

**FILED**  
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**AGENCY RULE REPORT  
OKLAHOMA CORPORATION COMMISSION  
PERMANENT RULEMAKING  
OAC 165:30, MOTOR CARRIERS  
CAUSE NO. RM 200900006**

COURT CLERK'S OFFICE - OKLAHOMA  
CORPORATION COMMISSION  
OF OKLAHOMA

Pursuant to the Oklahoma Administrative Procedures Act requirements appearing in 75 Okla. Stat. §§ 303.1(A) and 308(A), the Oklahoma Corporation Commission ("Commission") hereby submits this Agency Rule Report to the Honorable Brad Henry, Governor of the State of Oklahoma, the Honorable Glenn Coffee, Senate President Pro Tempore, and the Honorable Chris Benge, Speaker of the House of Representatives.

**1. DATE OF PUBLICATION OF NOTICE OF PROPOSED RULEMAKING:**

The Commission's Notice of Proposed Rulemaking was published in *The Journal Record* of Oklahoma City, Oklahoma on December 24, 2009.

The Commission is exempted by 75 Okla. Stat. § 250.4, from the requirements of 75 O.S. §§ 255, 303(A), and 303(B) to publish a Notice of Intended Rulemaking in *The Oklahoma Register*.

**2. NAME AND ADDRESS OF THE AGENCY:**

Oklahoma Corporation Commission  
P.O. Box 52000  
Oklahoma City, Oklahoma 73152-2000

**3. TITLE AND NUMBER OF THE RULES:**

Subchapter 1. General Provisions  
165:30-1-1. Purpose [Amended]  
165:30-1-2. Definitions [Amended]  
Subchapter 3. Intrastate Motor Carriers  
Part 1. Applying For A License  
165:30-3-1. Obtaining a license [Amended]  
165:30-3-3. License and certificate renewals [Amended]  
Part 3. License Requirements  
165:30-3-11. Insurance [Amended]  
Part 5. Conducting Operations  
165:30-3-32. Shipping documentation [Amended]  
165:30-3-34. Minimum standards [Amended]  
Part 9. Violations  
165:30-3-71. Loading capacity -- Safety compliance [Amended]  
Subchapter 7. Procedural Rules  
165:30-7-2. Notice [Revoked]  
165:30-7-5. Forms [Amended]  
165:30-7-8. Review of Applicants for safety fitness [Amended]

- 165:30-7-11. USDOT number [Amended]
- Subchapter 10. Interstate Motor Carriers
- Part 1. Compliance
- 165:30-10-9. Minimum standards [New]
- Part 3. Conducting Operations
- 165:30-10-13. Shipping documentation [Amended]
- Subchapter 13. Intrastate Household Goods Certificates ~~or Permits~~
- Part 1. ~~Applying For Obtaining~~ Authority
- 165:30-13-1. Reissuance of certificate [New]
- 165:30-13-2. Obtaining a household goods certificate ~~or permit~~ [Amended]
- 165:30-13-3. Temporary authority [Revoked]
- Part 3. Household Goods Certificate ~~Or Permit~~ Requirements
- 165:30-13-11. Insurance [Amended]
- 165:30-13-12. Identification device [Amended]
- 165:30-13-13. Annual report [Revoked]
- 165:30-13-14. COD shipments [Revoked]
- 165:30-13-15. Markings [Amended]
- 165:30-13-16. Current address requirement [Amended]
- 165:30-13-17. Adoption of interstate tariff – filing of affidavit [Revoked]
- Part 5. Conducting Operations
- 165:30-13-20. Estimates [New]
- 165:30-13-22. Consumer protection information [New]
- 165:30-13-24. Valuation and liability [New]
- 165:30-13-26. Bill of Lading [New]
- 165:30-13-27. Blank or incomplete documents [New]
- 165:30-13-28. Additional services [New]
- 165:30-13-31. Compliance with laws and regulations [Amended]
- 165:30-13-32. Shipping documentation [Revoked]
- 165:30-13-33. Records [Amended]
- 165:30-13-34. Minimum standards [Amended]
- 165:30-13-35. Credit [Revoked]
- 165:30-13-36. Loss, damage and concealed claims [Amended]
- 165:30-13-37. Leasing of equipment [Amended]
- Part 7. Name Changes ~~And Transfer~~
- 165:30-13-51. ~~Mergers and name~~ Name changes [Amended]
- 165:30-13-52. Transfer of certificate or permit [Revoked]
- 165:30-13-53. Transfer upon death of holder of certificate or permit [Revoked]
- Part 9. Violations
- 165:30-13-71. Loading capacity-Safety compliance [Amended]
- 165:30-13-72. Leasing of authority [Amended]
- 165:30-13-73. Advertising [Amended]
- 165:30-13-74. Contempt complaint [Amended]
- Part 11. Suspension Or Cancellation Of Authority
- 165:30-13-91. Voluntary suspension or discontinuance of service [Revoked]
- 165:30-13-92. Involuntary suspension or revocation of a household goods certificate ~~or permit~~ [Amended]

