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KIM KAUFMAN, EXECUTIVE DIRECTOR  
MARY S. WYATTE, CHIEF COUNSEL



PHONE: (717) 783-5417  
FAX: (717) 783-2664  
irrc@irrc.state.pa.us  
<http://www.irrc.state.pa.us>

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

February 16, 2006

Honorable Allen D. Biehler, P.E., Secretary  
Department of Transportation  
Keystone Building, 8th Floor  
400 North Street  
Harrisburg, PA 17120-0041

Re: Regulation #18-404 (IRRC #2510)  
Department of Transportation  
Flashing or Revolving Lights on Emergency and Authorized Vehicles

Dear Secretary Biehler:

Enclosed are the Commission's comments for consideration when you prepare the final version of this regulation. These comments are not a formal approval or disapproval of the regulation. However, they specify the regulatory review criteria that have not been met.

The comments will be available on our website at [www.irrc.state.pa.us](http://www.irrc.state.pa.us). If you would like to discuss them, please contact me.

Sincerely,

Kim Kaufman  
Executive Director  
wbg  
Enclosure

cc: Honorable Roger A. Madigan, Chairman, Senate Transportation Committee  
Honorable J. Barry Stout, Minority Chairman, Senate Transportation Committee  
Honorable Richard A. Geist, Majority Chairman, House Transportation Committee  
Honorable Keith R. McCall, Democratic Chairman, House Transportation Committee

# Comments of the Independent Regulatory Review Commission

on

## Department of Transportation Regulation #18-404 (IRRC #2510)

### Flashing or Revolving Lights on Emergency and Authorized Vehicles

February 16, 2006

We submit for your consideration the following comments on the proposed rulemaking published in the December 17, 2005 *Pennsylvania Bulletin*. Our comments are based on criteria in Section 5.2 of the Regulatory Review Act (71 P.S. § 745.5b). Section 5.1(a) of the Regulatory Review Act (71 P.S. § 745.5a(a)) directs the Department of Transportation (Department) to respond to all comments received from us or any other source.

#### **1. Section 173.2. Definitions. - Reasonableness; Clarity.**

##### *Intersection light*

This definition is amended to allow greater flexibility by deleting the existing requirement that intersection lights be mounted on both front fenders. The Pennsylvania Emergency Health Services Council (PEHSC) questioned the need for and practicality of this amendment. According to the proposed regulation, an "intersection light" could be a flashing red, blue, white or clear light placed anywhere on a vehicle. Similar characteristics for lights are already included in the definitions of "flashing light," "light-bar assembly," "revolving light" and "single light." Given that any of these lights would enhance the visibility of a vehicle, what is the need for a separate category for intersection lights? The amended definition is so broad that it loses its uniqueness and utility. The term is used only twice in Chapter 173, once in describing the mounting of a light on a fender and once as an exception. The Department should explain the need for this separate category or delete the term and its definition from the chapter.

#### **2. Section 173.3. Display requirements. - Public safety; Reasonableness; Implementation procedure; Clarity.**

##### *Subsection (a)(3) Blue lights.*

This subsection refers to Section 4572(a) of the Vehicle Code to identify which vehicles may display blue lights. To be eligible to display blue lights on their vehicles, the statute requires that "the names of the ambulance personnel, volunteer firefighters and certified volunteer search and rescue scuba divers shall be submitted to the nearest station of the Pennsylvania State Police on a list signed by the chief of the ambulance or fire department or company ..." (75 Pa.C.S.A § 4572(a)(1)). We have several questions.

First, are ambulance personnel of private or "for-profit" ambulance companies eligible to use blue lights on their vehicles? Does the word "company" in Section 4572(a)(1) include private or for-profit companies? The Department should clarify the types of organizations that may allow

their personnel to use blue lights on their own vehicles. In addition, who is the chief of a private company?

Second, may quick responder services (QRS) personnel use blue lights on their personal vehicles? Some claim that QRS vehicles are covered by the statutory definition of “ambulance” in Section 102 of the Vehicle Code. The Department needs to clarify whether QRS personnel are eligible to use blue lights on their vehicles under Section 4572(a) of the Vehicle Code.

