

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF OHIO ADM.CODE CHAPTER
4901:2-19, TRANSPORTATION OF
HOUSEHOLD GOODS.

CASE NO. 21-563-TR-ORD

ENTRY

Entered in the Journal on July 28, 2021

I. SUMMARY

{¶ 1} The Commission directs that all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed amendments to Ohio Adm.Code Chapter 4901:2-19, its rules regarding transportation of household goods, do so no later than September 1, 2021, and September 15, 2021, respectively.

II. DISCUSSION

{¶ 2} R.C. 111.15(B) and R.C. 106.03(A) require 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 Commission opened this docket to review the transportation of household goods rules in Ohio Adm.Code Chapter 4901:2-19.

{¶ 3} R.C. 106.03(A) requires that the Commission determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;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) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;

- (d) Incorporate a text or other material by reference and, if so, whether the citation accompanying the incorporation by reference would reasonably enable the Joint Committee on Agency Rule Review or a reasonable person to whom the rules apply to find and inspect the incorporated text or material readily and without charge and, if the rule has been exempted in whole or in part from R.C. 121.71 to 121.74 because the incorporated text or material has one or more characteristics described in R.C. 121.75(B), whether the incorporated text or material actually has any of those characteristics;
- (e) Duplicate, overlap with, or conflict with other rules;
- (f) Have an adverse impact on businesses, as determined under R.C. 107.52;
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and
- (h) Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 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 July 7, 2021, the Commission held a workshop in this proceeding to enable interested stakeholders to propose revisions to Ohio Adm.Code Chapter 4901:2-19. One stakeholder attended the workshop but offered no verbal statements on Ohio Adm.Code Chapter 4901:2-19.

{¶ 6} The Commission and Staff evaluated the rules contained in Ohio Adm.Code Chapter 4901:2-19. As a result of that review, Staff recommends changing Ohio Adm.Code 4901:2-19-03(C), which requires carriers to maintain contracts for three years. Staff proposes to reduce this requirement from three years to 12 months. Next, Staff recommends a change to Ohio Adm.Code 4901:2-19-08(A) to specify that the written estimate may be on a hard copy or an electronic version. Staff also recommends removing the requirement in Ohio Adm.Code 4901:2-19-14(C) that motor vehicles used to transport household goods be marked with the company number of the vehicle.

{¶ 7} Attached to this Entry are the proposed changes to Ohio Adm.Code Chapter 4901:2-19 (Attachment A) and the BIA (Attachment B), which are also posted on the Commission's Docketing Information System 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. All interested persons are directed to input case number 21-563-TR-ORD into the Case Lookup box to view this Entry, as well as the proposed changes, or to contact the Commission's Docketing Division to request a paper copy.

{¶ 8} The Commission requests comments on the proposed modifications from interested persons to assist in the review required by R.C. 111.15 and R.C. 106.03. Comments should be filed, via electronic filing or in hard copy, by September 1, 2021. Reply comments should be filed by September 15, 2021.

III. ORDER

{¶ 9} It is, therefore,

{¶ 10} ORDERED, That all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed rules do so no later than September 1, 2021, and September 15, 2021, respectively. It is, further,

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

{¶ 12} ORDERED, That a copy of this Entry be sent to the transportation list-serve. It is, further,

{¶ 13} ORDERED, That a copy of this Entry be served upon all household goods carriers, Ohio Association of Movers, Ohio Brokers of household goods as identified by the Federal Motor Carrier Safety Administration, and all other interested persons of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

JWS/kck

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NO CHANGE

4901:2-19-01 Definitions.

- (A) "Associated service" means any service provided by the carrier which is incidental to the transportation service being provided, but does not include weighing.
- (B) "Carrier" means any person engaged in the transportation of household goods in intrastate commerce.
- (C) "Certified scale" means a scale which has been tested and approved by the local official charged with the duty of regulating weights and measures.
- (D) "Collect on demand" means payment of household goods transportation service is due upon delivery.
- (E) "Commission" means the public utilities commission.
- (F) "Consumer" means any person who is the consignor or consignee of a household goods shipment and who is identified as such in the bill of lading.
- (G) "Gross weight" means the weight of a vehicle or container after a shipment has been completely loaded.
- (H) "Household goods" means personal effects and property used or to be used in a dwelling. This rule shall not be construed to include shipments exclusively moving from a factory or store.
- (I) "Interstate commerce" means transportation from a point within one state, country, or reservation to a point in another state, country, or reservation, and transportation into, or from this state where such transportation is subject to federal jurisdiction.
- (J) "Interstate household goods carrier" means any person who is authorized to and engaged in the transportation of household goods in interstate commerce.
- (K) "Intrastate commerce" means transportation from one point in this state to another point in this state, and transportation within this state where such transportation is not subject to federal jurisdiction.
- (L) "Net weight" means the weight of a shipment as determined by subtracting the tare weight from the gross weight.

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- (M) "Reasonable dispatch" means the performance of transportation on the dates or during the period of time agreed upon by the carrier and the consumer and shown on the estimate or the bill of lading in the event no written estimate was prepared and recorded on the estimate or bill of lading, provided however, that the defense of force majeure as construed by the courts shall not be denied the carrier.
- (N) "Shipping documents" means all forms, estimates, bills of lading and receipts whether signed or not that are related to the terms and conditions of a particular transaction for the transportation of household goods within in the state of Ohio.
- (O) "Tare weight" means the weight of an empty vehicle or container.

NO CHANGE

4901:2-19-02 General provisions.

