

On March 15, 2013, the Philadelphia Parking Authority delivered proposed regulation #2993. On March 26, 2013, the Philadelphia Parking Authority redelivered the Regulatory Analysis Form. Please note that no changes were made to the Preamble or Annex A.

Regulatory Analysis Form

(Completed by Promulgating Agency)

INDEPENDENT REGULATORY
REVIEW COMMISSION

2013 MAR 26 PM 2:30

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IRRC

(All Comments submitted on this regulation will appear on IRRC's website)

(1) Agency: Philadelphia Parking Authority

(2) Agency Number: 126

Identification Number: 4

IRRC Number: 2993

(3) PA Code Cite: 52 Pa. Code Part II, Chapters 1011, 1015, 1017, 1021, 1027, 1051, 1053, 1057, 1059.

(4) Short Title: Large Vehicle Amendments and Additional Corrective Amendments.

(5) Agency Contacts (List Telephone Number and Email Address):

Primary Contact: Dennis G. Weldon, Jr., General Counsel at PRM101@philapark.org, 215-683-9630 (FAX: 215-683-9619), 3101 Market Street, 2nd Floor, Philadelphia, PA 19104. Secondary Contact: James R. Ney, Director, Taxicab and Limousine Division at jney@philpark.org, 215-683-6417 (FAX: 215-683-9437), 2415 South Swanson Street, Philadelphia PA 19148.

(6) Type of Rulemaking (check applicable box):

- Proposed Regulation
- Final Regulation
- Final Omitted Regulation

- Emergency Certification Regulation;
- Certification by the Governor
- Certification by the Attorney General

(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)

The proposal will amend the regulations to comport with several statutory changes enacted in the past year, correct certain typographical errors, amend driver qualification and reporting requirements, amend voluntary suspension requirements, amend the rights transfer process to require contemporaneous filing of sale and transfer documents and clarify the long standing limitations of certain taxicab carriers.

(8) State the statutory authority for the regulation. Include specific statutory citation.

Sections 13 and 17 of the act of July 16, 2004, (P.L. 758, No. 94), *as amended*, 53 Pa.C.S. §§5701 *et seq.*, §§ 5722 and 5742; section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P.L. 287, No. 22), *as amended*, 53 Pa. C.S. §§ 5505(d)(17) (d)(23), (d)(24). The act of July 5, 2012, (P.L. 1022, No. 119) ("Act 119").

(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.

No. Although for purposes of consistency between the regulations and the Parking Authorities Law as amended by the act of July 5, 2012, (P.L. 1022, No. 119) ("Act 119"), several of the changes in the proposed regulation are made.

(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as possible and approximate the number of people who will benefit.

The Legislature enacted Act 119, which amended several provisions of the Authority's taxicab and limousine enabling legislation. One change limited the scope of the definition of "limousine" is 53 Pa.C.S. § 5701 in such a manner as to eliminate the Authority's regulation of a class of limousines identified as "large vehicles." Act 119 also amended the term "taxicab" and language related to the authorization of other carriers and drivers. The proposed rulemaking will amend the regulations to remove references to the large carriers and alter the definition of "partial-rights taxicab" to reflect changes made in sections 1 and 3 of Act 119. It is in the public interest to develop symmetry between statutory and regulatory requirements and limitations and will avoid confusion, to the benefit of every person affected by the regulations.

The correction of typographical errors and original oversights in the drafting of the Authority's regulation under 126-1 in sections 1011.14 (a), 1017.14 (c), 1021.16 (b) are necessary to assure accuracy within the regulations, which is axiomatically to the benefit of every person affected by the regulations.

The proposed regulation will require that the agreement of sale for the rights at issue be executed and filed with the Authority at the time the actual regulatory transfer of rights request is filed with the Authority. (§§ 1027.5 and 1059.4). The current regulations contain no guidance on this point, which has resulted in execution and filing of agreements of sale, although formal transfer filings are delayed, often by months. That delay results in confusion among the parties, the public and regulatory authorities as to who is operating the rights. This confusion has also resulted in litigation between regulated parties who dispute the intent to sell after agreements of sale are entered, but before formal transfer applications are filed. The certainty this simple timing requirement will make will benefit the entire industry by reducing or eliminating the current state of uncertainty. This proposed regulation does not create a new filing requirement; it simply requires that the documents be filed simultaneously.

The proposed regulation will require that a medallion or TLD inspection sticker be surrendered to the Authority as part of the voluntary suspension process. (§§ 1011.14 (g) and 1051.13 (e)). This voluntary suspension process permits certificate holders to voluntarily place their rights out of service to avoid mandatory service requirements. The Authority has observed vehicles that were suppose to be in a voluntary suspend status in active taxicab and limousine service. The medallion or TLD inspection sticker is the outward authorization attached to each vehicle. Requiring that the medallion or TLD inspection stickers be turned into the Authority's Taxicab and Limousine Division will reduce or eliminate the likelihood that those vehicles will be used to provide taxicabs or limousine service. The reduction of illegally operated taxicabs and limousines is in the public interest.

The regulation will amend certain driver requirements. Sections 1012.4 and 1057.4 will clarify that a driver applicant may experience a loss of their state issued driver's license privileges in the one year period preceding the application or renewal date; yet remain eligible to be issued or renew the Authority driver's certificate. The need to have a driving history of at least one year will continue. This amendment will address confusion among many regulated parties as to the need to have a continuous driving "history" as distinguished from a continuously valid driver's license. Driver's licenses are sometimes suspended for non-driving related reasons, such as late child support payments. This amendment will benefit drivers, certificate holders and the public by clarifying the flexibility of the Authority to approve a driver's certificate applicant, yet maintain the ability to prohibit unsafe drivers.

