



An Association for the Development, Improvement and  
Advancement of Quality Asphalt Pavement Construction

March 31, 2010

PUCO Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

Re: Case No. 09-223-TR-PRD- Construction Hours of Service Exception

To whom it may Concern:

Flexible Pavements of Ohio (FPO), an association representing the asphalt producers, pavers and associated contractors in the State of Ohio, is in **opposition** to any changes to Section 4901:2-5-02 which would eliminate the construction exception for hours of service.

Asphalt material delivery drivers are not subject to the same fatigue factors as typical commercial long haul drivers. Asphalt paving operations are located in close proximity to hot mix asphalt production facilities and delivery drivers are frequently required to exit their trucks during periods of material loading, product staging and delivery. In fact, the very nature of asphalt production and paving necessitates multiple short hauls with frequent breaks and lulls for drivers directly engaged in the transportation of materials from production facilities to project locations. In addition, asphalt paving operations are seasonal and weather sensitive. Asphalt paving can only be performed in favorable weather conditions which further eliminate safety concerns due to climatic conditions.

Any modification to the hours of service exemption for the construction industry would result in increased transportation costs which directly correlate to escalating construction costs. And, in today's current economy, the government and private sector can ill afford construction cost escalations. These cost increases would result in a reduction of already diminished construction programs and have negative impact on an industry disproportionally suffering from the impact of the national recession.

On behalf of Ohio's asphalt construction industry, we respectfully request proposed Rule 4901:2-5-02 (E) and (F) be removed as they are not necessitated or supported by safety related data nor are the rule changes consistent with Governor Ted Strickland's Executive Order 2009-04S, "Implementing Common Sense Business Regulations."

Please feel free to contact me at (614) 791-3600 for any additional information on the negative impact of the proposed rule change to Ohio's asphalt industry.

Respectfully,

Cliff Ursich  
President & Executive Director

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