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October 10, 2003

Honorable Allen D. Biehler, P.E., Secretary
Department of Transportation
Keystone Building, 8th Floor
400 North Street
Harrisburg, Pa 17120

Re: Regulation #18-384 (IRRC #2362)
Enhanced Emission Inspection Program

Dear Secretary Biehler:

In our review of this regulation, we noted drafting errors and provisions that could be clarified. We discussed these with your staff on October 8, 2003. Therefore, we recommend that you consider tolling the review period in order to make the revisions in Attachment A.

If you choose to toll the review period, your Department must deliver written notice to both the House and Senate Transportation Committees and the Commission on the same day. The written notice must be delivered before any Committee action on the regulation, or before the end of the Committee's review period on October 22, 2003, whichever occurs first.

As required by Section 307.5 of our regulations, written notice must include:

1. A citation to the section(s) the Department is considering revising,
2. A description of the revisions being contemplated, and
3. An explanation of how the revisions will satisfy our concerns.

If your written notice includes revisions that are beyond the scope of our recommendations, the Commission may object to tolling the review period. We are required to notify you and the Committees within two business days after receipt of your tolling notice if we object. In the event the Commission objects to your tolling notice, the review period will not be tolled and your regulation will be considered by the Commission at our public meeting on October 23, 2003. If the Commission does not object, the review period is tolled for up to 30 days beginning with receipt of your letter and ending on the day you resubmit the regulation.

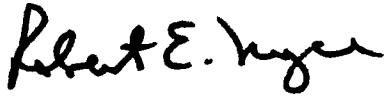
Honorable Allen D. Biehler, Secretary

Page 2

October 10, 2003

If you have any questions, please call me at 783-5506.

Sincerely,

A handwritten signature in black ink that reads "Robert E. Nyce". The signature is written in a cursive style with a large, prominent "R" at the beginning.

Robert E. Nyce
Executive Director

wbg

Attachment

cc: **Honorable Richard A. Geist, Majority Chairman, House Transportation Committee**
Honorable Keith R. McCall, Democratic Chairman, House Transportation Committee
Honorable Roger A. Madigan, Chairman, Senate Transportation Committee
Honorable J. Barry Stout, Minority Chairman, Senate Transportation Committee
Robert A. Mulle, Esq., Office of Attorney General
David J. DeVries, Esq., Office of General Counsel
Robert J. Shea, Office of Chief Counsel, Department of Transportation
Stephen F. J. Martin, Regulatory Counsel, Department of Transportation

Attachment A: List of Tolling Issues

(i) Items discussed at the October 8 meeting:

1. Section 177.252(a)(9) (see page 44) does not include the qualifier “if applicable.”
2. Section 177.275(d) (see page 50) states the Department may require supplemental training to maintain certification, but does not mention that the Department plans to provide notice of training.
3. Section 177.401(b) (see page 60) states it is effective two years “from the effective date of this chapter.” Since the chapter is already effective, the effective dates for the new programs should be specified.

(ii) Formatting and numbering:

4. **§ 177.51. Program requirements.** - Subsection (c) of the Final-Omitted Regulation (FO) does not show the word “emission” is added. (See page 8.)
5. **§ 177.252. Emission inspection test report.** - FO shows existing Subsection designations 8, 9 and 10 as being renumbered. It is actually 7, 8 and 9 being renumbered. (There is no 10 in existing regulation.) (See page 44.)
6. **§ 177.271. Procedure.** - The title of Subsection (c) should be underlined to show it is new text. (See page 46.)
7. **§ 177.281. Issuance of waiver.** - Missing underline for added text “an amount as determined” in Subsection (3)(i). (See page 51.)
8. **§ 177.401. Appointment.** - Missing underline to redesignate existing Paragraph (b) to (c). (See page 60.)
9. **§ 177.404. Required certificates and station signs.** - New language should be designated Paragraph (6), not (5). (See page 64.)

(iii) Missing text:

10. **§ 177.3. Definitions.** - *Enhanced emission inspection program* - The word “and” in the existing text does not appear in the FO. (See page 2.)
11. **§ 177.3. Definitions.** - *I/M Region* - Comma missing between “Erie” and “Lackawanna” in FO. (See page 3.)
12. **§ 177.22. Commencement date.** - The phrase “The notice” in existing text does not appear in the FO. (See pages 7 to 8.)

13. **§ 177.51. Program requirements.** - Subsection (c) of the FO skips the existing text “to the vehicle.” (See pages 8 to 9.)
14. **§ 177.51. Program requirements.** - Subsection (d) in the FO skips the word “an” that appears in existing text. (See page 10.)
15. **§ 177.202. Emission test equipment.** - There is an incorrect cross reference in Subsection (a) to 40 CFR Part 5 (should be Part 51). (See page 27.)
16. **§ 177.202. Emission test equipment.** - The word “as” in existing Subsection (b) is missing from the FO. (See page 27.)
17. **§ 177.281. Issuance of waiver.** - The FO is missing brackets to amend the cross reference to §177.282. It should read “...(relating to annual adjustment of minimum waiver expenditure for [enhanced] emission inspection [areas]).” (See page 51.)
18. **§ 177.408. Certified emission inspectors.** - The word “enhanced” in existing regulation is missing in the FO Subsections (a) and (e). (See pages 69 and 72.)
19. **The word “enhanced” remains in existing regulation in the following:**
 - § 177.3. Definitions.
 - *Commonwealth emission inspection station*
 - *Decentralized inspection*
 - *PA97*
 - *PA97 with dynamometer*
 - *VIID—Vehicle Inspection Information Database*
 - § 177.24. Program evaluation.
 - § 177.51. Program requirements, Subsection (k)
 - § 177.52. Emission inspection prerequisites, Subsection (3)
 - § 177.408. Certified emission inspectors, Subsections (a) and (e)
 - § 177.431. Quality assurance, Subsection (1)(ii)(C).
 - APPENDIX A, Section (8)(a)(3).