The proposed amendment will also add a conviction for driving under the influence of alcohol or controlled substance to the list of prohibitions applicable to these sections. Because these convictions

are often not felonies, they will not appear as prohibitive convictions under the regulations. These convictions often do not appear on a driver's history report, creating a potential loophole. The elimination of the loophole and the prohibition of individuals who have committed this serious driving infraction will benefit the public and the taxicab and limousine industry by providing for more responsible drivers.

The proposed amendment will clarify two important and long established service prohibitions applicable to partial-rights taxicab companies. (§ 1015.2(c) and (d)). Those limitations prohibit intra-Philadelphia taxicab service between two points that are not within the geographical boundaries of the respective partial-rights taxicab company, as well as the initiation of taxicab service through a street hail initiated in Philadelphia not within the geographical boundaries of the respective partial-rights taxicab company. The taxicab service referenced in this proposed regulation is reserved to medallion taxicabs in Philadelphia. This clarification will eliminate the need to continually reference each partial-rights taxicab's Authority approved tariff and will identify these bright line service distinctions through regulation.

In order to be a certificated driver, the applicant must include a valid telephone number, among other information, in the original application. An oversight in the drafting of regulation 126-1 failed to include a requirement that a driver update the Authority as to a change of that telephone number. The requirements to update the Authority as to a change of address was included in the regulations, this proposed amendment will correct that oversight and include telephone numbers (§§ 1021.14(2) and 1057.14 (2)). The ability to contact drivers by telephone when necessary to investigate complaints or otherwise address regulatory issues will benefit all regulated parties and the public.

The proposed amendment will add a new paragraph (5) to § 1021.11(d) requiring taxicab drivers to provide the receipt for taxicab service to each fare-paying customer. All taxicabs are required to have receipt issuing capabilities as provided by §§ 1017.24(d) or § 1017.63(a), or both (related to meter activation and display; and receipts). In the past year it has been averred in an enforcement action that while each taxicab must have the ability to issue a receipt there was no regulatory requirement that the driver actually give the receipt to the customer. The production of these receipts is already a regulatory requirement, handing the receipt to the customer should be a given, but we add it here to address averred confusion. This requirement is reasonable and will benefit the general public and eliminate nonsensical arguments like those already suggested. The Authority approximates that "regulated parties" in Philadelphia includes:

4,300 drivers
700 taxicab medallion owners
6 partial-rights carriers
4 brokers
13 dispatchers
127 limousine companies

(11) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulations.

There are no applicable federal guidelines.

(12) How does this regulation compare with those of the other states? How will this affect Pennsylvania's ability to compete with other states?

This proposed regulation will not negatively impact the ability of the commonwealth to compete with other states. While direct comparisons are very difficult to discern, it is believed that these regulatory requirements are consistent with those of other states.

(13) Will the regulation affect any other regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

The proposed regulation will amend certain of the Authority's existing regulations as identified in response to No. 10 above and the proposed rulemaking order.

(14) Describe the communications with and solicitation of input from the public, any advisory council/group, small businesses and groups representing small businesses in the development and drafting of the regulation. List the specific persons and/or groups who were involved. ("Small business" is defined in Section 3 of the Regulatory Review Act, Act 76 of 2012.)

No specific public input was requested prior to the submission of this proposed regulation.

(15) Identify the types and number of persons, businesses, small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012) and organizations which will be affected by the regulation. How are they affected?

The Authority regulates approximately 5,100 persons through its taxicab and limousine oversight. That number includes approximately 4,300 drivers, 700 taxicab medallion owners, 6 partial-rights carriers 4 brokers, 13 dispatchers, and 127 limousine companies, although these numbers change marginally every day through the sale of medallions, approval of new dispatching services, drivers or limousines companies and the retirement of drivers. Each of those persons will be subject to the terms of this rulemaking.

Section 3 of the Regulatory Review Act, Act 76 of 2012 directs us to 13 CFR Ch. 1 Part 121 (relating to small business size regulations) to determine the applicability of the term "small business" to a given business concern and its affiliates. The definitions of taxi services and limousine services in terms of "small businesses" status hinge on the income of the carrier. *See* 13 CFR § 121.201, Subsector 485, (relating to what size standards has SBA identified by North American Industry Classification System codes?). However, the Authority does not require regulated parties to submit income information as part of its regulatory requirements. Therefore, it is difficult to ascertain exactly which individuals or businesses earn more than the "small business" ceiling for taxi service or limousine service, if any.

There are approximately 700 taxicab medallion owners. Most medallion owning entities own one medallion and rarely more than 5 medallions, although some individuals have majority ownership interests in multiple companies with ownership of 1-5 medallions. We also believe that the six partial-rights taxicab certificate holders are small businesses, based on the size of their fleet. Similarly, we believe each of the 13 taxicab dispatching companies is a small business, based on the limited regulated functions available to these companies. Based on the size of the limousine fleet of each limousine owner, we believe that each of the 127 limousine companies registered with the Authority is also a small business. For purposes of this response and to most accurately address the concerns of the General Assembly regarding the impact of regulations upon small business, we believe the only safe path is to presume that every taxicab and limousine entity regulated by the Authority is a small business.

