pursuant to rule 4901:2-9-03 of the Administrative Code may request a refund of payments made for the following reasons:~~

- ~~(1) The planned shipment was canceled or rerouted, and did not nor will pass through the state of Ohio;~~
- ~~(2) For a railroad shipment, the number of casks that were shipped through the state of Ohio was less than the amount that was originally paid for under rule 4901:2-9-03 of the Administrative Code; or~~
- ~~(3) An escort by a state or local police agency was provided.~~

~~(B) The amount of such refund shall be equivalent to the actual incurred costs of the police agency, but shall not exceed the amount paid minus the costs incurred by the commission related to the shipment.~~

**"Rescind"**

**4901:2-9-06 Penalties.**

~~(A) Whoever violates division (A) of section 4905.801 of the Revised Code shall be liable for a civil penalty in an amount not to exceed ten times the amount of the fee that is due under rule 4901:2-9-03 of the Administrative Code.~~

~~(B) In the administration of such violations, the commission shall follow the procedures set forth in Chapter 4901:2-7 of the Administrative Code.~~

**"Rescind"**

**4901:2-9-07 Radioactive waste transportation fund.**

~~(A) The commission shall administer a program to oversee shipments of radioactive materials that meet the definition of section 4163.07 of the Revised Code. Such a program shall include, but not be limited to, all of the following:~~

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- ~~(1) Processing of applications and payments by motor carriers and railroads related to shipments of nuclear materials;~~
  - ~~(2) Administration of the radioactive waste transportation fund;~~
  - ~~(3) Radioactive materials dose survey, commercial vehicle inspection, and escort of shipments;~~
  - ~~(4) Assessment of civil forfeitures for violations;~~
  - ~~(5) Planning, monitoring, coordinating, educating, and training related to shipments of radioactive materials;~~
  - ~~(6) Purchase and maintenance of monitoring and medical, safety equipment and supplies;~~
  - ~~(7) Costs related to the administration of the program.~~
- ~~(B) To the extent the commission incurs expenses related to section 4163.07, 4905.801 or 4905.802 of the Revised Code, reimbursement shall be made to the commission for such activities from the radioactive waste transportation fund.~~
- ~~(C) To the extent a state agency or local government incurs expenses pursuant to section 4905.802 of the Revised Code, a state agency or local governmental entity may request, from the commission, reimbursement of such expenses as they relate to the transportation of radioactive materials subject to division (A)(1) of section 4163.07 of the Revised Code for the following purposes:~~
- ~~(1) Inspections, escorts, security, emergency management services, radiological surveys, and radiological dose surveys;~~
  - ~~(2) Accident response;~~
  - ~~(3) Planning, monitoring, coordinating, educating, and training of emergency response providers, law enforcement agencies, and other appropriate entities;~~
  - ~~(4) Purchase and maintenance of monitoring, medical, safety or emergency response equipment and supplies;~~
  - ~~(5) Administrative costs;~~
  - ~~(6) Any other expenses deemed appropriate by the commission.~~



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- ~~(D) A state or local government seeking reimbursement under paragraph (C) of this rule shall provide to the commission the following information:~~
- ~~(1) A list of items purchased containing the name of each item, description, vendor, price paid, date of purchase, reason for purchase, and its purpose;~~
  - ~~(2) A detailed description of what the item will be used for;~~
  - ~~(3) How often it is anticipated the item will be used;~~
  - ~~(4) The source of all funds used to pay for the item;~~
  - ~~(5) A justification of why the item was purchased;~~
  - ~~(6) The total amount of the expense incurred, less the total amount reimbursed or eligible to be reimbursed under other state or federal programs.~~
- ~~(E) To the extent funds are available, an application(s) for reimbursement (AFR) under this rule shall be processed on an annual basis.~~
- ~~(1) An AFR will be solicited by staff of the commission prior to the end of each fiscal year;~~
  - ~~(2) Staff of the commission shall review each AFR for completeness;~~
  - ~~(3) The director of the transportation department shall make recommendations to the commission as to which AFR should be approved and the amount of the refund;~~
  - ~~(4) The commission shall review all AFRs and make awards through an order of the commission based upon the merits of each request.~~
- ~~(F) To the extent an expense incurred has been reimbursed, is eligible to be reimbursed, or has been paid for through other state or federal funding sources, the total amount eligible to be reimbursed shall be the total amount of the expense incurred less the total amount reimbursed or eligible to be reimbursed from other sources.~~

