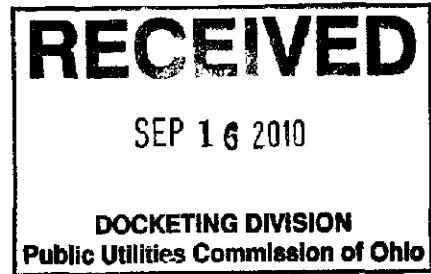




OHIO AGGREGATES & INDUSTRIAL MINERALS ASSOCIATION

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September 15, 2010

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

RE: Case No. 09-223-TR-ORD – Comments pertaining to Chapter 4901:2-5 including: Construction Hours of Service Exception (4901:2-5-02) and the Elimination of the exemption for Motor Vehicles with GVR between 10,001 and 26,000 pounds.

As outlined in our both our August 10, 2009 letter of opposition and our March 30, 2010 letter of opposition ; the Ohio Aggregates & Industrial Minerals Association **continues to oppose** any changes to Section 4901:2-5 that would eliminate the construction exception for hours of service as well as expansion of the Commissions safety jurisdiction to include vehicles with GVR's between 10,001 and 26,000 lbs. Both of these changes are unnecessary and costly and will contribute to the ongoing loss of jobs in Ohio's construction industry.

Ohioans on average utilize 11 tons of aggregate per person, per year and over 90% of this material is delivered by truck within a 50 mile radius of where it was mined and over 50% of all our materials are paid for by tax dollars. The shortened construction season in Ohio, necessitates that drivers make the best and most efficient use of their time on the road and at the jobsite. Construction materials delivery and construction activities are seasonal and therefore, are, for the most part, subject to weather and climatic conditions.

From a safety standpoint, construction materials delivery drivers are not subject to the same fatigue factors as the Over-The-Road operator as they are often idle for short periods of time while at the jobsite or at the loading site which offers ample time to move about and take short breaks. In fact, our members report an average drive time for construction materials delivery of less than 60 minutes. The above facts are the reason that the Construction Hours of Service exception was implemented. To remove this important exception during a time of depressed economic activity would be to ignore the genesis of the exception and place additional burdens on a core, critical industry sector that is struggling to keep Ohioans employed. Finally, the PUCO has not offered any data or supporting information that would justify such a change.

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PUCO Docketing Division
Public Utilities Commission of Ohio
RE: Case No. 09-223-TR-ORD

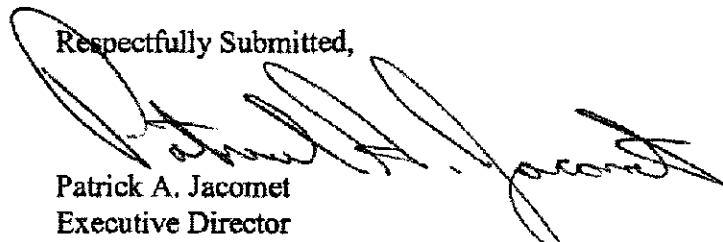
It is our understanding that the Commission has recently become aware of additional potential affected entities and has therefore extended the comment period once again. It is our contention that this proposed rule change will have far reaching and negative impacts on Ohio businesses and we therefore file our comments on this rulemaking for the third time.

Proposed changes to the Hours of Service Exception are not necessitated or supported by safety related data nor are the changes consistent with the Governors Executive Order 2009-04S, "Implementing Common Sense Business Regulation".

In addition to the above, we strongly oppose expansion of the definition of "motor vehicle" to include private commercial motor vehicles with a gross vehicle weight (GVR) between 10,001 and 26,000 pounds. The significant financial impact on Ohio businesses will be crippling as the Ohio Bureau of Motor Vehicles states that 1,520,922 vehicles meeting this criteria are currently registered in Ohio. The cost of the CDL alone for Ohio Businesses would be \$63,878,724, ten times what the state claims it lost in MCSAP funds. This cost does not include training, log-books, fees or equipment requirements needed to comply with this provision. At a time when Ohio businesses are struggling and in some cases, closing, we could not think of a worse time to add additional burdensome regulations and costs.

Again, there is no data to support the need for this significant and very costly expansion of OAC 4901:2-5-01.

Respectfully Submitted,



Patrick A. Jacomet
Executive Director
Ohio Aggregates & Industrial Minerals Association



President Ken W. Holland, Glen Corporation, Columbus, OH • First Vice President Dennis K. Phillips, Phillips Companies, Beavercreek, OH • Second Vice President Tony L. Price, National Lime & Stone Co., Findlay, OH • Immediate Past President Joan A. Martin, O. Bruggmann Sand & Gravel, Mantua, OH