

FILE

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Public Utilities Commission of Ohio  
ATTN: Docketing Division  
180 E. Broad Street, 11<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

CASE # OH1575002638C

TO WHOM THIS MAY CONCERN,

I (Brian Copeland) on behalf of McCutcheon Enterprises am submitting a request for an Administrative Hearing on Case #OH1575002638C. Please direct all communication/correspondence to myself at the below contact information.

Sincerely,



Brian Copeland (Field Manager)  
250 Park Road  
Apollo, PA 15613  
Email: [brianc@completewastemgmt.com](mailto:brianc@completewastemgmt.com)  
Office: 724-568-3623 ext. 110  
Cell: 724-448-8499

PUCO

2021 APR 26 PM 12:23

RECEIVED-DOCKETING DIV

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Technician: SR Date Processed: 4.26.21

April 14, 2021

MCCUTCHEON ENTERPRISES INC  
250 PARK ROAD  
APOLLO, PA 15613

RE: **NOTICE OF PRELIMINARY DETERMINATION**  
Case No. OH1575002638C

Dear Sir or Madam:

On 03/04/2021, a vehicle operated by MCCUTCHEON ENTERPRISES INC, and driven by, OHARRA, MAX H was inspected within the state of Ohio. As a result of discovery of the following violation(s) of the Commission's rules, Staff of the Commission timely notified MCCUTCHEON ENTERPRISES INC pursuant to rule 4901:2-7-07, Ohio Administrative Code (OAC), that it intended to assess a civil forfeiture against MCCUTCHEON ENTERPRISES INC in the following amount:

<u>CODE</u>	<u>GROUP</u>	<u>VIOLATION</u>	<u>FORFEITURE</u>
172.516 C6	HazMat	Placard damaged, deteriorated, or obscured	\$ 0.00
<b><u>Original Amount Due:</u></b>			\$0.00

A conference was conducted pursuant to Rule 4901:2-10, OAC, at which MCCUTCHEON ENTERPRISES INC had a full opportunity to present reasons why the violation(s) did not occur as alleged, mitigating circumstances regarding the amount of any forfeiture, and any other information relevant to the action proposed to be taken by the Staff.

As a result of the conference, staff has made a preliminary determination that the commission should assess a civil forfeiture against MCCUTCHEON ENTERPRISES INC in the following amount:

<u>CODE</u>	<u>GROUP</u>	<u>VIOLATION</u>	<u>FORFEITURE</u>
172.516 C6	HazMat	Placard damaged, deteriorated, or obscured	\$ 0.00
<b><u>New Amount Due:</u></b>			\$0.00

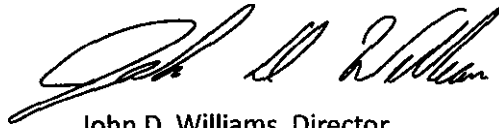
Within 30 days of this notice you must either; 1) pay the assessed civil forfeiture or, 2) submit a written Request for an Administrative Hearing.



Failure to comply with either option above shall constitute a waiver of your right to further contest the violation(s) and will conclusively establish the occurrence of the violation(s). Such failure shall also constitute a waiver of your right to further contest liability to the State of Ohio for the civil forfeiture described in the notice and will result in the forfeiture amount being referred to the Ohio Attorney General's Office for collection. In addition, your Ohio operating authority and/or commercial driving privileges may be sanctioned as permitted by law.

Please consult the enclosed instruction sheet for additional information regarding this "Notice of Preliminary Determination."

Sincerely,

A handwritten signature in black ink, appearing to read "John D. Williams", written in a cursive style.

John D. Williams, Director  
Transportation Department

cc: Thomas Persinger



# INSTRUCTION SHEET

## NOTICE OF PRELIMINARY DETERMINATION

Please read these instruction sheets carefully. They contain information about your rights and responsibilities in regard to this "Notice of Preliminary Determination."

You have received a "Notice of Preliminary Determination" as described in 4901:2-7-12, Ohio Administrative Code (OAC). Within 30 days of this notice you must either; 1) pay the assessed civil forfeiture or, 2) submit a written Request for an Administrative Hearing. If you do not pay the forfeiture or request a hearing within 30 days of this notice, your case will be placed in our default process. Additionally, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

### How to pay the forfeiture

**Online** <https://www.puco.ohio.gov/sc/mcos/>  
Enter the case number and PIN located on the enclosed invoice.

**Mail** Public Utilities Commission of Ohio  
Attn: Fiscal Section  
180 E. Broad Street, 4<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

Send check/money order (no foreign checks/money orders) made payable to **"Public Utilities Commission of Ohio"**. To ensure proper credit, write the case number on the face of the check or money order.