# CSI - Ohio

The Common Sense Initiative

## Business Impact Analysis

<b>Agency Name:</b>	Public Utilities Commission of Ohio (PUCO)
	Attention: Angela M. Hawkins, Legal Director
	Phone: 614-466-0122 Fax: 614-466-8373
	Angela.Hawkins@puc.state.oh.us
	Scott Farkas, Chief Legal Atty./Transportation
	Phone: 614-466-8057 Fax: 614-728-8373
	Scott.Farkas@puc.state.oh.us
<b>Regulation/Package Title:</b>	Ohio Adm.Code Chapter 4901:2-9 Fees for Shipping Radioactive Material and 4901:2-15 Registration of Motor Carriers Operating under Authority Issued by the Interstate Commerce Commission.
<b>Rule Number(s):</b>	
	4901:2-9-01      4901:2-9-05      4901:2-15-01
	4901:2-9-02      4901:2-9-06      4901:2-15-02
	4901:2-9-03      4901:2-9-07      4901:2-15-03
	4901:2-9-04      4901:2-15-04
<b>Date:</b>	November 12, 2014
<b>Rule Type:</b>	<input checked="" type="checkbox"/> New <input checked="" type="checkbox"/> 5-Year Review <input type="checkbox"/> No Change <input checked="" type="checkbox"/> Amended <input checked="" type="checkbox"/> Rescinded

The Common Sense Initiative was established by Executive Order 2011-01K and placed within the Office of the Lieutenant Governor. Under the CSI Initiative, agencies should balance the critical objectives of all regulations with the costs of compliance by the regulated parties. Agencies should promote transparency, consistency, predictability, and flexibility in regulatory activities. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

**Regulatory Intent**

- 1. Please briefly describe the draft regulation in plain language. Please include the key provisions of the regulation as well as any proposed amendments.**

The draft rules contain revisions to the procedures for interstate motor carrier registration and the rescission of the rules applicable to the transportation of radioactive materials. More specifically:

- (a) Staff proposes to rescind the rules in Ohio Adm.Code Chapter 4901:2-9, as the statutory authority for these rules under R.C. 4905.801 has been rescinded.
- (b) Staff proposes adding new definitions and revising current definitions to provide additional clarity to Ohio Adm.Code Chapter 4901:2-15-01 and to align the new and modified definitions with changes to the Revised Code.
- (c) Staff proposes to replace current Ohio Adm.Code 4901:2-15-02 with a rule that defines the chapter's intended purpose and scope, adds waiver language, and indicates which version of the Code of Federal Regulations (C.F.R.) has been incorporated.
- (d) Staff proposes to revise current Ohio Adm.Code 4901:2-15-03 so that the registration requirements are consistent with other provisions of the Ohio Administrative Code and the C.F.R.
- (e) In Ohio Adm.Code 4901-15-04, Staff proposes to identify the procedures to be followed when a registered carrier changes its name, business address, or principal place of business, or ownership.

**2. Please list the Ohio statute authorizing the Agency to adopt this regulation.**

Rule	Statutory Authority Ohio Revised Code
4901:2-15-01	4921.11, 4905.06
4901:2-15-02	4921.11, 4905.06
4901:2-15-03	4921.11, 4905.06
4901:2-15-04	4921.11, 4905.06
4901:2-9-01	4905.06, 4905.801
4901:2-9-02	4905.06, 4905.801
4901:2-9-03	4905.06, 4905.801
4901:2-9-04	4905.06, 4905.801
4901:2-9-05	4905.06, 4905.801
4901:2-9-06	4905.06, 4905.801
4901:2-9-07	4905.06, 4905.801

**3. Does the regulation implement a federal requirement? Is the proposed regulation being adopted or amended to enable the state to obtain or maintain approval to administer and enforce a federal law or to participate in a federal program? If yes, please briefly explain the source and substance of the federal requirement.**

This rules in Ohio Adm.Code 4901:2-15 do implement a federal requirement. The rules implement the Unified Carrier Registration (UCR) plan, codified as 49 U.S.C. 14504a. The proposed regulations are necessary to participate in the UCR plan and are required by R.C. 4921.11.

**4. If the regulation includes provisions not specifically required by the federal government, please explain the rationale for exceeding the federal requirement.**

Not applicable.

**5. What is the public purpose for this regulation (i.e., why does the Agency feel that there needs to be any regulation in this area at all)?**

The purpose of this chapter is to implement the UCR plan as required by R.C. 4921.11. The UCR plan enables Ohio to identify interstate motor carriers domiciled in the state, while the fees provide funding for the expenses incident to maintaining the non-railroad transportation activities of the Commission.

**6. How will the Agency measure the success of this regulation in terms of outputs and/or outcomes?**

The Commission will measure success by whether the affected carriers or interested persons register as required by the UCR plan.

**Development of the Regulation**

**7. Please list the stakeholders included by the Agency in the development or initial review of the draft regulation. If applicable, please include the date and medium by which the stakeholders were initially contacted.**

On September 17, 2014, in Case No. 14-1590-TR-ORD, the Commission issued an Entry by U.S. Mail and e-mail scheduling a workshop for October 21, 2014, to provide notice of changes to Chapters 4901:2-9 and 2-15. The Entry was served upon the Ohio Petroleum Marketers Association, National Tank Truck Carriers, Inc., Ohio State Highway Patrol (OSP), the Ohio Trucking Association, Ohio Department of Health, Ohio Department of Public Safety, Ohio Department of Transportation (ODOT), Ohio Farm Bureau, Ohio Emergency Management Agency, Ohio Association of Chiefs of Police, Buckeye State Sheriff's Association, Ohio State Firefighters Association, Ohio Fire Chief's Association, Ohio Association of Professional Fire Fighters, Ohio Municipal League, County Commissioners' Association of Ohio, Ohio Township Association, The Emergency Management Association of Ohio, U.S. Department of Energy, MDS Nordion, Steris Corporation, the Ohio Railroad Association, Ohio State Legislative Board/United Transportation Union, and the Transportation list-serve, Railroad list-serve, and interested persons of record.