- 165:30-13-93. Reinstatement of certificate ~~or permit~~ [Amended]
- 165:30-13-94. Violations [Amended]
- Subchapter 15. Intrastate Private Carriers
- Part 5. Conducting Operations
- 165:30-15-14. ~~Legal possession of cargo~~ Shipping documentation [Amended]
- Subchapter 19. Registration Pursuant To The International Registration Plan
- 165:30-19-19. Trip permits and hunters permits [Amended]
- Subchapter 25. Harvest Permits [New]
- 165:30-25-1. Harvest permits [New]

#### 4. STATUTORY AUTHORITY FOR THE RULES:

Oklahoma Constitution, Article IX, § 18  
47 O.S. §§ 161.A et. seq., 230.32, 230.34a, 1124.2

#### 5. BRIEF SUMMARY OF THE CONTENT OF THE ADOPTED RULES:

The general provisions of Subchapter 1 in OAC 165:30 are amended to include the state's public policy of ensuring that motor carriers of household goods should be regulated by the Commission in such a manner as to establish standards for public safety, fair competitive practices, adequate and dependable service and protection of shippers from deceptive or unfair practices. Now included among those regulated by the Commission, are motor carriers of household goods who transport solely within a single municipality. Several definitions have been added and a few have been deleted so that the current industry language is reflected in the rules.

Subchapter 3 is revised in regard to obtaining a license from the Commission to operate as an intrastate motor carrier, making a U.S. Dept. of Transportation number and declarations of safety rating, safety compliance, size and weight as prerequisites. Insurance requirements are clarified and a \$10,000 coverage for property loss or damage has been imposed. Provisions pertaining to shipping documentation and minimum standards of conducting operations are added. Commercial vehicles with a gross vehicle weight rating or gross combined weight rating of 15,000 pounds or more must be registered by weight prior to transporting property. Also in this subchapter, a new rule is added to require a copy of an oversize or overweight permit to be maintained.

Amendments to Subchapter 7 delete procedural rules for hearing an application to obtain a household goods certificate, along with certain forms. A certificate may now be obtained administratively, without a hearing, unless a protest of the application is filed. Applicants may be required to attend an educational workshop regarding safety compliance before a certificate is issued. New provisions are added regarding the maintenance of a carrier's U.S. Dept. of Transportation number.

A new rule is added to Subchapter 10, requiring all interstate motor carriers to comply with shipping documentation provisions.

Substantial changes are made to Subchapter 13 covering intrastate household goods certificates. The application process is changed with provisional certificates issued for a 90 day time period, while the applicant is completing requirements for a permanent certificate. The current procedure for obtaining temporary authority to operate is deleted and the requirement for submitting annual reports to the Commission is revoked. Also revoked are rules pertaining to C.O.D. shipments, adoption of an interstate tariff, provisions pertaining to credit, and transfers of certificates. Added to Subchapter 13 are new rules regulating household goods carriers. A written estimate for service is required, consumer protection information must be provided to the shipper, and valuations of the shipment must be obtained from the shipper. Liability provisions are included to protect both the carrier and the shipper, and bills of lading must be prepared prior to a shipment being loaded. Rules are also added to cover any additional services the carrier may provide. Revisions are made to procedures for claiming a loss or damage to the property transported and new rules are added to address the carrier's obligations in regard to claims made. A new rule is also added in regard to a carrier's advertising its services. Contempt penalties for violating Commission rules are increased from a maximum \$500 fine to a maximum \$1,000 fine for the first violation and a maximum \$5,000 fine for a second violation within a year.

Subchapter 15 is amended to include vehicles with a gross combination weight rating in excess of 26,000 pounds, being bound by rules pertaining to shipping documentation.

Subchapter 19 is revised to provide for unladen permits, a/k/a hunter's permits, which provide temporary registrations to apportionable vehicles at the unladen weight of the vehicle while traveling to another jurisdiction without a load.

A new Subchapter 25 is added in regard to harvest permits, setting forth the process for motor carriers engaged in the commercial transportation of farm products in a raw state, on a seasonal basis, to meet vehicle registration, fuel permitting and operation authority requirements.

#### **6. STATEMENT EXPLAINING THE NEED FOR THE ADOPTED RULES:**

The new rules are required to conform with recent statutory amendments which established the Household Goods Act of 2009, and to add new provisions for motor carriers to obtain harvest permits and unladen, or hunter's, permits.

#### **7. DATE AND LOCATION OF THE MEETING AT WHICH THE RULES WERE ADOPTED:**

On March 5, 2010, the hearing was recessed until March 9, 2009, for lack of a quorum. The record was opened on that date and continued to March 12, 2010 at 9:30 a.m., in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

#### **8. SUMMARY OF COMMENTS AND EXPLANATION OF CHANGES OR LACK OF ANY CHANGES MADE IN THE ADOPTED RULES AS A RESULT OF TESTIMONY RECEIVED AT THE PUBLIC HEARING OR DUE TO ANY ORAL OR WRITTEN COMMENTS RECEIVED PRIOR TO ADOPTION OF THE RULES:**

Prior to filing the Notice of Proposed Rulemaking, the Commission held four public meetings from July, 2009 through November, 2009, requesting input from industry and consumers to implement the Household Goods Acts of 2009 prior to the filing of the Notice of Proposed Rulemaking. Each public meeting was noticed on our website with initial notices mailed and e-mailed to all known potentially affected parties. Proposed rules were drafted and revised based upon comments received orally and in writing.