- (A) This chapter sets forth the requirements for the transportation of household goods which apply to all carriers of household goods regulated by the commission.
- (B) Pursuant to its jurisdiction under Title 49 of the Revised Code, the commission may:
- (1) The commission may, upon 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, from which no waiver is permitted.
 - (2) As it deems necessary in any proceeding, prescribe different standards for the transportation of household goods.
 - (3) Monitor carrier's compliance with the provisions of this chapter.
 - (4) Pursue formal action, at any time, to alter or amend this chapter.
 - (5) Upon its own motion, a customer complaint, or upon application of any carrier, take appropriate steps to require the furnishing of any service(s), equipment, or facilities affecting service.
- (C) Any tariff or contract provision inconsistent with this chapter shall be deemed, under this rule, inoperative and superseded by this chapter, unless and until the commission specifically orders otherwise.

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- (I) Interstate household goods carriers are not required to file tariffs with the commission, but are required to comply with federal rules regarding rates and tariffs as promulgated in 49 C.F.R. 375.215 to 221, 703, 705, 801 and 807.

NO CHANGE

4901:2-19-04 Changes to tariffs.

- (A) All changes in rates and charges, terms, conditions, or other provisions that affect rates, shall be filed with the commission. Tariff changes will be effective the day they are filed.
- (B) When the names or legal entity of a carrier changes, the carrier shall file an amended title page, including the following sentence above the name of the issuing party: "the above-named carrier hereby adopts the tariff of _____ (previous name) _____."
- (C) Changes in the rates, terms, conditions, or other provisions of a tariff may be accomplished by issuing a supplement or revised page to the tariff. The front of the supplement or revised page shall be a page indicating that the changes are being made.
- (D) Carriers who are both interstate and intrastate carriers, who utilize the same rates and terms in both the provision of inter- and intrastate services, may reference their federal tariff. Such references must be clearly indicated in their tariffs.

NO CHANGE

4901:2-19-05 Rejection and suspension of tariffs.

- (A) Any tariff which does not meet the requirements of this chapter is subject to rejection by the commission. When a tariff or schedule is rejected, the commission, or its authorized employees, will notify the carrier or the agent who tendered it for filing and will include the reasons for the rejection. The rejected tariff will be returned to the carrier or agent.
- (B) Pursuant to its investigative power, the commission, or its authorized employees, may suspend a tariff during an inquiry. If a tariff is suspended, the carrier's previously filed tariff will be presumed to be in effect.

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- (C) Any carrier whose tariff has been rejected or suspended under this rule may file an application for review by the commission with the docketing division within thirty days after receiving notice of such action.

NO CHANGE

4901:2-19-06 Limitations on the liability of carriers and reimbursement for lost or damaged goods.

- (A) Except as otherwise provided in this rule, a carrier shall be liable for the replacement value of household goods in the event of loss of, or damage to, such goods during transportation.
- (B) All liability limitations options offered by a carrier must be printed in distinctive color or boldface type on estimates or bills of lading, in the event no written estimate is prepared.
- (C) A carrier shall not be liable for the transportation of perishable articles that are included in the shipment without the knowledge of the carrier. If a carrier knowingly accepts perishable articles, the carrier may impose reasonable conditions necessary to safely transport perishable articles.
- (D) Except as otherwise provided in this rule, no agreement between the consumer and the carrier may be employed to reduce the liability of the carrier for loss of, or damage to, household goods.
- (E) If a carrier wants to offer limited liability, the carrier must offer consumers the following liability limitation provisions within this paragraph. No carrier may provide for minimal liability reimbursement of sixty cents per pound without providing the option for the full declared value reimbursement. Limitations offered shall be printed verbatim in distinctive color or boldface type on estimates and bills of lading.

Consumer must personally initial choice

- (1) Minimal liability option.

"(____) I agree to minimal reimbursement for lost or damaged goods. I understand and accept that I will be reimbursed for lost or damaged goods at a minimal amount not exceeding sixty cents per pound per article."

- (2) Full replacement value option

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"() I accept reimbursement equal to the replacement cost of lost or damaged goods. I declare a total replacement value of the shipment to be \$__ or a minimum of six dollars per pound times the weight of the shipment, whichever is greater. I understand that total reimbursement for lost or damaged goods shall not exceed this declared value of the shipment. I understand that failure to disclose any article valued at greater than one hundred dollars per pound may limit the carrier's reimbursement liability to this maximum per article."

- (F) No limitation will be effective unless the consumer initials, and where appropriate, inserts the declared value on, the statement on the estimate or bill of lading.
- (G) Should the consumer not elect any limitation, the consumer shall be reimbursed for the replacement value of any lost or damaged goods, with no limitation as to the total declared value of the shipment. Any additional charges or credits related to the change in liability option shall be disclosed as a line item on the bill of lading and the estimate. If the cost was not disclosed prior to shipment, then no additional charge shall be charged to the shipper.
- (H) No carrier may accept any shipment for transportation unless the carrier has cargo insurance in an amount equal to the declared value of such shipment.
- (I) Nothing in this rule shall be construed as prohibiting the carrier and the consumer from agreeing upon a deductible against any reimbursement for lost or damaged goods in the estimate or the bill of lading, in the event that no written estimate was prepared.
- (J) No such deductible shall be effective unless the consumer signifies that it elects such limitation by personally initialing the following statement on the estimate or the addendum to the estimate:
- "Consumer must personally initial
- () I choose a deductible of \$__ against any reimbursement for lost or damaged goods."
- (K) The carrier may reserve the right to repair any damaged goods in lieu of reimbursement to the consumer, provided that this right to repair is expressly included in the estimate or the bill of lading, in the event that no written estimate was prepared.
- (L) An interstate household goods carrier's liability for loss of, or damage to, household goods shall be determined by 49 C.F.R. 375.201, 203, 303, 701, 707, and 709 as effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code.