**8. What input was provided by the stakeholders, and how did that input affect the draft regulation being proposed by the Agency?**

One stakeholder representing the OSP was present at the workshop and asked a question concerning the escort of radioactive shipments in Ohio Adm.Code 4901:2-9-05. Stakeholders will have additional opportunity to comment following issuance of Staff's proposed revisions in a Commission Entry seeking comments.

**9. What scientific data was used to develop the rule or the measurable outcomes of the rule? How does this data support the regulation being proposed?**

Not applicable.

**10. What alternative regulations (or specific provisions within the regulation) did the Agency consider, and why did it determine that these alternatives were not appropriate? If none, why didn't the Agency consider regulatory alternatives?**

No alternative regulations were considered. The Commission is authorized by statute to establish a certification program for interstate carriers operating through Ohio.

**11. Did the Agency specifically consider a performance-based regulation? Please explain. *Performance-based regulations define the required outcome, but don't dictate the process the regulated stakeholders must use to achieve compliance.***

The Commission did not consider a performance-based regulation. The rules in Ohio Adm.Code Chapter 4901:2-15 are primarily regulatory in nature and are required by the Revised Code.

**12. What measures did the Agency take to ensure that this regulation does not duplicate an existing Ohio regulation?**

Although it is unlikely that Ohio Adm.Code Chapter 4901:2-15 duplicates the rules of the ODOT or the OSP, these two parties were notified of the workshop described in paragraph 7 of this BIA. Neither ODOT nor OSP have indicated that Ohio Adm.Code Chapter 4901:2-15 duplicates any of their rules.

**13. Please describe the Agency's plan for implementation of the regulation, including any measures to ensure that the regulation is applied consistently and predictably for the regulated community.**

On September 17, 2014, in Case No. 14-1590-TR-ORD, the Commission issued an Entry by U.S. mail and e-mail scheduling a workshop for October 21, 2014, to consider any rule changes proposed by stakeholders. Next, the Commission will issue an entry containing Staff's proposed changes to the rules, to which stakeholders will have another opportunity to comment. Finally, following the comment period specified in the entry, the Commission will issue a finding and order adopting the proposed rules changes. All potential stakeholders will be notified that this chapter is under review by Staff and they will be provided an opportunity for feedback concerning the proposed changes to the rules in the chapter. Thus, stakeholders will have an opportunity to express whether the proposed rules will be applied consistently and predictably.

**Adverse Impact to Business**

**14. Provide a summary of the estimated cost of compliance with the rule. Specifically, please do the following:**

**a. Identify the scope of the impacted business community;**

The impacted business community consists of for-hire motor carriers, private motor carriers, freight forwarders, leasing companies, and brokers operating in interstate commerce.

**b. Identify the nature of the adverse impact (e.g., license fees, fines, employer time for compliance); and**

The current rules impact the identified business community because they impose costs in terms of registration fees and time to complete the registration form.

**c. Quantify the expected adverse impact from the regulation. *The adverse impact can be quantified in terms of dollars, hours to comply, or other factors; and may be estimated for the entire regulated population or for a "representative business." Please include the source for your information/estimated impact.***

The cost of these rules involves the time to complete the application form which is one page in length. For a typical business it should take no more than 10 minutes to complete the form as it only requires demographic information and a disclosure of the

number of vehicles the business operates. The registration fees are dependent on the number of vehicles the business operates based on a fee structure determined by the US Secretary of Transportation and recommendations of the UCR Board.

**15. Why did the Agency determine that the regulatory intent justifies the adverse impact to the regulated business community?**

The agency does not make such a determination because the purpose of this chapter is to set rules to implement the UCR plan as required by R.C. 4921.11.

**Regulatory Flexibility**

**16. Does the regulation provide any exemptions or alternative means of compliance for small businesses? Please explain.**

No. Staff works with regulated entities to assist them with the applicable requirements and provides guidance on how to achieve compliance.

**17. How will the agency apply Ohio Revised Code section 119.14 (waiver of fines and penalties for paperwork violations and first-time offenders) into implementation of the regulation?**

The rules in Ohio Adm.Code Chapter 4901:2-15 do not impose fines or penalties for failure to comply. However, to the extent that the Commission issues a civil forfeiture to a regulated entity in an enforcement proceeding pursuant to R.C. 4923.99 for failure to comply, that entity may request a conference with the Commission staff. The conference may result in a waiver or reduced forfeiture depending on the nature and circumstances of the violation. An entity may also avail itself of an administrative hearing before the commission. Depending on the evidence and testimony provided at hearing the Commission will determine whether a forfeiture is appropriate.

**18. What resources are available to assist small businesses with compliance of the regulation?**

Staff works with regulated entities to assist them with the applicable requirements and provides guidance on how to achieve compliance.