

**TITLE 52. PUBLIC UTILITIES**

**PART II. PHILADELPHIA PARKING AUTHORITY**

**CHAPTER 1001. RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE**

**Subchapter A. GENERAL PROVISIONS**

**§ 1001.1. Purpose.**

- (a) The purpose of this part is to facilitate the implementation of the act.
- (b) Certificate holders, brokers, taxicab drivers, limousine drivers, and other persons with current and valid rights issued by the Authority on December 3, 2011, shall maintain those rights through the Authority consistent with this part and the act.

**§ 1001.2. Scope of subpart and severability.**

- (a) This subpart governs practice and procedure before the Authority, and is intended to supplement 2 Pa.C.S. (relating to administrative law and procedure) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure).
- (b) The provisions of every section, subsection or other division of this part are severable. If any provision of any section, subsection or other division of this part or the application thereof to any person or circumstance is held invalid, the remainder of the section, subsection or other division, and the application of that provision to other persons or circumstances, will not be affected thereby, unless a court finds that the valid provisions of the section, subsection or other division are so essentially and inseparably connected with, and so depend upon, the void provision or application, that it cannot be presumed the Authority would have promulgated the remaining valid provisions without the void one; or unless the court finds that the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.
- (c) Subsection (a) supersedes 1 Pa. Code § 31.1 (relating to scope of part).

**§ 1001.3. Liberal construction.**

- (a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action, proceeding or issue presented to which it is applicable. The Authority or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.
- (b) The singular includes the plural, and the plural, the singular. Words used in the masculine gender include the feminine and neuter. Words used in the past or present tense include the future.
- (c) The Authority or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.
- (d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

(e) Subsection (a) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

**§ 1001.4. Information and special instructions.**

(a) Information as to procedures under this subpart, and instructions supplementing this subpart in special instances can be obtained, upon application to:

Clerk  
Office of the Clerk  
Philadelphia Parking Authority  
Taxicab and Limousine Division  
2415 South Swanson Street  
Philadelphia, Pennsylvania 19148

(b) Subsection (a) supersedes 1 Pa. Code § 31.4 (relating to information and special instructions).

**§ 1001.5. Office of the Clerk.**

(a) The Clerk will have the following duties:

(1) Receive and docket pleadings and other documents required by this part to be filed with the Clerk.

(2) Receive and process any document to be filed with the Authority when a specific Authority office to receive the document has not otherwise been designated by the act, this part or an order of the Authority.

(b) Filings and requests for practice and procedure information should be directed to:

Clerk  
Office of the Clerk  
Philadelphia Parking Authority  
Taxicab and Limousine Division  
2415 South Swanson Street  
Philadelphia, Pennsylvania 19148

(c) The Clerk will maintain a docket of proceedings. Each proceeding as initiated will be assigned a docket number. The docket will be available for inspection and copying by the public during the Authority's office hours.

**§ 1001.6. Filing generally.**

(a) Pleadings and other documents required to be filed with the Authority must clearly designate the docket number or similar identifying symbols, if any, employed by the Authority, and set forth a short title. The identity of the individual making the submission, including name, mailing address and status (for example, party or attorney for a party) must appear on the document.

(b) Pleadings, including documents filed under this subpart, must also comply with Subchapter D (relating to documentary filings).

(c) If a pleading tendered for filing does not comply with this subpart, does not sufficiently set forth required material or is otherwise insufficient, the Authority may decline to accept it for filing and may

return it without filing, or the Authority may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

(d) The Authority may order redundant, immaterial, impertinent or scandalous matter stricken from documents filed with it.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 31.5 (relating to communications and filings generally).

**§ 1001.7. Amendment to rules.**

(a) Persons may file a petition as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal or waiver of Authority regulations) requesting a general and permanent change in this subpart.

(b) Subsection (a) supersedes 1 Pa. Code § 31.6 (relating to amendments to rules).

**§ 1001.8. Authority office hours and address.**

Unless otherwise directed by the Executive Director of the Authority, the Authority offices will be open from 8:30 a.m. until 4:30 p.m. on business days except Saturdays, Sundays and legal holidays. The Authority may be open on Saturdays by appointment. The appropriate address for service of any Authority employee or officer may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

**§ 1001.9. Sessions of the Authority.**

Public meetings of the Authority ordinarily will be held in its offices at 3101 Market Street, 2nd Floor, Philadelphia, Pennsylvania. Schedules for public meetings are advertised and posted under 65 Pa.C.S. Chapter 7 (relating to Sunshine Act) and copies of the schedule can be obtained on the Authority's web site at [www.philapark.org](http://www.philapark.org).

