



COMMONWEALTH OF PENNSYLVANIA
GOVERNOR'S OFFICE OF GENERAL COUNSEL

January 14, 2014

2922

Sent Via Telefax Only to: (717) 783-2664

Leslie A. Lewis Johnson, Esquire
Chief Counsel
Independent Regulatory Review Commission
333 Market Street – 14th Floor
Harrisburg, PA 17101

**Re: Request for Tolling Pursuant to 71 P.S. § 745.5a(g)
Final Rulemaking
18-420 (IRRC # 2922)—67 Pa. Code, Chapter 427
Public Transportation—Sustainable Mobility**

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IRRC

Dear Ms. Lewis Johnson:

On behalf of the Pennsylvania Department of Transportation (Department), I am submitting this letter to the Independent Regulatory Review Commission (IRRC) to formally request tolling of the above-referenced Final Rulemaking (“Final Rulemaking”) in accordance with Section 5.1(g) of the Regulatory Review Act, 71 P.S. § 745.5a(g); and 1 Pa. Code § 307.5. This request follows our discussion of yesterday and IRRC’s recommendation that the Department toll the Final Rulemaking to address areas of the Final Rulemaking that require clarification.

As communicated to you yesterday, the Department identified two missing subparagraphs on page 16 of Annex A to the Department’s Final Rulemaking. Subparagraphs 427.12(d)(1)(iv) and 427.12(d)(1)(v) were omitted from Annex A. These omissions are not substantive in nature but it is prudent to proactively resolve any issues. You also observed that there are inconsistencies in formatting in subparagraphs 427.12(d)(1)(vi)(B) and 427.12(d)(1)(vi)(D) on page 17 of Annex A. In particular, there are inconsistencies between the ways in which amended language is identified.

Tolling will allow the Department to proactively address formatting issues with Chapter 427, provided that any changes that will be made during the tolling period will be of a non-substantive nature. More specifically, in Subparagraphs 427.12(d)(1)(iv) and 427.12(d)(1)(v),

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the missing (but unchanged) language will be included. With respect to subparagraphs 427.12(d)(1)(vi)(B) and 427.12(d)(1)(vi)(D), again, the full, final text will be inserted, with appropriate identification of changes between the Proposed and Final Rulemaking. While these are the only edits anticipated at this time, the Department will utilize the tolling period to review the regulation in its entirety. The Department respectfully requests IRRC's permission to make appropriate non-substantive edits to confirm that the Final Rulemaking contains the full, final text of Chapter 427.

In closing, it is respectfully requested that: 1) IRRC toll the Final Rulemaking per Section 5.1(g) of the Regulatory Review Act, 71 P.S. § 745.5a(g) and 1 Pa. Code § 307.5; and 2) remove consideration of the Final Rulemaking from the January 17, 2014 meeting, so as to allow the Department an opportunity to add clarity by making non-substantive textual changes. This letter also confirms that by way of copy, the Department is serving the House and Senate Transportation Committees later today.

Please do not hesitate to contact me if you have any questions.

Sincerely,



Jeffrey M. Spotts
Assistant Counsel
Department of Transportation

cc: The Honorable Nicholas A. Micozzie
The Honorable Michael P. McGeehan
The Honorable John C. Rafferty
The Honorable John N. Wozniak
Shawn E. Smith, Deputy General Counsel*
Robert J. Shea, Senior Deputy Chief Counsel*
Bradley J. Billet, Assistant Counsel*

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