NO CHANGE

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4901:2-19-07 Determination of weights.

- (A) Nothing in this rule shall be construed as requiring the weighing of shipments, unless the carrier bases its rates and charges on the weight of the shipment.
- (B) Each carrier that establishes household goods rates by weight shall determine the tare weight of each vehicle used in the transportation of household goods by having the vehicle weighed on a certified scale prior to the transportation of each shipment, without the crew thereon, and when so weighed, the fuel tanks on such vehicle shall be full and the vehicle shall contain all pads, chains, dollies, hand trucks and other equipment needed in the transportation of shipment to be loaded thereon.
- (C) The net weight of the shipment shall be obtained by deducting the tare weight from the gross weight, in accordance with 49 C.F.R. 375.509(a).
- (D) Where no certified scale is available at the point of origin, the gross weight shall be obtained at the nearest certified scale either in the direction of the move or in the direction of the next pickup or delivery, in the case of part loads.
- (E) Where no certified scale is available at origin, nor at any point in route or upon destination, a constructive weight, based on seven pounds per cubic foot of properly loaded van space, may be used to substitute for gross weight.
- (F) In the transportation of part loads, this rule shall apply in all respects, except that the gross weight of a vehicle containing one or more part loads may be used as the tare weight of such vehicle as to part loads subsequently loaded thereon.
- (G) A consumer or representative of the consumer, upon request, without charge, and using separate transportation, may accompany the carrier to a certified scale to observe the weighing of shipment after loading.
- (H) A true copy of any weight ticket obtained for tare and gross weight, pertaining to a shipment, shall be given to the consumer and attached to the bill of lading.
- (I) A part load for any one consumer not exceeding one thousand pounds may be weighed on a certified scale prior to being loaded on the vehicle.
- (J) An automobile or other article weighing in excess of five hundred pounds which is mounted on wheels may be weighed separately by obtaining the weight of such article on a certified scale prior to loading on the vehicle to be used for its transportation.

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- (K) No carrier shall accept a shipment of household goods for transportation which appears to be subject to the minimum weight provisions of the carrier's tariff without first having advised the consumer of such minimum weight provisions.
- (L) The determination of weight for shipments of household goods by interstate carriers shall be governed by 49 C.F.R. 371, 375, and 507 to 521 as effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code.

AMENDED

4901:2-19-08 Estimates by the carrier.

- (A) Except as otherwise provided for in paragraphs (E), (F), and (G) of this rule, all estimates shall be in writing, either on a hard copy or an electronic version, in plain and understandable English.
- (B) Estimates may be offered on a nonbinding, binding, or guaranteed-not-to-exceed basis.
- (C) No provision contained in any tariff filed by the carrier or on the bill of lading accompanying a shipment of household goods shall be considered binding upon the consumer unless it is also disclosed to the consumer in the estimate for such shipment.
- (D) All estimates shall include the following:
- (1) The name, address and certificate number of the carrier that is to perform the transportation service.
 - (2) The name and signature of the person preparing the estimate and the date on which the estimate is made.
 - (3) The type of estimate being provided: nonbinding, binding, or guaranteed-not-to-exceed.
 - (4) The name and address of the consumer.
 - (5) A description of the shipment and any charges to be assessed for the shipment.
 - (6) A description of all services to be provided and all charges to be assessed for those services.
 - (7) The origin and the destination of the proposed shipment; if the estimate is made based upon the miles between the origin and the destination, the mileage must be listed.

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- (8) The estimated total weight of the shipment if the carrier's rate is based on the weight of the shipment.
- (9) All costs related to storage time, if applicable.
- (10) The planned pickup and delivery dates for the shipment; in the event that the pickup and delivery dates have not been determined by the consumer, the estimate must indicate "telephone notification" in the space provided for the pickup and delivery dates.
- (11) The carrier's choice of reimbursement option(s) for the consumer as required in rule 4901:2-19-06 of the Administrative Code.
- (12) If the carrier chooses the right to repair any damaged goods in lieu of reimbursement, a statement explaining this right.
- (13) If the consumer and the carrier agree to a deductible amount against any reimbursement for lost or damaged goods, a statement identifying the amount of the deductible and a place for the consumer to initial the agreement to signify that the consumer elects such limitation.
- (14) The total estimated cost for the shipment.
- (15) A statement of the specific methods of payment that the carrier will accept on delivery.
- (16) The following statement regarding consumers' rights and responsibilities in Ohio:

"You have a minimum of sixty days from the date of the move to file a claim for any damaged or missing goods. The carrier must acknowledge receipt of your claim within fifteen days after receiving it and must respond to you within thirty days. If your complaint is not resolved after you have called the carrier, you may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov> Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service)."
- (17) A signature line for the consumer to sign to accept the estimate. The signature line must include the date on which the estimate was accepted. The following statement must be entered in boldface type or contrasting color above the signature line:

"I accept the above estimate by ____ (carrier). I understand that by accepting this estimate, I am entering into a contract with ____ (carrier) to perform the work described in the estimate."