Each classification of regulated party will be affected by the implementation of applicable sections of this proposed rulemaking guidelines. The proposed rulemaking will amend the regulations to remove

references to “large carriers” no longer subject to the Authority’s regulation, which will positively benefit those carriers by eliminating confusion between the *Pennsylvania Code* and the act. Also the definition of “partial-rights taxicab” is changes for purposes of further clarification between the Code and sections 1 and 3 of Act 119 of 2012. It is in the public interest to develop symmetry between statutory and regulatory requirements and limitations and will avoid confusion, to the benefit of every person affected by the regulations.

The correction of typographical errors and original oversights in the drafting of the Authority’s regulation under 126-1 in sections 1011.14 (a), 1017.14 (c), 1021.16 (b) are necessary to assure accuracy within the regulations, the affect of which will be to the benefit all regulated parties.

The proposed rulemaking will affect certificate holders seeking to sell their rights by clarifying the need to execute and file the agreement of sale for the rights at the same time that the actual regulatory transfer of rights request is filed with the Authority. (§§ 1027.5 and 1059.4). This practice has already been implemented in Philadelphia; however, the regulations do not provide guidance as to that requirement. The old practice of accepting agreements of sale at times different than the date of the actual transfer application resulted in the execution and filing of agreements of sale, although formal transfer filings are delayed, often by months. That delay results in confusion among the parties, the public and regulatory authorities as to who is operating the rights. This confusion has also resulted in litigation between regulated parties who dispute the intent to sell after agreements of sale are entered, but before formal transfer applications are filed. The affect of this simple timing requirement will be a benefit to the entire industry by reducing or eliminating the current state of uncertainty. This is not a new filing requirement and creates no additional cost.

The proposed regulation will require that a medallion or TLD inspection sticker be surrendered to the Authority as part of the voluntary suspension process. (§§ 1011.14 (g) and 1051.13 (e)). This voluntary suspension process permits certificate holders to voluntarily place their rights out of service to avoid mandatory service requirements. The Authority has observed vehicles that were suppose to be in a voluntary suspend status in active taxicab and limousine service. The medallion or TLD inspection sticker is the outward taxicab or limousine authorization attached to each vehicle. Requiring that the medallion or TLD inspection stickers be turned into the Authority’s Taxicab and Limousine Division will reduce or eliminate the likelihood that those vehicles will be used to provide taxicabs or limousine service while in a suspended status. The reduction of illegally operated taxicabs and limousines is in the public interest.

The proposed regulation will clarify that a driver applicant may experience a loss of their state issued driver’s license privileges in the one year period preceding the application or renewal date of their taxicab or limousine, or both, driver’s certificate; yet remain eligible to be issued or renew the Authority driver’s certificate. The need to have a driving history of at least one year will continue. This amendment will address confusion among many regulated parties as to the need to have a continuous driving “history” as distinguished from a continuously valid driver’s license. Driver’s licenses are sometimes suspended for non-driving related reasons, such as late child support payments. The effect of this amendment will be to benefit drivers, certificate holders and the public by clarifying the flexibility of the Authority to approve a driver’s certificate applicant, yet maintain the ability to prohibit unsafe drivers.

The proposed amendment will also add a conviction for driving under the influence of alcohol or

controlled substance to the list of prohibitions applicable to these sections. Because these convictions are often not felonies, they will not appear as prohibitive convictions under the regulations. These convictions often do not appear on a driver's history report, creating a potential loophole. The effect of the elimination of the loophole and the prohibition of individuals who have committed this serious driving infraction will benefit the public and the taxicab and limousine industry by providing for more responsible drivers and will inevitably also lead to the denial of applications from individuals carrying this conviction.

The proposed amendment will clarify two important and long established service prohibitions applicable to partial-rights taxicab companies. (§ 1015.2(c) and (d)). Those limitations prohibit intra-Philadelphia taxicab service between two points that are not within the geographical boundaries of the respective partial-rights taxicab company, as well as the initiation of taxicab service through a street hail in Philadelphia not within the geographical boundaries of the respective partial-rights taxicab company. The taxicab service referenced in this proposed regulation is reserved to medallion taxicabs in Philadelphia. The effect of this clarification will be to eliminate the need to continually reference each partial-rights taxicab's Authority approved tariff and will identify these bright line service distinctions through regulation.

In order to be a certificated driver, the applicant must include a valid telephone number, among other information, in his or her original application. An oversight in the drafting of regulation 126-1 failed to include a requirement that a driver update the Authority as to a change of that telephone number, although changes to other contact information, such as addresses, must be reported. The effect of the proposed regulation will be to require these drivers to update the Authority as to a change of their telephone number. (§§ 1021.14(2) and 1057.14 (2)). The ability to contact drivers by telephone when necessary to investigate complaints or otherwise address regulatory issues will benefit all regulated parties and the public and will not adversely affect drivers.

The proposed amendment will add a new paragraph (5) to § 1021.11(d) requiring taxicab drivers to provide the receipt for taxicab service to each fare-paying customer. All taxicabs are required to have receipt issuing capabilities as provided by §§ 1017.24(d) or § 1017.63(a), or both (related to meter activation and display; and receipts). The production of these receipts is already a regulatory requirement. The effect of this proposed regulation will be the creation of a requirement that the driver actually hand the receipt to the customer, some drivers have refused to do so in the past.