*Subsection (a)(5) Yellow or amber lights.*

In Subparagraph (iii), new language is being added which states: “Yellow or amber lights shall be mounted on the rear of the vehicle or shall face rearward.” The intent of this language is that the lights be directed or shine rearward from the vehicle. To improve clarity, the new language should be simplified to state that yellow or amber lights shall be mounted to only flash or shine rearward.

*Subsection (a)(6) White or clear lights.*

Three commentators have expressed concern and confusion with this subsection. This subsection begins with one long sentence that appears to address two or more different combinations of white or clear lights. The provision begins with limiting emergency vehicles to one white or clear light in combination with lights of different colors. However, it also contains an exception for three white or clear lights on a light-bar assembly. We have four concerns and recommendations.

First, we recommend that the first sentence of this subsection be re-formatted as a list that outlines the two options: 1) single white or clear light; or 2) three white or clear lights on a light-bar assembly. We agree with the Director of the Philadelphia Regional Emergency Medical Services that clarification is needed as to whether a vehicle could have a total of four white or clear lights by combining a single light with a light-bar assembly.

Second, the Department should clarify the need for and intent of this subsection and whether a light created via reflection by mirrors will be counted as a separate and unique light. Explanation and clarification are necessary given the questions raised by two commentators. PEHSC questioned the need to increase the number of white or clear lights from two to three. Michael K. DalPezzo submitted comments contending that mirrors in light-bar assemblies may intensify the effect of lights and are not counted as separate lights for the purposes of enforcement.

Third, the new Subparagraphs (i) and (ii) may conflict with existing systems and procedures. The two new provisions read as follows:

- (i) When the light-bar assembly contains three flashing, revolving or oscillating white or clear lights, the center light must be mounted to flash white or clear light only to the front.
- (ii) When the vehicle is stationary, the light-bar assembly may not display white or clear light to the rear.

According to DalPezzo, Subparagraph (i) is the opposite of most existing systems. DalPezzo also claims that Subparagraph (ii) is inconsistent with the standards of the National Fire Protection Association and federal standards for ambulances. The PEHSC is concerned that Subparagraph (ii) would be unsafe because it may force drivers to turn off all lights.

It is our understanding that the intent of the Department is for the two outside lights on the light-bar assembly to oscillate in 90° arcs. However, this requirement is not discussed in the proposed regulation. The Department needs to clarify its intent for the light-bar assembly and insure that the regulation is consistent with current standards for different types of emergency vehicles.

Fourth, the phrase “preemptive traffic control devices” is not defined. In addition, this specific phrase is not used in similar provisions in existing regulations or statutes. The Vehicle Code at 75 Pa.S.C.A § 3105(g) uses the phrase “emergency vehicle preemption devices.” Existing regulations refer to “traffic control signal preemption equipment controlled from emergency or authorized vehicles” at 67 Pa. Code § 211.11(b)(16) and “preemption and priority control equipment” at 67 Pa. Code § 212(b)(viii) (published as a final regulation in the *Pennsylvania Bulletin* on February 4, 2006 [36 Pa.B. 537]). The Department should use the phrase found in the statute consistently and should include a reference to the statute in this proposed regulation.

#### *Subsection (a)(8) Utility lights.*

The first sentence of this subparagraph states that utility lights may not be used for “emergency warning purposes.” It describes utility lights as “take down, alley, spotlight.” However, the second sentence reads:

These lights may be used while the vehicle is **in motion or stationary for the purpose of an emergency**, for the safety of the public or in the enforcement of the law. (Emphasis added.)

The use of the phrases “emergency warning purposes” and “for the purpose of an emergency” is confusing. What is the difference between these two phrases? The phrase “in motion or stationary” adds to the confusion. Additionally, DalPezzo notes that there are “take down” and “alley” lights that flash in light-bar assemblies. The explanation of this new subparagraph in the Preamble only mentions the blade of a snow plow.