(E) Nonbinding estimates

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- (1) A carrier may provide a nonbinding estimate of the approximate costs of transporting such goods.
- (2) Nonbinding estimates shall be provided only after a visual inspection of the goods by the estimator.
 - (a) The carrier may charge a reasonable fee for performing the visual inspection, provided that this fee is disclosed to the consumer prior to the visual inspection and the amount of the fee shall be credited to the shipment's rates and charges if the consumer accepts the carrier's estimate.
 - (b) A consumer may waive its right to a visual inspection by personally signing a waiver on the written estimate.
- (3) All nonbinding estimates shall be reasonably accurate and in accord with the carrier's tariff.
- (4) The final charges on shipments moved shall be determined by the carrier's tariff.
- (5) In addition to the requirements of paragraph (D) of rule 4901:2-19-08 of the Administrative Code, all nonbinding estimate forms shall include the following:
 - (a) On its face, in boldface type or a contrasting color, the following statement: "This estimate is a nonbinding estimate. If this estimate is accepted, the cost may exceed, or be less than, the amount contained in this estimate."
 - (b) The rates, charges, and provisions of the carrier's tariff applicable to the shipment. All rates and charges shall be clearly and explicitly stated per unit in U.S. dollars and cents. Rates may be stated in any measurable unit verifiable by the consumer.
 - (c) A statement for a consumer to personally sign to waive a visual inspection;
 - (d) The following statement above the signature of the person preparing the estimate: "This is an estimate only. Actual charges will be based upon services provided."
- (6) A carrier may provide a nonbinding oral estimate in lieu of a written estimate in the following situations:
 - (a) When the consumer requests an estimate five days or less prior to the scheduled move.
 - (b) When the total charges for the oral estimate equal five hundred dollars or less.
- (7) In the event that the carrier provides an oral estimate, the carrier must provide a bill of lading in accordance with the terms of rule 4901:2-19-09 of the Administrative Code.

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(F) Binding estimate

- (1) A carrier may provide a binding estimate of the costs which the consumer will be required to pay for the services included in the estimate.
- (2) A consumer shall accept the binding estimate by signing on the signature line provided for in paragraph (D)(17) of this rule. The carrier shall retain at least one copy of the estimate and shall provide one copy of the estimate, signed by both parties, to the consumer.
- (3) Following acceptance of the binding estimate by the consumer, both the carrier and consumer shall be contractually bound by the estimate.
- (4) The carrier may require the consumer to provide a deposit upon acceptance of the estimate by the consumer.
- (5) In addition to the requirements of paragraph (D) of rule 4901:2-19-08 of the Administrative Code, a binding estimate shall clearly indicate on its face, in boldface type or a contrasting color, that the estimate is binding on the carrier for the household goods and services identified on the estimate and that the charges shown are the charges that will be assessed for the services identified in the estimate.
- (6) A carrier may provide a binding oral estimate in lieu of a written estimate when the total charges for the oral estimate equal five hundred dollars or less.
- (7) In the event that the carrier provides an oral estimate, the carrier must provide a bill of lading in accordance with the terms of rule 4901:2-19-09 of the Administrative Code.

(G) Guaranteed-not-to-exceed estimates

- (1) A carrier may provide for an estimate on a guaranteed-not-to-exceed basis. The carrier shall specify the maximum charge which the consumer will be charged for the shipment. The consumer shall be liable for the maximum charge specified in the estimate or the charges determined by applying the carrier's tariff, whichever is less.
- (2) A consumer shall accept the guaranteed-not-to-exceed estimate by signing on the signature line provided for in paragraph (D) (17) of this rule. The carrier shall retain at least one copy of the estimate and shall provide one copy of the estimate, signed by both parties, to the consumer.
- (3) Following acceptance of the guaranteed-not-to-exceed estimate by the consumer, both the carrier and consumer shall be contractually bound by the estimate.

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- (4) The carrier may require the consumer to provide a deposit upon acceptance of the estimate by the consumer.
 - (5) In addition to the requirements of paragraph (D) of rule 4901:2-19-08 of the Administrative Code, a guaranteed-not-to-exceed estimate:
 - (a) Shall clearly indicate on its face, in boldface type or a contrasting color, that the consumer shall be liable for the lesser of the maximum charge specified in the guaranteed-not-to-exceed estimate for the household goods and services identified on the estimate or the charges determined by applying the carrier's tariff.
 - (b) Must contain the rates, charges and provisions of the carrier's tariff which are applicable to the shipment. All rates and charges shall be clearly and explicitly stated per unit in U.S. dollars and cents. Rates may be stated in any measurable unit verifiable by the consumer.
 - (6) A carrier may provide a guaranteed-not-to-exceed oral estimate in lieu of a written estimate when the total charges for the oral estimate equal five hundred dollars or less.
 - (7) In the event that the carrier provides an oral estimate, the carrier must provide a bill of lading in accordance with the terms of rule 4901:2-19-09 of the Administrative Code.
- (H) Addendum to original estimate
- (1) If, at the time the shipment is picked up or delivered, a consumer adds household goods or requests services which were not identified in the original estimate, then prior to loading or unloading the additional household goods or providing the additional services, the carrier may either reaffirm the original estimate or provide to the consumer an addendum estimating the charges for the additional household goods or services.
 - (2) Any such addendum to the estimate must conform to all of the provisions of this rule.
 - (3) Once a shipment is loaded, failure to execute a new binding estimate or a nonbinding estimate signifies that the carrier and consumer have reaffirmed the original estimate.
 - (4) In the event that the consumer or its representative is not available to sign the addendum, the carrier must advise the consumer or its representative by telephone of the terms of the addendum and enter "telephone authorization received" in the space for the consumer's signature.