Regulated parties will benefit from the clarifications made through the proposed regulation, which create no new substantive requirements applicable to those small businesses, correct typographical errors, and removes regulations related to a class of carriers no longer subject to Authority regulation.

(16) List the persons, groups or entities, including small businesses that will be required to comply with the regulation. Approximate the number that will be required to comply.

The proposed amendment modifies several existing regulations that apply to all regulated parties. The Authority approximates that "regulated parties" in Philadelphia includes:

4,300 drivers
700 taxicab medallion owners
6 partial-rights carriers
4 brokers

13 dispatchers
127 limousine companies

We incorporate our response to question No. 15 above as to the persons who will have to comply with the proposed regulations and the identities of those parties.

(17) Identify the financial, economic and social impact of the regulation on individuals, small businesses, businesses and labor communities and other public and private organizations. Evaluate the benefits expected as a result of the regulation.

The proposed regulation will have no financial or economic impact on day-to-day operations of taxicab and limousine service providers or otherwise. The intent of the regulations is to clarify regulatory requirements to eliminate mistakes, unnecessary language, confusion and loopholes.

The Authority can not envision a social impact associated with this proposed regulation, except that associated with the intended overall improvement to the operations of taxicabs and limousines in Philadelphia.

(18) Explain how the benefits of the regulation outweigh any cost and adverse effects.

There are no anticipated adverse effects, nor additional costs associated with this proposed regulation.

(19) Provide a specific estimate of the costs and/or savings to the **regulated community** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Authority anticipates that there will be no costs or savings to the regulated community as a result of this proposed regulation.

(20) Provide a specific estimate of the costs and/or savings to the **local governments** associated with compliance, including any legal, accounting or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Authority anticipates that there will be no costs or savings to the local government as a result of this proposed regulation.

(21) Provide a specific estimate of the costs and/or savings to the **state government** associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required. Explain how the dollar estimates were derived.

The Authority anticipates that there will be no costs or savings to the state government as a result of this proposed regulation.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork, including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The proposed regulation will not create additional legal, accounting or consulting work in order to obtain regulatory compliance, nor are there additional filing requirements. While drivers will need to advise

the Authority of changes to telephone numbers, the need to have a telephone number is an existing regulatory requirement.

(23) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A	N/A	N/A	N/A	N/A	N/A

(23a) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
Operation of Taxicab and Limousine Division	\$5,513,741	\$5,448,278	\$5,732,278	\$5,997,500

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(24) For any regulation that may have an adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), provide an economic impact statement that includes the following:

- (a) An identification and estimate of the number of small businesses subject to the regulation.
- (b) The projected reporting, recordkeeping and other administrative costs required for compliance with the proposed regulation, including the type of professional skills necessary for preparation of the report or record.
- (c) A statement of probable effect on impacted small businesses.
- (c) A description of any less intrusive or less costly alternative methods of achieving the purpose of the proposed regulation.

Our response to question No. 16 identifies the numbers of small business entities estimated to be impacted by this proposed regulation. The proposed regulation will not create additional legal, accounting or consulting work in order to obtain regulatory compliance, nor are there additional filing requirements. While drivers will need to advise the Authority of changes to telephone numbers, the need to have a telephone number is an existing regulatory requirement.

(25) List any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, the elderly, small businesses, and farmers.

There are none.

(26) Include a description of any alternative regulatory provisions which have been considered and rejected and a statement that the least burdensome acceptable alternative has been selected.

The proposed amendment deletes references to carriers no longer subject Authority jurisdiction and carefully amends certain other provisions to address typographical errors, loopholes and to clarify requirements of those provisions. There were no alternative provisions considered beyond those employed.

(27) In conducting a regulatory flexibility analysis, explain whether regulatory methods were considered that will minimize any adverse impact on small businesses (as defined in Section 3 of the Regulatory Review Act, Act 76 of 2012), including:

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

There is no anticipated adverse impact upon any person, including small businesses.

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or

supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

There is no data that was relied upon during the development of this procedural regulation.

(29) Include a schedule for review of the regulation including:

- | | |
|---|---|
| A. The date by which the agency must receive public comments: | 30 days after publication in <i>Pa. B</i> |
| B. The date or dates on which public meetings or hearings will be held: | N/A |
| C. The expected date of promulgation of the proposed regulation as a final-form regulation: | September 1, 2013 |
| D. The expected effective date of the final-form regulation: | October 1, 2013 |
| E. The date by which compliance with the final-form regulation will be required: | Upon publication in <i>Pa. B</i> |
| F. The date by which required permits, licenses or other approvals must be obtained: | N/A |

(30) Describe the plan developed for evaluating the continuing effectiveness of the regulations after its implementation.

No formal review schedule has been established; however, the Authority will continually review the effectiveness and propriety of its regulations as the need arises.

2013 MAR 15 PM 1: 47

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)**

DO NOT WRITE IN THIS SPACE

Copy below is hereby approved as to form and legality. Attorney General.

BY *Angela M. Elliott*
(DEPUTY ATTORNEY GENERAL)

MAR 06 2013

DATE OF APPROVAL

Check if applicable
Copy not approved. Objections attached

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

Philadelphia Parking Authority
(AGENCY)

DOCUMENT/FISCAL NOTE NO. Docket No 126-4/PPA receives no money from the State Treasury—No Fiscal Note.

