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PWIA

Pennsylvania Waste Industries Association  
A Chapter of the National Solid Wastes Management Association

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INDEPENDENT REGULATORY  
REVIEW COMMISSION

SECRETARY'S OFFICE

March 17, 2008

*Via Email*

Environmental Quality Board  
Rachel Carson State Office Building  
400 Market Street, 15th Floor  
Harrisburg, PA 17101-2301

**Re: Comments to the Proposal to Amend 25 Pa. Code Chapter 126 (Relating to Motor Vehicle and Fuels Program) by adding a new Subchapter F (Relating to Diesel Vehicle Idling) and a new Subchapter G (Relating to Auxiliary Power Systems)**

Members of the Environmental Quality Board:

The Pennsylvania Waste Industries Association ("PWIA") and its members submit these comments to the Pennsylvania Department of Environmental Protection's ("Department" or "PADEP") proposed amendments to the Diesel Vehicle Idling and Auxiliary Power Systems Regulations (25 Pa. Code, Chapter 121 and Chapter 126, Subchapters F and G) (hereinafter "Proposed Anti-Idling Regulations").<sup>1</sup> Without a minor expansion of Existing Exemption #8 and the addition of new Exemption that is specific to the solid waste collection, transportation, and disposal industry, the Proposed Anti-Idling Regulations will: (1) impede the performance of the essential public function of waste removal and disposal in Pennsylvania; and (2) present a significant and undue hardship to members of the PWIA who operate fleets of commercial diesel vehicles within the Commonwealth of Pennsylvania.

#### **I. PWIA and its Membership**

PWIA represents private-sector waste haulers and landfill operators in Pennsylvania and is the Pennsylvania chapter of the National Solid Wastes Management Association ("NSWMA"), the trade association that represents the interests of the North American waste services industry. PWIA members include both privately-held and publicly-traded companies that own and operate numerous commercial solid waste facilities throughout the Commonwealth. PWIA members are involved in all facets of solid waste management in Pennsylvania, including recycling, curbside collection, transfer stations, long-haul transportation, co-generation, and disposal. One of PWIA's primary missions is to advance the safe, efficient, and environmentally responsible management of solid waste, and to promote sound public policy affecting the management of solid waste.

<sup>1</sup> See 38 Pa.B. 229 (Jan. 12, 2008)

PWIA members and their employees take very seriously their responsibility to perform the essential service of disposing of Pennsylvania's municipal waste in an efficient, economical, and safe manner. PWIA members are effective stewards of the environment who, as businesses and citizens of the Commonwealth, are committed to doing their jobs in a way that protects and preserves the environment.

**II. The Proposed Anti-Idling Regulations Should Be Amended to Remove Impediments to the Performance of the PWIA's Essential Waste Removal and Disposal Function and Alleviate Undue Hardships that PWIA Members will face under the Current Form of Proposed Regulations**

As responsible stewards of the environment, the PWIA supports the PADEP's efforts to adopt new regulations that will help prevent the citizenry of Pennsylvania from being exposed to oxides of nitrogen ("NOx"), volatile organic compounds ("VOCs"), and particulate matter that is produced by diesel vehicle emissions. However, without the minor expansion of Existing Exemption #8 and the inclusion of an additional exemption that is specific to the solid waste collection, transportation, and disposal industry, the Proposed Anti-Idling Regulations will: (1) impede the performance of the essential public function of waste removal and disposal in Pennsylvania; and (2) present significant and undue hardship to members of the PWIA who operate fleets of commercial diesel vehicles within the Commonwealth of Pennsylvania. Furthermore, the current form of the Proposed Anti-Idling Regulations is impractical because the impediments to the performance of the essential waste removal and disposal function that are inherent within the proposed regulations will necessarily translate to increased costs for Pennsylvania businesses and residents -- with only marginal gain of NOx, VOC, and particulate emissions reductions.

In order to eliminate the undue burdens, and impracticalities that will result from the implementation of the current form of Proposed Anti-Idling Regulations, the PWIA submits that the Proposed Anti-Idling Regulations should incorporate a minor expansion to Existing Exemption #8 and include an additional exemption that is specific to the solid waste collection, transportation, and disposal industry. Specific requests for amendment to Chapter 126 of the Proposed Anti-Idling Regulations follow:

Chapter 126. Subchapter F. Diesel Vehicle Idling

PWIA members respectfully request that the Existing Exemption at Section 126.612(a)(8) of the Proposed Anti-Idling Regulations be expanded to permit idling that is "necessary to comply with manufacturers' operating requirements, specifications and warranties." Specifically, PWIA members request that Section 126.612(a)(8) of the Proposed Anti-Idling Regulations be revised as follows:

- (8) When idling is necessary to operate defrosters, heaters, air conditioners or cargo refrigeration equipment, or to install equipment to prevent a safety or health emergency and not for the

purpose of a rest period, or as otherwise *[necessary to comply with manufacturers' operating requirements, specifications and warranties,]* Federal or State motor carrier safety regulations, or local requirements.

The expansion of the Existing Exemption at Section 126.612(a)(8) of the Proposed Anti-Idling Regulations that is described above is essential for allowing PWIA members to maintain compliance with vehicle manufacturer operating specifications, which is a necessary prerequisite for obtaining vehicle warranty protections.