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- (I) Estimates for shipment of household goods provided by interstate household goods carriers shall be determined by 49 C.F.R. 375, 401 to 409 as effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code.

NO CHANGE

4901:2-19-09 Receipt or bill of lading.

- (A) A carrier shall immediately issue a receipt or bill of lading upon receiving household goods for an intrastate move.
- (B) A bill of lading shall include:
- (1) The name, address, telephone number and certificate number of the carrier which will transport the shipment;
 - (2) The actual pickup date and the agreed delivery date or the agreed period of time within which delivery of the shipment is expected at the destination;
 - (3) If the carrier's rates for the shipment are based upon the weight of the shipment, the tare, gross and net weights, weighed as required by paragraph (B) of rule 4901:2-19-07 of the Administrative Code;
 - (a) The carrier shall enter the tare weight on the copy of the receipt or bill of lading and shall attach the tare weight ticket to it before the vehicle(s) has been loaded.
 - (b) True copies of the gross weight tickets required by paragraph (B) of rule 4901:2-19-07 of the Administrative Code shall be attached to the receipt or bill of lading as soon as such weight tickets are obtained.
 - (c) The carrier shall give the consumer a copy of the gross weight ticket either at the weighing, if the consumer is present, or otherwise at the destination.
 - (4) The number of the vehicle(s) onto which the shipment is loaded; and
 - (5) If requested by the consumer, a complete inventory of the household goods loaded on the vehicle. The carrier may charge a fee for performing such an inventory. The inventory shall be attached to the bill of lading.

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- (C) If a carrier has given the consumer an oral estimate, in addition to the requirements of paragraph (B) of this rule, the receipt or bill of lading must also include the following:
- (1) A description of the rates and specific charges assessed for the shipment and any services provided by the carrier;
 - (2) Any terms and conditions specific to the consumer's shipment;
 - (3) The specific reimbursement language for lost or damaged goods offered by the carrier on its estimate form as required by paragraph (D)(11) of rule 4901:2-19-08 of the Administrative Code; and
 - (4) The following statement regarding customers' rights and responsibilities in Ohio:

"If your complaint is not resolved after you have called the carrier, you may contact the public utilities commission of Ohio (PUCO) for assistance at 1-800-686-7826 (toll free) from eight a.m. to five p.m. weekdays, or at <http://www.puco.ohio.gov>. Hearing or speech impaired customers may contact the PUCO via 7-1-1 (Ohio relay service).

"You have a minimum of sixty days from the date of the move to file a claim for any damaged or missing goods. The carrier must acknowledge receipt of your claim within fifteen days after receiving it and must respond to you within thirty days."
- (D) The carrier shall attach a copy of the estimate, any addenda, and any applicable inventory and/or weight tickets to the bill of lading at the time the carrier picks up the shipment. The bill of lading and any attached documents must remain with the shipment until delivery.
- (E) The driver of any vehicle being utilized for the transportation of household goods should have in his possession, when driving, a copy of the receipt or bill of lading for each shipment being transported.
- (F) If the carrier provided an oral estimate to the consumer, no terms or conditions for the shipment may be included on the bill of lading and/or be considered binding upon the consumer unless such terms and conditions were disclosed to the consumer at the time the carrier gave the oral estimate.
- (G) For orders for service, inventories, and bills of lading, interstate household goods carriers must comply with 49 C.F.R. 375, 501, 503, and 505 as effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code.

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NO CHANGE

4901:2-19-10 Timetable.

- (A) Each carrier will transport each shipment with reasonable dispatch as defined in paragraph (M) of rule 4901:2-19-01 of the Administrative Code.
- (B) All estimates shall clearly identify the planned pickup and delivery dates for the shipment. Unless otherwise instructed by the consumer no carrier shall fail to timely pick-up or deliver a shipment of household goods according to the dates entered on the estimate. In the event that the pickup and/or delivery dates have not been determined at the time of the acceptance of the estimate, the consumer may enter telephone notification in the space provided on the estimate for pickup and delivery dates.
- (C) The carrier shall give notice to the consumer if the shipment will not be delivered in accordance with the terms of the estimate, receipt or bill of lading. In the event the carrier is unable to obtain from the consumer an address or telephone number for such notification, this rule shall not apply.
 - (1) As soon as it becomes apparent to the carrier that it is unable to deliver the shipment as required, the carrier shall notify the consumer, or person designated by the consumer by telephone, or in person, at the carrier's expense.
 - (2) The carrier shall disclose the location and general condition of the shipment, the reason for such delay and the date or period of time during which delivery of the shipment will be made and shall repeat such notification if any subsequent date or period of time so assigned is not met.
 - (3) Notification as required herein shall not affect the determination of compliance by the carrier with reasonable dispatch as required in paragraph (A) of this rule.
- (D) Any notification required by paragraph (B) or (C) of this rule shall be kept as a part of the carrier's record of the shipment. Carrier's record of the notification shall be signed by the person who gave such notification and must contain the following information:
 - (1) The time and date of notification;
 - (2) Method of notification;
 - (3) The name of the person notified;
 - (4) The reason for delay;

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- (5) The location and condition of the shipment in cases of delay in delivery; and
- (6) The new date or period assigned for pickup or delivery.

NO CHANGE

4901:2-19-11 Tendering for delivery.