In addition to Notice published in *The Journal Record*, all persons requesting advance rulemaking notice were e-mailed notices of this proposed rulemaking action on December 23, 2009, and notice was also delivered by regular mail on December 30, 2009. A technical conference with interested persons was held on January 27, 2010 at 1:30 p.m. and a comment period was offered from December 23, 2009 through March 12, 2010. Comments were received as follows:

At the collaborative meetings, technical conference and the en banc hearing, comments were made and discussions held regarding a possible requirement for a household goods carrier to have a physical presence in the state of Oklahoma as opposed to a mail forwarding or process agent address. Jim Freeman and Jerad Lovett of A-1 Freeman Moving offered the position of having a physical presence in the state and were joined by C. Paul Baker of Emrick's Van & Storage. Bill Parker, an attorney, commented that requiring a physical presence in the state is not the best way to regulate the household goods industry and that other regulations regarding consumer protection and proof of insurance ensures that no unfair competitive advantage exists.

Mr. Freeman and Mr. Lovett also commented on the proposed rule to include a carrier's U.S. Dept. of Transportation number on advertising materials. They proposed to include the Commission's personal identification number instead. In response, staff explained the universal recognition of the Dept. of Transportation number and the Commissioners agreed. As a unique certificate number is created each time a certificate is issued, an undue burden would be placed on the industry by having to republish its certificate number each time the number changes. Confusion would then result as the published certificate number may not match the actual certificate.

At the hearing to adopt the proposed rules, Commissioner Murphy requested and staff agreed, that a definition of the term "hunter's permit" be added to OAC 165:30-1-2.

**9. LIST OF PERSONS OR ORGANIZATIONS WHO APPEARED OR REGISTERED FOR OR AGAINST THE ADOPTED RULES AT PUBLIC HEARINGS HELD BY THE COMMISSION OR THOSE WHO COMMENTED IN WRITING BEFORE OR AFTER SAID HEARINGS:**

The attached Appendix "A" is a list of persons or organizations who appeared at the technical conference held January 27, 2010, in Room 105, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

The attached Appendixes “B” and “C” are a list of those persons or organizations who appeared at the hearing before the Commission en banc, which began on March 10, 2010 and was recessed until March 12, 2010, in Courtroom 301, Oklahoma Corporation Commission, Jim Thorpe Building, 2101 North Lincoln Boulevard, Oklahoma City, Oklahoma.

The following persons mailed or emailed comments, following the technical conference:

C. Paul Baker, President Emrick’s Van & Storage  
4021 NW 3<sup>rd</sup> Street  
Oklahoma City, Oklahoma 73107  
[Pbaker1@sbcglobal.net](mailto:Pbaker1@sbcglobal.net)

Jim Freeman  
A-1 Freeman Moving & Storage, Inc.  
11517 North Broadway Extension  
Oklahoma City, Oklahoma 73114  
[jfreeman@a-1freeman.com](mailto:jfreeman@a-1freeman.com)

Jerad Lovett  
A-1 Freeman Moving & Storage, Inc.  
11517 North Broadway Extension  
Oklahoma City, Oklahoma 73114  
[jlovett@a-1freeman.com](mailto:jlovett@a-1freeman.com)

Pattie Sanders on behalf of Jim Freeman  
[[psanders@a-1freeman.com](mailto:psanders@a-1freeman.com)]

**10. RULE IMPACT STATEMENT:**

The attached Appendix “D” is a copy of the Rule Impact Statement prepared by Commission staff on January 8, 2010.

**11. RULES INCORPORATED FROM A BODY OUTSIDE THE STATE:**

None.

**12. IMPACT OF THE PROPOSED RULES ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:**

Notice of the rulemaking proceedings was given to the Small Business Regulatory Review Committee of the Oklahoma Department of Commerce. No comments were received as the result of the notice given.

Only nominal costs are expected to be incurred for household goods carriers that are already compliant with the Commission’s rules. Registration fees and costs of compliance will be imposed upon those carriers that should apply for a household goods certificate as a result of adopting the proposed rules. Nominal fees will also be incurred for purchasing a harvest or

hunter's permit. No fee changes have been adopted in this rulemaking, although an increase in contempt fines for violating Commission rules was approved.

**13. RECORDED VOTE OF EACH COMMISSIONER REGARDING ADOPTION OF THE RULES:**

On March 12, 2010, Commissioners Bob Anthony and Dana Murphy, voted to adopt the rules on a permanent basis and to submit the rules to the Governor and the Legislature for their approval, pursuant to the Administrative Procedures Act, 75 O.S. §§ 250 through 323. Commissioner Cloud, recovering from surgery, was absent from the proceedings.

**14. ADOPTED RULES:**

The rules adopted by the Commissioners on March 12, 2010 are attached as Appendix "E".