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INDEPENDENT REGULATORY
REVIEW COMMISSION

HOUSE OF REPRESENTATIVES
COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

February 23, 2010

Arthur Coccodrilli
Chairman
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

re: Proposed Regulation 18-414

Dear Mr. Coccodrilli:

The Pennsylvania Department of Transportation (PennDOT) recently proposed a final form regulation, Intrastate Motor Carrier Safety Requirements (18-414), in the stated belief that the action is required as a result of a federal audit and necessary to retain full Federal Motor Carrier Safety Assistance Program (MCSAP) funding. While this belief may be true to some extent, the proposed regulations exceed the mandate in ways detrimental to PA agriculture.

As Members of the House of Representatives, we urge IRRC to return this regulation to PennDOT for revision for the reasons set forth in the February 19, 2010, objections filed on a bipartisan basis by the Republican and Democratic Chairs of the House Standing Committee on Agriculture and Rural Affairs.

We are encouraged by the U.S. Department of Transportation "Interpretation" presented earlier today. This undated Interpretation received by IRRC on February 23, 2010 states, inter alia, "a State **may exempt** commercial vehicles from all or part of its regulations..." (Emphasis added.) While this Interpretation is clear that Pennsylvania may exempt certain vehicles for this and other reasons, the federal interpretation does not confer any exemption not otherwise enacted by Pennsylvania. Consequently, adoption of the proposed regulation in current form would not provide exemptions possible under federal law and desirable to PA agriculture.

This Interpretation by the U.S. Department of Transportation demonstrates the truth of PennDOT's original response to item 23 of the Regulatory Analysis Form, "**There are alternative regulatory provisions that would satisfy the requirements of the FMCSA mandate.**" (Emphasis added.) Today's correspondence from the U.S. Department of Transportation proves that alternative approaches to satisfying applicable federal mandates do, in fact, exist.

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IRRC's receipt today of the federal Interpretation that proves that the federal mandate will allow less disruptive alternatives than the currently proposed regulations was followed by PennDOT correspondence asserting that its original response to item 23 was mistaken. We believe that IRRC must reject the new assertion by PennDOT that Pennsylvania has no alternatives in light of the clearly contrary evidence presented by the federal Interpretation. We are certain such alternative approaches can reduce the adverse impact and severe cost to the agricultural community that would be newly regulated.

As specified at length in the bipartisan objections by the Republican and Democratic Chairs of the House Standing Committee on Agriculture and Rural Affairs dated February 19, 2010, PennDOT has not met its statutory burden (71 P.S. 745.5) in presenting information required. The Regulatory Review Act requires that a proposed regulation include such specific information so that the public and IRRC can properly consider the proposal. IRRC has ample statutory authority to return the regulation to PennDOT without approval. We strongly urge IRRC to not approve this proposal without first requiring PennDOT to meet its statutory burden.

At the same time, we agree it is desirable for Pennsylvania to retain full Federal Motor Carrier Safety Assistance Program (MCSAP) funding. We understand that the U.S. Department of Transportation has established March 31, 2010, as the deadline for meeting – not exceeding – its mandates.

If IRRC returns the proposed regulations without approval on February 25, 2010, this federal deadline can still be met if PennDOT revises the proposed regulations appropriately and resubmits them to IRRC by March 10, 2010. The Regulatory Review Act (71 P.S. § 745.7(c) et seq.) provides for PennDOT's revision of the proposed final-form regulations in order to respond to objections raised by IRRC in a manner that would allow adoption of the revised regulation in time to satisfy the federal deadline.

Appropriate revision of the proposed regulations to embrace the federal exemptions permitted for agriculture is of enormous consequence to PA agriculture and its ability to compete with other states that will continue to enjoy the allowed federal exemptions.

Thank you for your service to our Commonwealth.

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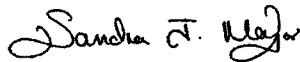
This letter is from all of the following members of the Pennsylvania House of Representatives:



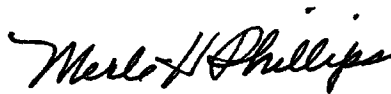
John A. Maher, Chairman
Agriculture and Rural Affairs Committee
40th Legislative District



Samuel H. Smith
Republican Leader
66th Legislative District



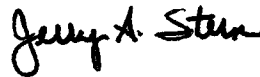
Sandra J. Major
Caucus Chairman
111th Legislative District



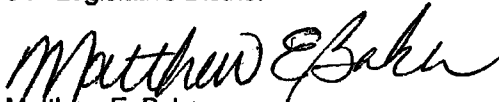
Merle H. Phillips
Caucus Administrator
108th Legislative District



Stan Saylor
Policy Chairman
94th Legislative District



Jerry A. Stern
Caucus Secretary
80th Legislative District



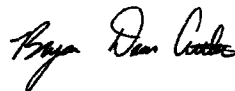
Matthew E. Baker
68th Legislative District



Karen Boback
117th Legislative District




Michele Brooks
17th Legislative District



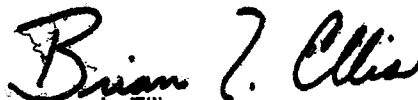
Bryan Cutler
100th Legislative District



Gordon Denlinger
99th Legislative District



Gene Digriolamo
18th Legislative District



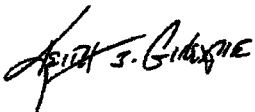
Brian L. Ellis
11th Legislative District



Matt Gabler
75th Legislative District



Richard A. Geist
79th Legislative District



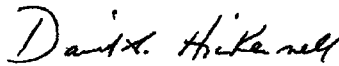
Keith Gillespie
47th Legislative District



Seth M. Grove
196th Legislative District



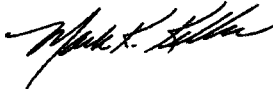
C. Adam Harris
82nd Legislative District



David S. Hickernell
98th Legislative District



Rob W. Kauffman
89th Legislative District



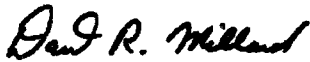
Mark K. Keller
86th Legislative District



Carl Walker Metzgar
69th Legislative District



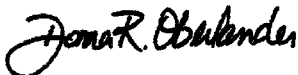
Carl Walker Metzgar
69th Legislative District



David R. Millard
109th Legislative District



Dan Moul
91st Legislative District



Donna Oberlander
63rd Legislative District



Tina Pickett
110th Legislative District

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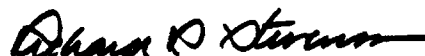
Kathy L. Rapp
65th Legislative District



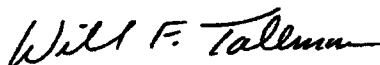
Todd Rock
90th Legislative District



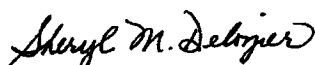
Samuel E. Rohrer
128th Legislative District



Richard R. Stevenson
8th Legislative District



Will Tallman
193rd Legislative District



Sheryl M. Delozier
88th Legislative District

JAM:mg

cc: James Smith, IRRC