- (A) Except upon the request or concurrence of the consumer, or his representative, a shipment shall not be tendered for delivery prior to the agreed delivery date or period of time specified on the receipt or bill of lading.
- (B) In the event a carrier is able to tender a shipment for final delivery more than twenty-four hours prior to the agreed delivery date or period of time specified on the receipt or bill of lading, and the consumer or his representative has not requested or concurred in such early delivery, the carrier may, at its option, place the shipment in storage at the carrier's expense in a warehouse located in close proximity to the destination point of the shipment.

A carrier exercising its option under paragraph (B) of this rule shall immediately notify the consumer of the name and address of the warehouse in which the shipment has been placed. The carrier shall make and keep a record of the notification as a part of its record of shipment.

- (1) Notwithstanding all carrier responsibilities pursuant to the bill of lading, which shall continue until final delivery, carrier responsibility for storage and any attendant storage charges shall not extend beyond the agreed delivery date or the first day of the period within which delivery was to have been accomplished as specified in the bill of lading.
 - (2) At the time of delivery of a collect-on-demand shipment, for which a nonbinding estimate has been furnished, the carrier shall relinquish possession of the shipment upon payment of not more than one hundred ten per cent of the estimated charges. Payment of the balance of any remaining charges shall be deferred for thirty days following the date of delivery. Payment shall be made in the form as specified in the estimate.
- (C) At the time of delivery of a collect-on-demand shipment, on which a binding estimate has been furnished, the carrier shall relinquish possession of the shipment upon payment of the total charge specified in the binding estimate. Payment shall be made in the form as specified in the estimate.

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- (D) At the time of delivery of a collect-on-demand shipment, on which a guaranteed-not-to-exceed estimate has been furnished, the carrier shall relinquish possession of the shipment upon payment of an amount equal to the maximum charge specified in the estimate. Payment shall be made in the form as specified in the estimate.
- (E) At the time of delivery of a collect-on-demand shipment on which a guaranteed-not-to-exceed oral estimate has been furnished pursuant to paragraph (G) of rule 4901:2-19-08 of the Administrative Code, the carrier shall relinquish possession of the shipment upon payment of an amount equal to the maximum charge specified on the bill of lading. Payment shall be made in the form as specified in the estimate.
- (F) At the time of delivery of a collect-on-demand shipment, on which a binding oral estimate has been furnished under the provisions of paragraph (F) of rule 4901:2-19-08 of the Administrative Code, the carrier shall relinquish possession of the shipment upon payment, in cash, certified check or money order, of the amount agreed upon, but not exceeding, five hundred dollars.
- (G) Except for as provided for in paragraphs (F) and (G) of this rule, at the delivery of a collect-on-demand shipment, on which the carrier did not furnish a written estimate as required by rule 4901:2-19-08 of the Administrative Code, the carrier must relinquish possession of the shipment upon demand of the consumer.
- (H) The responsibility of interstate household goods carriers for tendering shipments of household goods shall be determined by 49 C.F.R. 375, 601 to 609 as effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code.

NO CHANGE

4901:2-19-12 Signed receipt for shipment and records retention.

- (A) A carrier's delivery receipts and shipping documents, which includes all documents to be signed by the consumer at the time of delivery, may not include any language purporting to release or discharge the carrier or its agents from liability due to loss or damage to the shipment.
- (B) A carrier's delivery receipts and shipping documents, which includes all documents to be signed by the customer at the time of delivery, may include a statement that the property has been received by the customer in apparent good condition, except as noted on the shipping documents.

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- (C) Carrier's shall retain all delivery receipts and shipping documents related to a mover for hire of household goods for a period of not less than twelve months from the date of completion of the move.

AMENDED

4901:2-19-14 Advertisements.

- (A) Every carrier shall include in every advertisement the name or trade name, address, and telephone number of the carrier and the certificate number assigned to that carrier by the commission. The certificate number shall be in the following format in every advertisement: "PUCO No. _____."
- (B) For purposes of this rule, an "advertisement" means any communication to the public in connection with an offer or sale of any intrastate transportation service. This includes a yellow pages listing, on-line website, social media or domains, email solicitations, or written or electronic database listings of the carrier name, address and telephone number in an on-line database but excludes advertisement over airwaves, including radio and telephone, and listings of a carrier name, address and telephone number in a white pages listing.
- (C) Notwithstanding the provisions of paragraph (A)(3) of rule 4901:2-5-10 of the Administrative Code, all motor vehicles used to transport household goods in this state shall be marked with the company name, city and state, ~~company number of vehicle~~ and PUCO certificate number in letters not less than two inches in height and three-eighths inch in width.
- (D) All advertisements and information provided by interstate household goods carriers shall comply with 49 C.F.R. 375, 207, 213, and 301 as effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code.

NO CHANGE

4901:2-19-15 Claims for loss or damage.

- (A) Every carrier which receives a written claim for loss of or damage to property transported by it, shall acknowledge receipt of such claim in writing to the claimant within fifteen calendar days

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after its receipt by the carrier or the carrier's agent. The carrier shall at the time such claim is received, cause the date of receipt to be recorded on the claim.

- (B) Every such carrier which receives a written claim for loss or damage to household goods transported by it shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within thirty days after receipt of the claim by the carrier or its agent.
- (C) No carrier may include in any estimate, bill of lading or tariff any provision which limits the time, the consumer's right or ability to file a claim with the carrier within the time limits established by the carrier, provided that no carrier shall establish a time limit of less than sixty days or to file a claim.