In addition to its request to expand the language of Section 126.612(a)(8) of the Proposed Anti-Idling Regulations, PWIA members respectfully request that Section 126.612(a) of the Proposed Anti-Idling Regulations be amended to include the following exemption that is specific to the solid waste collection, transportation, and disposal industry:

*(12) When a commercial motor vehicle is engaged in solid waste collection, transportation, or disposal, or the collection and lawful management of source-separated recyclable materials. This exemption does not apply when a vehicle is not engaged in solid waste collection, transportation, or disposal, or the collection and lawful management of source-separated recyclable materials.*

PWIA's request to include the above exemption at Section 126.612(a) of the Proposed Anti-Idling Regulations responds to the PADEP's invitation to provide comment on whether to amend the Proposed Anti-Idling Regulations to include exemptions for idling in specific situations in which vehicles line up to load or unload. See 38 Pa.B. at 232. It also is submitted in recognition that Section 126.6(a)(3) is too narrow to clearly exempt the daily routine of solid waste collection at the curb or at commercial account loading areas, and the disposal of that waste at transfer stations, landfills and resource recovery facilities.

Inclusion of the above exemption within the Department's revisions to Chapter 126 of Title 25 of the Pennsylvania Code will: (a) remove impediments to the performance of the PWIA's essential waste removal and disposal function; (b) alleviate the significant hardship that members of the PWIA will face under the current form of the Proposed Anti-Idling Regulations; and (c) strike a reasonable balance between protecting the health of the citizens of the Commonwealth and the facilitation of essential public services. Indeed, the PWIA's proposed exemption to Section 126.612(a) of the Proposed Anti-Idling Regulations will not permit the following activities:

- i) idling for purposes of operating heaters, air conditioners, or appliances used to maintain driver comfort during rest periods;
- ii) attended or unattended vehicle idling for vehicle warm-up at the start of a work-shift or while waiting for a facility to open; and

- iii) attended or unattended vehicle idling while drivers are on a break from performing the essential public service of collecting, transporting, or disposing of solid waste, or the collection and lawful management of source-separated recyclable materials (e.g., coffee breaks, meal breaks, rest room visits).

\* \* \*

Thank you for the opportunity to present comments regarding the Proposed Anti-Idling Regulations. A one-page summary of the PWIA's comments to the Proposed Anti-Idling Regulations is enclosed for distribution to the Environment Quality Board as part of the agenda packet that will be prepared prior to the meeting at which the final regulation will be considered.

Respectfully submitted,

Tim O'Donnell  
President

cc:

SUMMARY OF THE PENNSYLVANIA WASTE INDUSTRIES ASSOCIATION'S  
COMMENTS TO THE PROPOSAL TO AMEND 5 PA. CODE CHAPTER 126  
BY ADDING A NEW SUBCHAPTER F AND A NEW SUBCHAPTER G

I. In order to Remove Impediments to the Performance of the PWIA's Essential Waste Removal and Disposal Function and Alleviate the Undue Hardships that Members of the PWIA will face under the Current Form of the Proposed Anti-Idling Regulations, the Proposed Anti-Idling Regulations Should Incorporate a Minor Expansion to Existing Exemption #8 and Include an Additional Exemption that is Specific to the Solid Waste Collection, Transportation, and Disposal Industry.

A. Expansion of Existing Exemption #8:

1. Section 126.612(a)(8) of the Proposed Anti-Idling Regulations should be expanded to permit idling that is "necessary to comply with manufacturers' operating requirements, specifications and warranties." Specifically, Section 126.612(a)(8) of the Proposed Anti-Idling Regulations should be expanded to read as follows:

(8) When idling is necessary to operate defrosters, heaters, air conditioners or cargo refrigeration equipment, or to install equipment to prevent a safety or health emergency and not for the purpose of a rest period, or as otherwise [*necessary to comply with manufacturers' operating requirements, specifications and warranties,*] Federal or State motor carrier safety regulations, or local requirements.

B. Additional Exemption:

1. Section 126.612(a) of the Proposed Anti-Idling Regulations should be amended to include the following exemption that is specific to the solid waste collection, transportation, and disposal industry:

(12) *When a commercial motor vehicle is engaged in solid waste collection, transportation, or disposal, or the collection and lawful management of source-separated recyclable materials. This exemption does not apply when a vehicle is not engaged in solid waste collection, transportation, or disposal, or the collection and lawful management of source-separated recyclable materials.*

2. PWIA's request to include the above exemption at Section 126.612(a) of the Proposed Anti-Idling Regulations responds to the PADEP's invitation to provide comment on whether to amend the Proposed Anti-Idling Regulations to include exemptions for idling in specific situations in which vehicles line up to load or unload. See 38 Pa.B. at 232.

3. The PWIA's proposed exemption to Section 126.612(a) strikes a reasonable balance between protecting the health of the citizens of the Commonwealth and the facilitation of essential public services. The PWIA's proposed exemption does not exempt the following activities:

- i) idling for purposes of operating heaters, air conditioners, or appliances used to maintain driver comfort during rest periods;
- ii) attended or unattended vehicle idling for vehicle warm-up at the start of a work-shift or while waiting for a facility to open; and
- iii) attended or unattended vehicle idling while drivers are on a break from performing the essential public service of collecting, transporting, or disposing of solid waste, or the collection and lawful management of source-separated recyclable materials (e.g., coffee breaks, meal breaks, rest room visits).

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