

# Comments of the Independent Regulatory Review Commission



## Department of Transportation Regulation #18-460 (IRRC #3065)

### Mechanical, Electrical and Electronic Speed-Timing Devices

September 17, 2014

We submit for your consideration the following comments on the proposed rulemaking published in the July 19, 2014 *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. § 105.31 Appointment of speedometer testing station. Clarity.**

Under subsection (b) the Department is requiring “each applicant intending to be appointed as a speedometer testing station that is not a business entity, including a sole proprietor or partner in a general or limited partnership,” to be at least 18 years of age. We ask the Department to explain in the final rulemaking why this subsection does not include applicants for mobile testing units to be operated by a speedometer testing station since they must file a separate application.

#### **2. § 105.34 Manner of testing speedometers. Clarity; Reasonableness; and Economic Impact**

##### *Subsection (a) Accuracy.*

This section requires speedometers to be tested for accuracy and if necessary, be repaired and adjusted to obtain the greatest possible degree of accuracy. The Department is proposing to add a numerical degree of accuracy of plus or minus 2 miles per hour (mph) to the manner of testing speedometers. A commentator has raised a concern that the plus/minus 2 mph window may prevent speedometer testing stations from certifying police department vehicles as some vehicles may be off 3 mph or more. Currently, testing stations certify actual speeds for the vehicles. We ask the Department to explain in the final rulemaking the need for the proposed change and the potential economic impact for local governments and state law enforcement if a vehicle cannot meet this new accuracy specification.

##### *Subsection (b) Forms.*

This subsection requires that Certificates of Accuracy be made available for review by the Pennsylvania State Police Inspection Station Supervisor. Comments received from the

Pennsylvania State Police (PSP) note that the position of Inspection Station Supervisor no longer exists. The PSP recommends that the Department refer to the State Police without any further specification of job function within the PSP. We agree with this request made by the PSP and suggest the Department amend the final-form regulation accordingly.

Additionally, the Department is permitting certificates of accuracy to be “reproduced and a duplicate copy, executed and signed in the same manner as the original,” and to have the same force and effect as the original. While similar language appears in the existing regulation, one commentator has expressed confusion with the phrase “executed and signed in the same manner as the original” and questioned how such a document would differ from another original document. We recommend the Department clarify the intent of this requirement in the final-form regulation.

The same commentator has asked the Department to consider alternative methods for issuing certificates. The commentator suggests the Department allow the use of electronic signatures with a corporate seal or watermark on the certificates. He asserts that this option would not only save on testing stations’ mailing costs, but also allow local police departments and state law enforcement to access and print certificates as needed. We recommend that the Department consider including this option in the final-form regulation, or explain why such a provision would not be in the public interest.

### **3. Miscellaneous.**

- In Regulatory Analysis Form (RAF) Question #29 we request the Department revise the following: the expected date of promulgation of the proposed regulation as a final-form regulation; and date by which the agency must receive public comments.
- Under § 105.31 (c) we suggest the Department include the word “as” before the word “an” in the following phrase “or to operate an approved mobile testing unit.”
- Under § 105.32 (b) we recommend to the Department to insert the term “legal” before “holidays.”
- Under § 105.33 (a) (3) we suggest replacing the term “devise” with “device.”