DATE OF ADOPTION January 28, 2013

BY *Vincent J. Fenerty, III*
Vincent J. Fenerty, III

TITLE: Executive Director

Copy below is hereby approved as to form and legality. ~~Executive or~~ independent Agencies.

BY *Dennis G. Weldon, Jr.*
Dennis G. Weldon, Jr.
General Counsel

1/28/13
DATE OF APPROVAL

Check if applicable. No Attorney General approval or objection within 30 days after submission.

**Proposed Rule Making No. 126-4
Final Rulemaking
Philadelphia Taxicab and Limousine Regulations
52 Pa. Code (Various Section)**

The Philadelphia Parking Authority on January 28, 2013 adopted a proposed rulemaking order which to eliminates references to a classification of carriers no longer subject to the Authority's regulation, to correct certain typographical errors or technical errors in 52 Pa. Code Part II, as well as to provide certain clarifications as to rights and requirements. The regulation identifies impoundable offenses and provides for prompt post-impoundment due process. The contact person is Dennis G. Weldon, Jr. General Counsel, 215-683-9630.

THE PHILADELPHIA PARKING AUTHORITY

In Re: Proposed Rulemaking Order :
Philadelphia Taxicab and :
Limousine Regulations : Docket No. 126-4
:
:

PROPOSED RULEMAKING ORDER

BY THE AUTHORITY:

In accordance with of the act of July 16, 2004, (P.L. 758, No. 94), *as amended*, 53 Pa.C.S. §§5701 *et seq.*, (the “act”),¹ the Authority formally commences its rulemaking process to promulgate regulations to address recent statutory changes and to address minor errors or incomplete provisions in its taxicab and limousine regulations. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order.

Pursuant to Section 23 of the Act, the Authority initiated regulatory oversight of taxicab and limousine service providers in Philadelphia on April 10, 2005. The Authority’s taxicab and limousine regulations are available at 52 Pa. Code Part II.

The Legislature enacted the act of July 5, 2012, (P.L. 1022, No. 119) (“Act 119”) amending several provisions of the Authority’s taxicab and limousine enabling legislation. One change limited the scope of the definition of “limousine” is 53 Pa.C.S. § 5701 in such a manner as to negate the need for the Authority’s regulation of a class of limousines identified as “large vehicles”. The proposed rulemaking will amend the regulations to remove references to those carriers. Several other clarifying amendments to the regulations are also included in this proposed rulemaking, as further explained below.

DISCUSSION

Consistent with the foregoing, the following amendments to the Authority’s taxicab and limousine regulations are proposed.

§ 1011.11. Definitions.

We propose that the definition of “partial-rights taxicab” be amended to reference the changes made to one statutory provision of the act amended by Act 119, specifically, section 5711(c)(2.1) (relating to power of Authority to issue certificates of public convenience).

¹ See 53 Pa.C.S. §§ 5722 and 5742.

§ 1011.14. Voluntary suspension of certificate.

We propose that subsection (a) be amended to delete reference to a subsection “(e)”. There is no subsection (e) in this section. We also propose adding a new subsection (d), which will require the surrender of the medallion or TLD inspection sticker, or both, authorizing each subject vehicle to provide Philadelphia taxicab service as a condition of placing the vehicle or certificate voluntarily out of service.

§ 1015.2. Certificate required.

We propose adding two new subsections to this partial-rights taxicab related section. The intent of these provisions is to clarify the rights and limitations of partial-rights taxicabs in consideration of complaints levied by medallion taxicab certificate holders and apparent confusion on the part of some partial-rights taxicab certificate holders.

As proposed, the new subsection (c) will clarify the fact that partial-rights taxicabs are not permitted to provide taxicab service between two points in Philadelphia, when those points are both outside of the geographical boundaries established in the Authority approved tariffs for each of the six partial-rights taxicab certificates. The proposed subsection (d) will clarify that partial-rights taxicabs are not permitted to accept a street hail for taxicab service in Philadelphia, except within the geographical boundaries of the given partial rights taxicab certificate holder’s Authority approved tariff. We do not believe that either of these provisions are controversial, but instead are consistent with the long established limitations of partial-rights taxicabs in Philadelphia. This regulation will clarify those service issues.

§ 1017.14. Taxicab numbering.

We propose that subsection (c) of this section be amended to delete reference to the old Pennsylvania Public Utility Commission (“PUC”) certificate of public convenience numbers. Those numbers were associated with each given partial-rights taxicab Philadelphia service area prior to the transfer of regulatory authority from the PUC to the Authority pursuant to the act. Those PUC certificate numbers were replaced with the Authority certificate numbers issued after the regulatory transfer date in April 2005. The PUC does not regulate taxicab service within Philadelphia, including taxicab service by partial-rights taxicabs.

The failure to include the Authority certificate of public convenience numbers issued to each partial-rights taxicab company at the time that section 1017.14 was originally promulgated was an oversight. References to the names of the partial-rights taxicab certificate holders has been deleted in response to comments of certain of those certificate holders that their publication through a regulation could unnecessarily impede the ability to transfer those certificates, a process regulated by the Authority as provided in section 5711(c)(5) of the act.

§ 1021.4. Ineligible persons for taxicab driver certificate.

We propose that this section be amended by adding paragraphs (7) and (8). Paragraph (7) will clarify that a driver applicant may experience a loss of their driver’s license privileges in the one

year period preceding the application or renewal date; yet remain eligible to be issued or renew the Authority driver's certificate. The need to have a driving history of at least one year as currently provided in paragraph (6) will continue; however, to the extent the applicant's driver's license has been valid for the six months preceding the application date a suspension or other loss of driving privileges will not be an automatic bar to the application or renewal process.