NO CHANGE

4901:2-19-16 Prohibitions.

- (A) No carrier shall commit a deceptive or unconscionable act or practice in connection with a transaction related to the transportation of household goods within this state. Such a deceptive or unconscionable act or practice is prohibited by this paragraph irrespective of whether it occurs before, during or after such a transaction.
- (B) Carriers shall establish customer complaint resolution procedures that comply with all of the following requirements:
 - (1) Provide commission staff with a company contact, including a toll free number and an e-mail address, for complaint resolution.
 - (2) Report the status of a complaint to the affected customer and/or commission staff within fifteen business days of the receipt of a customer complaint, or at any time upon staff request.
 - (3) After the initial fifteen business day time frame, the carrier shall report the interim status of the complaint at five business day intervals to the customer and/or the commission staff, unless otherwise agreed to by the customer and/or staff. If the resolution of the complaint is conveyed orally, the carrier shall inform the customer of his/her right to receive from the carrier the final resolution of the complaint in writing.
- (C) No unreasonable discounts shall be authorized by tariff provisions or otherwise allowed by any carrier, and no rates or charges shall be established by prepayment of charges. This rule shall not

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preclude a carrier from accepting payment by credit card pursuant to an agreement between the carrier and a financial institution.

NO CHANGE

4901:2-19-17 Adoption of the consumer protection regulations of the United States department of transportation.

- (A) The commission hereby adopts the provisions of the consumer protection regulations of the U.S. department of transportation for the transportation of household goods in interstate commerce contained in 49 C.F.R. 366, 370, 371, 373, 375, 378, 386, and 387, unless specifically excluded or modified by a rule of this commission, that was effective on the date referenced in paragraph (E) of rule 4901:2-19-02 of the Administrative Code. All household goods carriers operating in interstate commerce within Ohio shall conduct their operations in accordance with those regulations and the provisions of this chapter.
- (B) All interstate household goods carriers shall operate in conformity with all applicable regulations of the U.S. department of transportation, which have been adopted by this commission, subject to any exemptions granted by the U.S. department of transportation. Violation of any such federal regulation by any interstate household goods carriers shall constitute a violation of this commission's rules.



Mike DeWine, Governor
Jon Husted, Lt. Governor

**Common Sense
Initiative**

Carrie Kuruc, Director

Business Impact Analysis

Agency, Board, or Commission Name: Public Utilities Commission of Ohio (PUCO)

Rule Contact Name and Contact Information:

Attention: Angela Hawkins, Legal Director

Phone: 614-466-0122, **Fax:** 614-728-8378, **Email:** Angela.Hawkins@puco.ohio.gov

Regulation/Package Title (a general description of the rules' substantive content):

Case No. 21-563-TR-ORD

Transportation of Household Goods

Rule Number(s): Ohio Adm.Code Chapter 4901:2-19

Date of Submission for CSI Review: July 28, 2021

Public Comment Period End Date: September 15, 2021

Rule Type/Number of Rules:

New/___ rules

No Change/13 rules (FYR? Yes)

Amended/3 rules (FYR? Yes)

Rescinded/___ rules (FYR? ___)

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The Common Sense Initiative is established in R.C. 107.61 to eliminate excessive and duplicative rules and regulations that stand in the way of job creation. Under the Common Sense Initiative, agencies must balance the critical objectives of regulations that have an adverse impact on business with the costs of compliance by the regulated parties. Agencies should promote transparency, responsiveness, predictability, and flexibility while developing regulations that are fair and easy to follow. Agencies should prioritize compliance over punishment, and to that end, should utilize plain language in the development of regulations.

Reason for Submission

1. R.C. 106.03 and 106.031 require agencies, when reviewing a rule, to determine whether the rule has an adverse impact on businesses as defined by R.C. 107.52. If the agency determines that it does, it must complete a business impact analysis and submit the rule for CSI review.

Which adverse impact(s) to businesses has the agency determined the rule(s) create?

The rule(s):

- a. Requires a license, permit, or any other prior authorization to engage in or operate a line of business.
- b. Imposes a criminal penalty, a civil penalty, or another sanction, or creates a cause of action for failure to comply with its terms.
- c. Requires specific expenditures or the report of information as a condition of compliance.
- d. Is likely to directly reduce the revenue or increase the expenses of the lines of business to which it will apply or applies.

Regulatory Intent

2. Please briefly describe the draft regulation in plain language.

Please include the key provisions of the regulation as well as any proposed amendments.

The proposed revisions to Ohio Adm.Code Chapter 4901:2-19 are in accordance with the state of Ohio's five-year rule review procedures. R.C. 111.15(B) and 106.03(A) require all state

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agencies to conduct a review, every five years, of their rules and to determine whether to continue those rules without change, amend the rules, or rescind them.

The rules in Chapter 4901:2-19 concern are applicable to motor carriers engaged in the transportation of household goods in Ohio.

3. Please list the Ohio statute(s) that authorize the agency, board or commission to adopt the rule(s) and the statute(s) that amplify that authority.