**\* Payments cannot be completed by telephone**

### How to make a Request for an Administrative Hearing

If you wish to further contest the violations described in this notice, you should file a "Request for an Administrative Hearing" with the Commission's Docketing Division as described in Rule 4901:2-7-13, OAC.

Your "Request for an Administrative Hearing" must be in writing and must contain the case number found at the top of the "Notice of Preliminary Determination." Also, please include the contact name, address, and telephone number of the person to whom further communications should be directed. The request shall be signed by the Respondent or the Respondent's authorized representative. A copy of the "Notice of Preliminary Determination" must be attached to your request.

Your "Request for an Administrative Hearing" must be mailed or hand-delivered within 30 days of this notice to the following address:

Public Utilities Commission of Ohio  
ATTN: Docketing Division  
180 E. Broad Street, 11<sup>th</sup> Floor  
Columbus, Ohio 43215-3793

### Failure to submit a Request for Administrative Hearing

If you do not serve a timely "Request for an Administrative Hearing" in the manner described above, you will forfeit your right to further contest the violations described in this notice and the occurrence of the violations will be conclusively established. Such failure shall also constitute a waiver of your right to further contest liability to the state of Ohio for the civil forfeiture described in this notice and will result in the forfeiture amount being referred to the Ohio Attorney General's Office for collection. Also, your Ohio operating authority and/or your commercial driving privileges may be sanctioned as permitted by law.

### Codes, Violation Groups, and Forfeiture Amounts

"Code" in this notice identifies the rule violated. Numbers in a 100 or 300 series refer to specific sections of the Hazardous Materials Regulations or the Federal Motor Carrier Safety Regulations located in Title 49 of the Code of Federal Regulations (CFR). Some section numbers may have suffixes beyond those appearing in the CFR. These are used for internal data collections purposes. Codes in other formats refer to violations of Ohio's statutes or regulations.

"Violations Group" identifies the assigned numerical group (1-4) for the violation for purposes of calculating the civil forfeiture. Section 4923.99, Ohio Revised Code (ORC) authorizes the Public Utilities Commission of Ohio to assess civil forfeiture up to \$25,000 for each day of each violation. The amount of any forfeiture is dependent upon the nature, gravity, circumstances, and extent of the violation, the offender's degree of culpability for the violation, and the offender's violation history. "Total Amount Due" is the total amount of the civil forfeiture assessed for all violations described in this notice.



## **ATTENTION DRIVER**

### **Potential Disqualification**

If the roadside inspection leading to this letter identified an alleged violation of one or more of the below noted regulations, your CDL may be disqualified. If the Public Utilities Commission of Ohio (PUCO) finds you committed a violation of any of these regulations, the violation will be treated as a conviction<sup>1</sup> for the purposes of federal and state law and notice of such conviction will be forwarded to the Ohio Bureau of Motor Vehicles (BMV). The BMV may disqualify you from operating a commercial motor vehicle for a minimum of 60 days. Any BMV sanction is **in addition to** sanctions imposed by the PUCO.