It is our understanding that the intent of this subsection is to prohibit the use of a steady burning light to alert others and warn traffic of an emergency. The subsection should clearly state this prohibition. Standard headlights and flashing or revolving lights are all that may be used to alert other drivers and pedestrians. The regulation should also state that a steady burning light may be used to illuminate work areas and equipment, scenes involving fires, accidents, other emergencies or crime, or for search and rescue operations.

#### *Subsection (b) 360° visibility.*

The first sentence of this subsection begins with the phrase: “Except for unmarked police vehicles ...” which seems to indicate that all of Subsection (b) does not apply to unmarked police vehicles. However, Subparagraph (4) is being amended to set forth a specific requirement for an “unmarked police vehicle.” This is confusing. Subparagraph (4), which is different from the “360° visibility” rule, should be formatted as a separate subsection.

*Subsection (d)(1) Emergency vehicles except police vehicles.*

Subsection (d)(1)(v)(A) reads:

This subsection does not include private vehicles used for answering emergency calls as defined by 75 Pa.C.S. § 102.

None of the terms in this provision, such as “private vehicles” or “emergency calls,” are defined as separate terms in Section 102 of the Vehicle Code. This provision should be rewritten using the words “privately owned vehicle” and a specific reference to the definition of “emergency vehicle” in 75 Pa.C.S. § 102.

*Subsection (d)(4) Traffic control emergency directional light assemblies.*

This subsection is new and sets requirements for the use of directional light assemblies. However, the intent of the limitations in Subparagraphs (i)-(vi) is unclear. For example, Subparagraphs (v) and (vi) are limited respectively to vehicles owned by a fire company and “an authorized vehicle which is used in the construction, repair or maintenance of a bridge or highway.” The subsection already states that the directional assemblies may not interfere with permanently installed lights. If the directional lights do not interfere with installed lights, then what is the need for Subparagraphs (i)-(vi)? The Department should justify these limitations or delete them.

**3. Miscellaneous Clarity.**

*Section 173.2. Definitions. - Flashing light and Oscillation*

The definition of “flashing light” includes the word “oscillation” as a part of its definition. The terms “oscillation” and “revolving light” are also defined in Section 173.2. In certain provisions in Chapter 173, the proposed regulation adds the word “oscillating” to depict “flashing **[or]**, revolving **or oscillating**” lights. If “oscillation” is a part of the definition of a flashing light, why is it necessary to include the word “oscillating” next to “flashing” in the regulation?

Additionally, what does it mean in certain provisions when only the words “flashing or revolving” are used to describe lights? Given the inclusive definition of “flashing light,” what is the intent of this distinction? Will these flashing lights also be allowed to oscillate?

*Subsection 173.3(d)(3) Authorized vehicles.*

Under Subsection 173.3(d)(3)(i)(E), the reference to Subparagraphs (i)-(iv) is incorrect and needs to be changed to be consistent with the re-lettering and reformatting of the *Pennsylvania Code and Bulletin*. It should be changed to capital letters (A)-(D).

### Facsimile Cover Sheet

**Kristine M. Shomper**  
Administrative Officer




Phone: (717) 783-5419  
Fax #: (717) 783-2664  
E-mail: [kriss@irrc.state.pa.us](mailto:kriss@irrc.state.pa.us)  
Website: [www.irrc.state.pa.us](http://www.irrc.state.pa.us)

**INDEPENDENT REGULATORY REVIEW COMMISSION**  
333 MARKET STREET, 14<sup>TH</sup> FLOOR, HARRISBURG, PA 17101

**To:** Stephen Martin  
**Agency:** Department of Transportation  
**Phone:** 7-5079  
**Fax:** 2-2741  
**Date:** February 16, 2006  
**Pages:** 6

**Comments:** We are submitting the Independent Regulatory Review Commission's comments on the Department of Transportation's regulation #18-404 (IRRC #2510). Upon receipt, please sign below and return to me immediately at our fax number 783-2664. We have sent the original through interdepartmental mail. You should expect delivery in a few days. Thank you.

Accepted by:  Date: 02-16-06