**§ 1001.10. Definitions.**

(a) Subject to additional definitions contained in subparts which are applicable to specific chapters or subchapters, the following words and terms, when used in this part, have the following meanings, unless the context clearly indicates otherwise:

*Act*—53 Pa.C.S. Chapters 55 and 57 (relating to parking authorities; and taxicabs and limousines in first class cities).

*Adjudication*—An order, decree, decision, determination or ruling by the Authority affecting personal or property rights, privileges, immunities, duties, liabilities or obligations of the parties to the proceeding in which the adjudication is made.

*Adversarial proceeding*—A proceeding initiated by a person to seek Authority approvals, tariff changes, enforcement, remedies, issuance of fines or other relief by order of the Authority which is contested by one or more other persons and which will be decided on the basis of a formal record.

*Applicant*—A person, who on his own behalf or on behalf of another, is applying for permission to engage in an act or activity which is regulated under the act or this part.

*Approved, approval or approve*—The date that an application to the Authority is granted regardless of the pendency of administrative or judicial appeals or other legal action challenging the decision of the Authority.

*Arrest*—Detaining, holding or taking into custody by police or other law enforcement authorities to answer for an alleged commission of an offense.

*Authority*—The Philadelphia Parking Authority.

*Authorized agent*—A person with permission to legally act on behalf of the filing user.

*Board*—A quorum of the members of the Philadelphia Parking Authority appointed under 53 Pa.C.S. § 5508.1 (relating to special provisions for authorities in cities of the first class).

*Broker*—An individual authorized by the Authority as provided in § 1029.8 (relating to broker registration approval) to prepare application related documents, appear at settlements, and otherwise act on behalf of a party as to matters related to the sale or transfer of transferable rights.

*Call or demand service*—Local common carrier service for passengers, rendered on an exclusive basis, when the service is characterized by the fact that passengers normally hire the vehicle and its driver either by telephone call or by hail, or both.

*Certificate*—

- (i) A certificate of public convenience issued by the Authority under the act.
- (ii) The term does not include a driver's certificate or broker registration.

*Certificate holder*—The person to whom a certificate is issued.

*City of Philadelphia or Philadelphia*—A city of the first class in this Commonwealth.

*Clerk*—The Authority employee with whom pleadings and other documents are filed, and with whom official records are kept under § 1001.5 (relating to office of the Clerk) and as otherwise provided for in this part.

*Common carrier*—

- (i) A common carrier by motor vehicle, within the scope of the act, who or which holds out or undertakes, directly or indirectly, the transportation of passengers within the City of Philadelphia by motor vehicle for compensation.
- (ii) The term does not include common carriers by rail, water or air, and express or forwarding public utilities insofar as the common carriers or public utilities are engaged in these motor vehicle operations.

*Compensation*—A thing of value, money or a financial benefit conferred on or received by a person in return for services rendered, or to be rendered, whether by that person or another.

*Contested complaint*—A formal complaint.

*Conviction*—

(i) A finding of guilt or a plea of guilty or nolo contendere whether or not a judgment of sentence has been imposed as determined by the law of the jurisdiction in which the prosecution was held relating to any of the following:

(A) A felony.

(B) A crime involving moral turpitude.

(C) A crime requiring registration with the State Police as provided in 42 Pa.C.S. § 9795.1 (relating to registration) or similar statute in another jurisdiction.

(D) A crime subject to prosecution under 18 Pa.C.S. Chapter 25 (relating to criminal homicide) or similar statute in another jurisdiction.

(E) A crime subject to prosecution under 18 Pa.C.S. Chapter 27 (relating to assault) or similar statute in another jurisdiction.

(F) A crime subject to prosecution under 18 Pa.C.S. Chapter 29 (relating to kidnapping) or similar statute in another jurisdiction.

(G) A crime subject to prosecution under 18 Pa.C.S. Chapter 31 (relating to sexual offenses) or similar statute in another jurisdiction.

(ii) A crime resulting in an order of Accelerated Rehabilitative Disposition, prior to successful completion of the terms of the order.

(iii) Except as provided in subparagraphs (i) and (ii), the term does not include a misdemeanor or summary conviction or a conviction that has been expunged or overturned or for which an individual has been pardoned.

