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

On behalf of the Ohio Trucking Association, we respectfully provide the following comments to Proposed Rule Changes and Request for Comments, Case No. 13-1106-TR-ORD.

Concerning Rule 4901:2-5-03 (H)

The Construction Hours of Service Exception provides the trucking industry the added flexibility that is necessary during the construction season. Our members have informed us they utilize this exception 10% of the time. However utilization of this exception does not increase the number of hours the driver spends driving the truck.

Staff has proposed increasing the number of hours in the off duty status from 8 to 10 hours separating the 16 hours on duty. If the required off duty hours separating each on duty shift were changed to 10 hours off duty, this would push back the driver's starting time by two hours each consecutive day. The construction exception was created to maximize the limited amount of good weather needed by the industry. Motor Carriers must coordinate their driver's hours with the entire construction industry during the peak construction season. Setting the starting time back by two hours each consecutive day does not allow the motor carrier to maximize the limited construction season, in fact it reduces the amount of time the motor carrier can schedule the driver during that peak season.

Staff unsuccessfully attempted to remove the Construction Hours of Service Exception in 2009. Requiring the additional 2 hours off duty between each 16 hours on duty shift would essentially remove the exception because the exception would no longer be productive nor workable.

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In the proposal, the staff has not provided statistics to indicate there is a crash problem associated with the carriers utilizing the construction exception. This exception was created in 1998, staff has not specifically identified one crash that was caused by a driver utilizing the construction exception. Staff merely cites the fact the rules are not compatible with the FMCSA's interstate rules.

The construction industry in Ohio is still in the process of recovery from the economic recession that started in 2008. Staff's attempt to satisfy the federal government during this continued economic recession is not timely. This unnecessary burden to the motor carrier has not been validated by the PUCO as necessary to preserve highway safety.

This regulatory relief is afforded to a very small portion of the industry, private carriers, operating within a 50 mile radius of the facility. Ironically, the PUCO provides complete and unlimited exclusion of carriers working on road projects and hours of service exceptions to heating oil and propane transporters due to the extreme cold conditions during this winter. As well as the FMCSA has provided total relief of the hours of service to the utilities industry based upon their needs of flexibility and the lack of crash statistics that reflect a crash problem associated with driving long hours. This exception is limited to a 50 mile radius, has not negatively impacted traffic safety and does not necessarily increase the number of hours the drivers drive. Carriers that utilize this exception, their drivers do not drive the majority of their time. Their time is spent on other tasks, not driving.

This exception has been effective since 1998 and the PUCO has not provided any evidence that public safety has been compromised. Additionally, the FMCSA has not threatened to withhold any MCSAP funding due to incompatible rules. Therefore, the question that begs to be answered is why are these rules at issue. This exception has provided the industry with the needed flexibility and have not adversely affected the motoring public, so why change them now or ever.

With that said, we ask the PUCO to leave the minimum number of hours of off duty at 8 hours between each on duty shift of 16 hours.

Concerning 4501:2-5-04 (C) (1)

Staff has proposed changes to this rule to establish the beginning date of May 21, 2014 to require a driver to obtain a medical certification from a medical examiner who is listed on the National Registry of Certified Medical Examiners administered by the USDOT. The unanswered question is will the USDOT meet that May 21, 2014 deadline to have that program operational. PUCO should consider removing the language until the USDOT in fact have that system up and

operational. FMCSA has recently extended the deadline for states to have the CDL driver's medical certification on the state's driver record which in an important step in that process. PUCO would be wise to postpone this requirement until proof of USDOT's ability to meet their deadline.

Concerning 4501:2-5-10

Staff purposed adding a provision to allow enforcement to place a vehicle out of service if a for-hire intrastate motor carrier does not have a valid certificate of public convenience and necessity. Staff should agree the PUCO does not have the infrastructure nor the resources necessary to provide the registration services needed by the industry. The PUCO does not offer same day service during renewal of the annual tax payments, insurance filings nor the civil forfeiture payments. A carrier cannot accomplish these payments electronically as promised to the industry when PUCO implemented PRISM. Staff should work towards providing that service to the industry before pursuing authority to placing vehicles out of service for the lack of documents that cannot be obtained in an efficient manner.

Placing a driver or vehicle or carrier out of service at the roadside is extremely expensive and a great hardship to those involved. Not to mention the safety related issues associated with vehicle, driver and load disposition based on geographical area issues, weather issues, accommodation issues and a host of other issues that come into play. Out of service should be for safety reasons and not punitive in its application.

If the PUCO wants to place motor vehicles out of service for no tax receipts, let it be the motor carriers who totally ignore the requirement of registration, not the motor carrier who has registered for numerous years in the past and has either failed to register before the deadline or the driver cannot produce the tax receipts for the truck. If the motor carrier has no record of registration in the past and no proof of current registration, perhaps in those isolated situations an out of service order may be within reason.

The motor carrier who does not have operation authority, never had operating authority and most likely never intended to obtain operating authority is the motor carrier enforcement should be focusing upon not the motor carrier who complies with the regulations, but has missed a registration deadline.

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In summary, the PUCO should not change the off duty hours from 8 to 10 hours between each shift of on duty time. The current Construction Exception has not adversely affected highway safety and staff has failed to show any justification for the change. PUCO should wait until USDOT has their National Registry of Medical Examiners in place before mandating drivers to be medically examined by a medical examiner from that registry. And finally, PUCO should apply the out of service authority to violations of the safety rules that meet the PUCO's own definition of Imminent Hazard found in 4901:2-5-01 (J) not administrative or economic rule violations.

Respectfully Submitted,

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Ohio Trucking Association