177.804B1	177.804(b)(1)	Failure to comply with 49 CFR Section 392.12 Complying With Safe Clearance Requirements For Highway-Rail Grade Crossings.
177.804B2	177.804(b)(2)	Failure to comply with 49 CFR Section 392.80 Texting While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placarding.
177.804B3	177.804(b)(3)	Failure to comply with 49 CFR Section 392.82 Using a Cell Phone While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placarding.
177.804C	177.804(c)	Failure to comply with 49 CFR Section 392.82 Using a Handheld Mobile Phone While Operating a CMV When Transporting Select Agents or Toxins or HM Requiring Placard.
2-5-07D	392.2	Operating a CMV after Driver or Vehicle declared out of service.
383.23A2	383.23(a)(2)	Operating a CMV without a CDL.
383.51A	383.51(a)	Driving a CMV while disqualified from holding a CDL.
383.51A-NSIN	383.51(a)	Driving a CMV while CDL is suspended for a non-safety-related reason and in the state of driver's license issuance.
383.51A-NSOUT	383.51(a)	Driving a CMV while CDL is suspended for a non-safety-related reason and outside the state of driver's license issuance.
383.51A-SIN	383.51(a)	Driving a CMV while CDL is suspended for a safety-related or unknown reason and in state of driver's license issuance.
383.51A-SOUT	383.51(a)	Driving a CMV while CDL is suspended for safety-related or unknown reason and outside the state of driver's license issuance.
383.91A	383.91(a)	Operating a CMV with improper CDL group.
383.93B1	383.93(b)(1)	No double or triple trailer endorsement on CDL when required.
383.93B2	383.93(b)(2)	No passenger vehicle endorsement on CDL when required.
383.93B3	383.93(b)(3)	No tank vehicle endorsement on CDL when required.
383.93B4	383.93(b)(4)	No hazardous materials endorsement on CDL when required.
383.93B5	383.93(b)(5)	Operating a School Bus without a school bus endorsement as described in 383.93(b)(5).
391.15A	391.15(a)	Driving a CMV while disqualified.
391.15A-NSIN	391.15(a)	Driving a CMV while disqualified. Suspended for non-safety-related reason and in the state of driver's license issuance.
391.15A-NSOUT	391.15(a)	Driving a CMV while disqualified. Suspended for a non-safety-related reason and outside the state of driver's license issuance.
391.15A-SIN	391.15(a)	Driving a CMV while disqualified. Suspended for safety-related or unknown reason and in the state of drivers license issuance.
391.15A-SOUT	391.15(a)	Driving a CMV while disqualified. Suspended for a safety-related or unknown reason and outside the driver's license state of issuance.
392.10A1	392.10(a)(1)	Failure to stop at railroad crossing - Bus transporting passengers.
392.10A2	392.10(a)(2)	Failure to stop at railroad crossing - CMV transporting Division 2.3 Chlorine.
392.10A3	392.10(a)(3)	Failure to stop at railroad crossing - CMV requiring display of HM placards.
392.10A4	392.10(a)(4)	Failure to stop at railroad crossing - HM Cargo Tank vehicle.
392.11	392.11	Commercial Vehicle failing to slow down approaching a railroad crossing.
392.12	392.12	No Driver of a Commercial Motor Vehicle Shall Drive Onto a Highway-Rail Grade Crossing Without Having Sufficient Space to Drive Completely Through the Crossing Without Stopping.
392.4A	392.4(a)	Driver on duty and under the influence of, or using a narcotic drug / amphetamine, which renders the driver incapable of safe operation.
392.5A2-UI	392.5(a)(2)	Operating a CMV while under the influence of an intoxicating beverage regardless of its alcohol content.
392.5C2	392.5(c)(2)	Violating OOS order pursuant to 392.5(a)/(b) - Alcohol prohibitions.
392.80A	392.80(a)	Driving a commercial motor vehicle while Texting.
392.82A1	392.82(a)(1)	Using a hand-held mobile telephone while operating a CMV.
395.13D	395.13(d)	Driving after being declared out-of-service for HOS violation(s).
396.9C2	396.9(c)(2)	Operating an out-of-service vehicle.

<sup>1</sup> Federal regulations define "conviction" as, "... a determination that a person has violated or failed to comply with the law ... by an authorized administrative tribunal, ... the payment of a fine or court cost, ... regardless of whether or not the penalty is rebated, suspended, or probated." 49 CFR 383





# Public Utilities Commission

Jenifer French, Chair, Chairman

## Commissioners

M. Beth Trombold  
Lawrence K. Friedeman  
Dennis P. Deters  
Daniel R. Conway

MCCUTCHEON ENTERPRISES INC  
250 PARK ROAD  
APOLLO, PA 15613

Invoice #: 21-00055224  
Date: 04/13/2021  
Due Date: 05/13/2021  
PIN #: AZLXjMCC  
Case #: OH1575002638C

### 2021

Item #	Type	Description	Amount Due
INVD-0142094	Civil Forfeiture HazMat	Placard damaged, deteriorated, or obscured	\$ 0.00
Payments Received			\$ 0.00
Total Amount Due			\$ 0.00

Please visit <https://www.puco.ohio.gov/sc/mcos/> to make your online payments.

Questions concerning this invoice should be addressed to our call center at 1-800-686-7826.

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### (Remittance for mailed check payment)

Please make checks payable to:

Public Utilities Commission of Ohio  
PO BOX 715343  
Cincinnati, OH 45271-5343

MCCUTCHEON ENTERPRISES INC  
250 PARK ROAD  
APOLLO, PA 15613

Invoice #: 21-00055224  
Date: 04/13/2021  
Due Date: 05/13/2021