The amendments are made in response to R.C. 111.15(B) and 106.03(A), which require all state agencies to conduct a review, every five years, of their rules and to determine whether to continue those rules without change, amend the rules, or rescind them

Rule	Statutory Authority - Ohio Revised Code
4901:2-19-01	4923.04, 4905.81, 4921.30
4901:2-19-02	4923.04, 4905.81, 4921.30
4901:2-19-03	4923.04, 4905.81, 4921.30
4901:2-19-04	4923.04, 4905.81, 4921.30
4901:2-19-05	4923.04, 4905.81, 4921.30
4901:2-19-06	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-07	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-08	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-09	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-10	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-11	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-12	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-14	4923.04, 4921.30, 4921.36, 4921.38

4901:2-19-15	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-16	4923.04, 4921.30, 4921.36, 4921.38
4901:2-19-17	4923.04, 4921.30, 4921.36, 4921.38

- 4. 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 regulation implements state requirements only. No federal law or program is being implemented.

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

The rules do not exceed any federal requirement.

- 6. 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 public purpose of these rules is to establish requirements for the transportation of household goods, which apply to all carriers of household goods regulated by the Commission.

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

The Commission is required by statute to adopt rules applicable to the transportation of property by motor carriers operating in Ohio. The Commission monitors the compliance with these rules by ensuring that all household goods carriers are registered with the Commission, have appropriate tariffs on file, provide appropriate information to consumers, and have the required liability insurance to cover all goods being transported.

- 8. Are any of the proposed rules contained in this rule package being submitted pursuant to R.C. 101.352, 101.353, 106.032, 121.93, or 121.931?**

If yes, please specify the rule number(s), the specific R.C. section requiring this submission, and a detailed explanation.

No, not applicable.

Development of the Regulation

- 9. 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.

The Commission conducted a workshop on July 7, 2021, at the offices of the Commission to receive feedback from interested stakeholders and the general public. The case number for the Commission's review for Ohio Adm.Code Chapter 4901:2-19 is 21-563-TR-ORD. The entry providing notice of the workshop was served upon the Ohio Association of Movers, Ohio Brokers of household goods, and the transportation list-serve.

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

One stakeholder attended the workshop but offered no verbal statements on Ohio Adm.Code Chapter 4901:2-19.

- 11. 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?**

No scientific data was provided or considered. In drafting the required amendments for this chapter, the Commission takes into account feedback from stakeholders and the general public.

12. 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 recommended. The Commission is authorized by statute to establish and enforce standards applicable to regulated entities that transport household goods. These rules provide the requirements for any person who is involved in the transportation of household goods.

13. 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.

No performance-based regulations were considered. The rules contained in Ohio Adm.Code Chapter 4901:2-19 are required by the Revised Code and establish requirements for the transportation of household goods and consumer protections.

14. 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 4901:2-19 duplicates the rules of other state entities, associations representing household goods carriers were advised of this rulemaking, and no entities have advised the Commission that Ohio Adm.Code Chapter 4901:2-19 duplicates any of its rules. The Commission has also reviewed other Ohio regulations and found no duplicates, nor have any duplicates been identified by any stakeholder.

15. 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.

The Commission conducted a workshop on July 7, 2021, to receive feedback from interested stakeholders and the general public. Next, the Commission has issued an Entry that sets forth the Commission staff's proposed amendments to the rules, and stakeholders then can file written comments and reply comments. Finally, following the comment period specified in

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the Entry, the Commission will issue a Finding and Order adopting the rules. All potential stakeholders will be notified that this chapter is under review by the Commission staff and they will be provided an opportunity for feedback concerning the rules in this chapter. Thus, stakeholders can provide feedback to Staff concerning the efficiency and effectiveness of the rules in this chapter.

These rules are universally applicable to all regulated entities involved in the transportation of household goods.

Adverse Impact to Business

16. 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; and

The impacted business community consists of for-hire carriers that provide household goods moving services operating in intrastate and interstate commerce.

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

The current rules impact the identified business community because they impose costs in terms of registration fees, having appropriate liability insurance coverage, tariffs, and language on customer forms, and the time to complete these required forms.

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 moving estimates, record retention, and having appropriate tariffs on file with the Commission, which are prepared in the normal course of business. For a typical business it should take no more than 30 minutes

to complete the estimate, as it only requires information relating to moves between different cities and a determination of appropriate shipment weights.

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

The Commission has not identified an adverse impact on business as a result of the proposed revisions. In fact, the business impacts resulting from the proposed revisions are expected to be positive impacts.

The Commission is the only state agency charged with ensuring that the transportation of household goods is conducted in a safe and efficient manner with proper liability coverage for damaged goods and appropriate consumer protections. Additionally, the Ohio Revised Code directs the Commission to adopt rules to carry out the provisions of Chapters 4921 and 4923, Revised Code. It is notable that no stakeholder offered verbal statements at the workshop, nor has there been any indication from stakeholders that the rules in this chapter are particularly onerous.

Regulatory Flexibility

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

No. Regulated entities in Ohio are under the exclusive jurisdiction of the Public Utilities Commission of Ohio and may not be exempted from the requirements in Ohio Adm.Code Chapter 4901:2-19.

19. 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?

Not applicable, as there are no fines and penalties for failure to comply with Ohio Adm.Code Chapter 4901:2-19.

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

Commission staff works with regulated entities to answer questions. Small businesses may contact the Commission at any time and may submit written comments on the proposed revisions during the public comment period once the proposed revisions are filed in the case docket.

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

7/28/2021 2:37:26 PM

in

Case No(s). 21-0563-TR-ORD

Summary: Entry directing that all interested persons or entities wishing to file comments or reply comments with the Commission regarding the proposed amendments to Ohio Adm. Code Chapter 4901:2-19, its rules regarding transportation of household goods, do so no later than September 1, 2021, and September 15, 2021, respectively electronically filed by Heather A. Chilcote on behalf of Public Utilities Commission of Ohio