We also propose that a conviction for driving under the influence of alcohol or controlled substance be added to this list of prohibitions. These convictions are not necessarily felonies and often do not appear on a driver history report, creating a potential loophole in the regulations.

§ 1021.11. Driver requirements.

We propose a new paragraph (5) be added to subsection (d) requiring taxicab drivers to provide the receipt for taxicab service to each fare-paying customer. All taxicabs are required to have receipt issuing capabilities as provided by §§ 1017.24(d) or § 1017.63(a), or both (related to meter activation and display; and receipts). In the past year it has been averred in an enforcement action that while each taxicab must have the ability to issue a receipt there was no regulatory requirement that the driver actually give the receipt to the customer.

§ 1021.14. General taxicab driver reports.

We propose an amendment to paragraph (2) of this subsection to require that a taxicab driver inform the Taxicab and Limousine Division ("TLD") of a change to not only the driver's home address, but also the driver's telephone number. Several taxicab drivers have changed telephone numbers over the past year without advising the TLD. The inability to rapidly communicate with a driver through telephone communication may inure to the detriment of the driver or the effectiveness of the Authority's regulation of taxicabs, or both.

§ 1021.16. Service issues regarding people with disabilities.

We propose that the word "hale" be substituted with the properly spelled "hail" in subsection (b) of this section. The use of the word "hale" was an oversight made during the original promulgation of this section.

§ 1027.5. Agreement of sale.

We propose that the agreements of sale used as a part of the process to transfer certain rights through the Authority be amended to require that the agreement of sale be signed at the same time that the application to transfer rights is filed with the TLD and not before. There are currently many agreements of sale filed with the Authority without a corresponding transfer of rights application. We have found that confusion as to who actually owns the transferable rights, and false claims related to who may use those rights germinate in these scenarios. We believe it to be in the best interests of the parties to the agreement of sale and the public concerned about who is actually using the rights at issue, to impose this modest scheduling requirement.

§ 1051.13. Voluntary suspension of certificate.

We propose adding a new subsection (e), which will require the surrender of the TLD inspection sticker authorizing each subject vehicle to provide Philadelphia taxicab service as a condition of placing a vehicle or certificate voluntarily out of service.

Subchapter D. LARGE VEHICLES AND REMOTE CARRIERS

We propose deleting the term “large vehicle” due to inapplicability.

§ 1053.41. Large vehicles.

We propose deleting this section as inapplicable because Act 119 removed these large vehicles from the Authority’s jurisdiction. *See* 53 Pa.C.S § 5701 (relating to definitions).

§ 1053.42. Remote carriers.

We propose deleting the phrase “regardless of seating capacity” from subsection (a) due to inapplicability. This language was originally included in this subsection to assure that its terms applied to large vehicles, which are no longer subject to Authority regulation.

§ 1053.43. Certain limousine requirements.

We propose deleting the reference to large vehicles in subsection (b) of this section due to inapplicability. We also propose deleting subsections (c) and (g) of this section in their entirety due to inapplicability.

§ 1057.4. Ineligible persons for limousine driver certificate.

We propose amending this section related to limousine driver eligibility to mirror the changes to the taxicab driver section at § 1021.4, referenced above.

§ 1057.14. General limousine driver reports.

We propose amending this section related to limousine driver reporting requirements to mirror the changes to the similar taxicab driver section at § 1021.14, referenced above.

§ 1059.4. Agreement of sale.

We propose amending this section related to agreements of sale for limousine rights to mirror the substantially similar section related to the sale of taxicab transferable rights at § 1027.5, referenced above.

CONCLUSION

The Authority, therefore, formally commences its rulemaking process to promulgate these regulations to become part of 52 Pa. Code Part II in a manner consistent with Annex A to this Order. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order. The Authority hereby advises that all comments submitted in response to this Order will be posted, without redaction of name, address, or other personal information or comment provided, on the website of the Independent Regulatory Review Commission, which may be reached at 717-783-5417.

Accordingly, under sections 13 and 17 of the Act, 53 Pa.C.S. §§ 5722 and 5742; section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P.L. 287, No. 22), *as amended*, 53 Pa. C.S. §§ 5505(d)(17), (d)(23), (d)(24); sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5 we are considering adopting the proposed regulations set forth in Annex A², attached hereto;

THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulations set forth in Annex A.
2. That the Executive Director shall submit this proposed rulemaking Order and Annex A to the Office of Attorney General for review as to form and legality.
3. That the Executive Director shall submit this proposed rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. That the Secretary of the Board shall certify this proposed rulemaking Order and Annex A and that the Executive Director shall deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
5. That an original and 15 copies of any written comments referencing the docket number of the proposed regulations be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Philadelphia Parking Authority, Attn: Dennis G. Weldon, General Counsel, 3101 Market Street, 2nd Floor, Philadelphia, PA 19104.

² The Authority does not receive money from the State Treasury and is, therefore, not subject to section 612 of the Administrative Code of 1929, 71 P.S. § 232.

6. That a copy of this proposed rulemaking Order and Annex A shall be served on the City of the First Class Taxicab and Limousine Advisory Committee and a copy shall be posted on the Authority's website at www.philapark.org/tld.

