

BEFORE THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA
COURT CLERK'S OFFICE - OKC
CORPORATION COMMISSION
OF OKLAHOMA

IN THE MATTER OF A RULEMAKING)
OF THE OKLAHOMA CORPORATION) CAUSE NO. RM 200900006
COMMISSION, AMENDING OAC 165:30,)
RULES GOVERNING MOTOR CARRIERS.)

RULE IMPACT STATEMENT
OAC 165:30 – Motor Carriers

Pursuant to the Oklahoma Administrative Procedures Act, 75 O.S. § 303(D), the following Rule Impact Statement is hereby submitted in regard to proposed amendments to the Oklahoma Corporation Commission's (hereafter "Commission") Motor Carrier Rules:

I. BRIEF DESCRIPTION OF THE PURPOSE OF THE PROPOSED RULES:

The purpose of the proposed rules is to conform with statutory amendments made during the last legislative session 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.

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. Department 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 US Department 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.

II. DESCRIPTION OF THE CLASSES OF PERSONS WHO WILL MOST LIKELY BE AFFECTED BY THE PROPOSED RULES, INCLUDING CLASSES THAT WILL BEAR THE COST OF THE PROPOSED RULES, AND ANY INFORMATION ON COST IMPACTS RECEIVED BY THE AGENCY FROM ANY PRIVATE OR PUBLIC ENTITIES:

Intrastate and interstate motor carriers engaged in transporting household goods, farm products, or moving an empty, leased, apportionable vehicle will be affected by the proposed rules. These motor carriers will bear the cost of obtaining a household goods certificate, harvest permit or hunter's permit. Household goods carriers that currently do not meet the requirements of the proposed rules which will regulate their operations, will bear additional costs for coming into compliance with the proposed rules. The Commission has invited public comment and has requested business entities to provide information on any financial impact resulting from compliance with the proposed rules.

The general public will be positively affected by the proposed household goods rules, pursuant to the consumer protection provisions that will benefit one in need of moving services.

III. DESCRIPTION OF THE CLASSES OF PERSONS WHO WILL BENEFIT FROM THE PROPOSED RULES:

All motor carriers of household goods will benefit from the proposed rules which are substitutes for archaic provisions that have been in place, with few alternatives, for decades. Motor carriers in need of harvest or hunter's permits will also benefit from rules giving guidance to the permitting process. The general public will also benefit from the rules to govern household goods carriers, which establish standards for the industry in regard to safety, fair practices, dependable service, and consumer protection.

IV. DESCRIPTION OF THE PROBABLE ECONOMIC IMPACT OF THE PROPOSED RULES UPON AFFECTED CLASSES OF PERSONS OR POLITICAL SUBDIVISIONS, INCLUDING A LISTING OF ALL FEE CHANGES AND, WHENEVER POSSIBLE, A SEPARATE JUSTIFICATION FOR EACH FEE CHANGE.

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 are proposed in this rulemaking, although an increase in contempt fines for violating Commission rules is proposed. The general public is expected to benefit financially through the implementation of consumer protection provisions.

V. PROBABLE COSTS AND BENEFITS TO THE AGENCY AND TO ANY OTHER AGENCY, OF THE IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULES, THE SOURCE OF REVENUE TO BE USED FOR IMPLEMENTATION AND ENFORCEMENT OF THE PROPOSED RULES, AND ANY ANTICIPATED EFFECT ON STATE REVENUES, INCLUDING A PROJECTED NET LOSS OR GAIN IN SUCH REVENUES IF IT CAN BE PROJECTED BY THE AGENCY.

Nominal costs to the Commission will be incurred through the amendment of application forms and other documents for proper regulation of the household goods moving industry. The proposed rules benefit the Commission by implementing Oklahoma's Household Goods Act of 2009, and updating current rules regulating motor carriers. No other agency will be affected by the adoption of the proposed rules or be required to enforce the proposed rules. These rules can be implemented and enforced by the Commission through its existing funding sources.

VI. DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULES WILL HAVE AN ECONOMIC IMPACT ON ANY POLITICAL SUBDIVISION OR REQUIRE THEIR COOPERATION IN IMPLEMENTING OR ENFORCING THE RULES:

Implementation of the proposed rules is not anticipated to have an adverse economic impact on any political subdivision and will not require the cooperation of any political subdivision in order to enforce the rules.

VII. DETERMINATION OF WHETHER IMPLEMENTATION OF THE PROPOSED RULES MAY HAVE AN ADVERSE ECONOMIC EFFECT ON SMALL BUSINESS AS PROVIDED BY THE OKLAHOMA SMALL BUSINESS REGULATORY FLEXIBILITY ACT:

Based upon U.S. Census Bureau information compiled in 2006, it is estimated that of the total group of motor carriers that might be impacted by the proposed rules, approximately 1,825 operate in Oklahoma as transportation businesses with less than twenty employees. It is estimated that from this group, a much smaller number of businesses operate as motor carriers of household goods. Those who are not currently registered with the Commission will be affected by the costs of the permitting process and subsequent compliance requirements.

VIII. EXPLANATION OF THE MEASURES THE AGENCY HAS TAKEN TO MINIMIZE COMPLIANCE COSTS AND A DETERMINATION OF WHETHER THERE ARE LESS COSTLY OR NONREGULATORY METHODS OR LESS INTRUSIVE METHODS FOR ACHIEVING THE PURPOSE OF THE PROPOSED RULES:

There are no known, less costly, non-regulatory methods or less intrusive methods for achieving the purpose of the proposed rules.

IX. DETERMINATION OF THE EFFECT OF THE PROPOSED RULES ON THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT, AND IF THE PROPOSED RULES ARE DESIGNED TO REDUCE SIGNIFICANT RISKS TO THE PUBLIC HEALTH AND SAFETY AND THE ENVIRONMENT, AN EXPLANATION OF THE NATURE OF THE RISK AND TO WHAT EXTENT THE PROPOSED RULES WILL REDUCE THE RISK:

The traveling public and state citizens will benefit from rules enforcing registration, insurance and safe operation requirements for household goods motor carriers.

X. DETERMINATION OF ANY DETRIMENTAL EFFECT ON THE PUBLIC HEALTH, SAFETY AND ENVIRONMENT IF THE PROPOSED RULES ARE NOT IMPLEMENTED:

Non-implementation of the proposed rules will leave the agency without the ability to enforce the Household Goods Act of 2009 pertaining to its regulation of the household goods motor carrier industry, to the detriment of the traveling public, state roadways, and state citizens.

XI. DATE: January 8, 2010.