7. That the contact person for this proposed rulemaking is James R. Ney, Director, Taxicab and Limousine Division, (215)-683-9417.

**THE PHILADELPHIA PARKING
AUTHORITY**


Joseph T. Ashdale
Chairman

(SEAL)

Certified:



Alfred W. Taubenberg
Vice-Chairman/Secretary

(SEAL)

ORDER ADOPTED: January 28, 2013

ORDER ENTERED: January 28, 2013

ANNEX A

§ 1011.2. Definitions.

The following words and terms, when used in this subpart, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

Partial-rights taxicab—A taxicab authorized by the Authority to provide common carrier call or demand transportation of persons for compensation on a non-citywide basis, under Chapter 1015 (relating to partial rights taxicabs) and section 5711(c)[(2)](2.1) of the act (relating to power of authority to issue certificates of public convenience) and 5714(d)(2) of the act.

* * * * *

§ 1011.14. Voluntary suspension of certificate.

(a) A certificate holder may apply to place a certificate in a voluntary state of suspension to avoid penalties for violation of § 1011.13[(e)] (relating to interruptions of service).

* * * * *

(g) A period of voluntary suspension may begin only upon surrender to the Authority of each medallion or TLD Inspection Sticker, or both, for each vehicle subject to the voluntary suspension.

§ 1015.2. Certificate required.

* * * * *

(c) A partial-rights taxicab may not provide taxicab service to two points in Philadelphia unless one, or both, of those points is within the geographical boundaries identified in the partial-rights taxicab certificate holder's Authority approved tariff.

(d) A partial-rights taxicab may only accept a street hail for taxicab service at a location within the geographical boundaries identified in the partial-rights taxicab certificate holder's Authority approved tariff.

§ 1017.14. Taxicab numbering.

* * * * *

(c) Partial-rights taxicabs must be identified by a unique sequential number, as follows:

(1) Taxicabs with rights through [Germantown Cab Company (Pennsylvania Public Utility Commission A-00110733)] Certificate No. 1011748-02 shall be numbered "G-1" for the first vehicle, "G-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(2) Taxicabs with rights through [Bucks County Services, Inc. (Pennsylvania Public Utility Commission A-00111913)] Certificate No. 1011752-02 shall be numbered "B-1" for the first vehicle, "B-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(3) Taxicabs with rights through [Concord Limousine, Inc. (Pennsylvania Public Utility Commission A-00113582)] Certificate No. 1016120-05 shall be numbered "CL-1" for the first vehicle, "CL-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(4) Taxicabs with rights through [Concord Coach USA, Inc. (Pennsylvania Public Utility Commission A-00115589)] Certificate No. 1015925-05 shall be numbered "CC-1" for the first vehicle, "CC-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(5) Taxicabs with rights through [Dee Dee Cab, Inc. Company (Pennsylvania Public Utility Commission A-00116499)] Certificate No. 1011761-02 shall be numbered "D-1" for the first vehicle, "D-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

(6) Taxicabs with rights through [MCT Transportation, Inc. d/b/a Montco Suburban Taxi (Pennsylvania Public Utility Commission A-00119955)] Certificate No. 1015570-05 shall be numbered "MCT-1" for the first vehicle, "MCT-2" for the second vehicle, and continue according to that sequence until each taxicab is issued a unique number.

§ 1021.4. Ineligible persons for taxicab driver certificate.

In addition to other prohibitions provided in this part, an applicant for a taxicab driver's certificate shall be automatically ineligible under the following circumstances:

* * * * *

(7) The applicant's driver's license was suspended, revoked or otherwise invalidated at any time during the six months immediately preceding the date of application.

(8) The applicant has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

§ 1021.11. Driver requirements.

* * * * *

(d) *Gratuities or payment method.*

(5) A taxicab driver shall provide each fare-paying customer with a receipt for the taxicab service required by §§ 1017.24(d) or § 1017.63(a), or both (related to meter activation and display; and receipts).

§ 1021.14. General taxicab driver reports.

A taxicab driver shall make timely written reports to the Authority as required by the act, this part or an order of the Authority, including the following reports which shall be made to the Manager of Administration:

* * * * *

(2) A change of address or telephone number, or both, shall be reported within 15 days.

* * * * *

§ 1021.16. Service issues regarding people with disabilities.

* * * * *

(b) This section may not be interpreted to require or permit a taxicab to provide service in an area outside the rights identified in the taxicab certificate holder's rights. For example, this section does not permit a partial-rights taxicab to stop for a [hale] hail outside of its defined geographical area.

§ 1027.5. Agreement of sale.

* * * * *

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee at the time the sale is initiated as provided in § 1027.6 (a)(1) (relating to application for sale of transferable rights).

§ 1051.13. Voluntary suspension of certificate.

* * * * *

(e) A period of voluntary suspension may begin only upon surrender to the Authority of the TLD Inspection Sticker for each vehicle subject to the voluntary suspension.

Subchapter D. [LARGE VEHICLES AND] REMOTE CARRIERS

§ 1053.41. [Large vehicles.

(a) A limousine, regardless of the classification provided by this chapter, having a seating capacity of 16 or more passengers, including the driver, must hold a valid PUC certificate to provide the same or a substantially similar classification of common carrier by motor vehicle service to hold Authority limousine rights.

(b) Limousines with a seating capacity of 16 or more passengers, including the driver, are exempt from this subpart, except for the registration and regulation requirements in § 1053.43 (relating to certain limousine requirements).] Reserved

§ 1053.42. Remote carriers.

(a) A remote carrier[, regardless of seating capacity,]shall adhere to the requirements in § 1053.43 (relating to certain limousine requirements).

* * * * *

§ 1053.43. Certain limousine requirements.

* * * * *

(b) *Certain limousines covered.* This section applies to remote carriers as provided in § 1053.42 (relating to remote carriers) [and large vehicles as provided in § 1053.41(b) (relating to large vehicles)]. A vehicle that is both a remote carrier and a large vehicle must comply with the regulations related to large vehicles].

(c) *Registration.*

* * * * *

(3) [The registration fee for large vehicles shall be \$15 without consideration of the number of large vehicles used by the certificate holder for Fiscal Year 2011-2012 and, thereafter, as provided in the Authority's fee schedule as provided in § 1001.43 (relating to Authority fee schedule).] Reserved.

* * * * *

[(g) *Large vehicle certificate.* Upon compliance with this section, the Authority will issue the large vehicle registrant a certificate of public convenience to provide service as a large vehicle under this section. The certificate issued under this subsection is not subject to the renewal requirements in this subpart and will be subject to revocation under section 5741.1(c)(1) of the act if the PUC certification required under § 1053.41(a) expires or otherwise becomes invalid.]

§ 1057.4. Ineligible persons for limousine driver certificate.

In addition to other prohibitions provided in this part, an applicant for a limousine driver's certificate shall be automatically ineligible under the following circumstances:

* * * * *

(7) The applicant's driver's license was suspended, revoked or otherwise invalidated at any time during the six months immediately preceding the date of application.

(8) The applicant has been convicted of driving under the influence of alcohol or controlled substance as provided in 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

§ 1057.14. General limousine driver reports.

A limousine driver shall make timely written reports to the Manager of Administration as required under the act, this part or an order of the Authority, including the following:

* * * * *

(2) A change of address or telephone number, or both shall be reported within 15 days.

* * * * *

§ 1059.4. Agreement of sale.

* * * * *

(b) An agreement of sale for transferable rights is void by operation of law if not executed by all parties in the presence of the Director or a designee at the time the sale is initiated as provided in § 1059.5 (relating to application for sale of transferable rights).



**Philadelphia
Parking
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March 15, 2013

The Honorable Silvan B. Lutkewitte, III
Chairman
Independent Regulatory Review Commission
333 Market Street
14th Floor
Harrisburg, PA 17101

Re: Docket No. and Agency/ID No. 126-4
Proposed Rulemaking
Philadelphia Taxicab and Limousine Regulations
52 Pa. Code §§ Part II (Various Sections)

Dear Chairman Lutkewitte:

The Philadelphia Parking Authority ("Authority") hereby submits its proposed rulemaking and regulatory analysis form to the Independent Regulatory Review Commission for review pursuant to Section 5(a) of the Regulatory Review Act of June 30, 1989 (P.L. 73, No. 19) (71 P.S. §§745.1-745.15). Also enclosed is the Authority's Proposed Rulemaking Order entered January 28, 2013 (preamble) and the "Face Sheet" required by 1 Pa. Code §13.12.

As you are aware, the Governor's Budget Office has determined that the Authority does not require a fiscal note as part of this proposed rule making pursuant to 71 P.S. §232.

The proposed regulation will eliminate reference to a classification of carriers no longer subject to the Authority's regulation, to correct certain existing typographical errors or technical error in the *Pennsylvania Code*, as well as to provide certain clarifications as to rights and requirements.

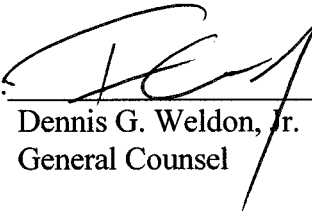
The contact person is the undersigned and may be contacted at 215-683-9630.

Honorable Silvan B. Lukewitte, III
March 15, 2013

Page...Two

The proposal has been deposited for publication with the Legislative Reference Bureau.

Very truly yours,
The Philadelphia Parking Authority

By: 
Dennis G. Weldon, Jr.
General Counsel

DGW/pdm

Enclosures

cc: Joseph T. Ashdale
Chairman
Vincent J. Fenerty, Jr.
Executive Director
James R. Ney
Director, TLD

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: 126-4

Subject: Regulation to address service carrier changes and several other clarifications.

Philadelphia Parking Authority

TYPE OF REGULATION

- Proposed Regulation
- Final Regulation with Notice of Proposed Rulemaking Omitted.
- Final Regulation
- 120-day Emergency Certification of the Attorney General
- 120-day Emergency Certification of the Governor

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FILING OF REPORT

<u>Date</u>	<u>Signature</u>	<u>Designation</u>
<u>3/15/13</u>	<u>Christine M. Goodbeck</u>	<u>HOUSE COMMITTEE</u> (Gillierpie) Urban Affairs
<u>3/15/13</u>	<u>Melba Jones</u>	
<u>3/15/13</u>	<u>[Signature]</u>	<u>SENATE COMMITTEE</u> (Tomlinson) Consumer Protection and Professional Licensure
<u>3-15-13</u>	<u>[Signature]</u>	
<u>3/15/13</u>	<u>[Signature]</u>	Independent Regulatory Review Commission
		Attorney General
<u>3/15/13</u>	<u>[Signature]</u>	Legislative Reference Bureau