*Crime involving moral turpitude*—A crime determined by the Authority to be consistent with 22 Pa. Code § 237.9 (relating to crimes involving moral turpitude).

*Criminal history report*—The report issued by the State Police, or similar government entity in a jurisdiction outside this Commonwealth, which will identify any convictions associated with an individual.

*Director*—The Director of the Authority's Taxicab and Limousine Division as provided in § 1003.72 (relating to TLD staffing generally).

*Dispatcher*—The owner of a certificate of public convenience to operate a dispatching service in Philadelphia issued by the Authority under section 5711(c)(6) of the act (relating to power of authority to issue certificates of public convenience) and Chapter 1019 (relating to dispatchers).

*Electronic mail or email*—A means of dispatching or receiving notice or a submittal in relation to an Authority matter through electronic means.

*Enforcement Department*—The department of the TLD created under § 1003.74 (relating to Enforcement Department).

*Enforcement proceeding*—A proceeding initiated by the Authority through the issuance of a formal complaint averring any violation of the act, this part or an order of the Authority.

*Exclusive service*—Transportation on a given trip when the first or principal person, party or group hiring the vehicle has the exclusive right to determine where, when or if another passenger shall be carried on that trip.

*Executive Director*—The Authority's chief operating officer.

*Ex parte communication*—

(i) Any off-the-record communications regarding a pending matter before the Authority or which may reasonably be expected to come before the Board in a contested on-the-record proceeding.

(ii) The term does not include off-the-record communications by and between members, staff and employees of the Authority, the PUC, the State Police, the Attorney General or other law enforcement officials necessary for their official duties under this part.

*Fiscal year*—The period which begins on July 1 and terminates the following June 30.

*Formal complaint*—A written document filed with the Clerk initiating an enforcement action as provided in Chapter 1005 (relating to formal proceedings).

*Formal proceeding*—A matter intended to produce a formal record.

*Formal record*—The pleadings and submittals in a matter or proceeding, a notice or Authority order initiating the matter or proceeding, and if a hearing is held, the following: the designation of the presiding officer, transcript of hearing, exhibits received in evidence, offers of proof, motions, stipulations, subpoenas, proofs of service, references to the Authority and determinations made by the Authority thereon, certifications to the Authority, and anything else upon which action of the presiding officer or the Authority may be based.

*Friendly cross-examination*—Cross-examination of a witness by a party who does not disagree with the witness' position on an issue.

*General Counsel*—The chief legal counsel to the Authority.

*Individual*—A natural person.

*Informal complaint*—A document or communication to the Authority seeking action on a matter as provided in § 1003.41 (relating to form and content of informal complaints).

*Informal investigation*—A matter initiated by the Authority staff that may result in a formal complaint, a settlement or other resolution of the matter or termination by letter.

*Limousine*—A vehicle authorized to by the Authority to provide limousine service.

*Limousine driver*—The individual to whom a current and valid limousine driver's certificate has been issued by the Authority under section 5706 of the act (relating to driver certification program).

*Limousine service*—The term as defined in section 5701 of the act (relating to definitions).

*Manager of Administration*—The individual appointed to manage the Administration Department of the TLD as provided in § 1003.72. The Manager of Administration may be contacted at TLD Headquarters or by email at TLDAdmin@philapark.org.

*Manager of Enforcement*—The individual appointed to manage the Enforcement Department of the TLD as provided in § 1003.74. The Manager of Enforcement may be contacted at TLD Headquarters or by email at TLDEnforcement@philapark.org

*Nonadversarial proceeding*—A proceeding initiated by a person which is not contested or a proceeding initiated by the Authority or at the request of a person to develop regulations, policies, procedures, technical rules or interpretations of law.

*PUC*—The Pennsylvania Public Utility Commission.

*Party*—

(i) A person who appears in a proceeding before the Authority, including interveners, protestants, petitioners, respondents and certificate holders.

(ii) The term includes the interests of the Authority which may be represented by the Enforcement Department, the TLD, other Authority staff or trial counsel, or all of them.

*Person*—Except as otherwise provided in this part or in the act, a natural person, corporation, foundation, organization, business trust, estate, limited liability company, licensed corporation, trust, partnership, limited liability partnership, association, representatives, receivers, agencies, governmental entities, municipalities or other political subdivisions or other form of legal business entity.

*Petitioners*—Persons seeking relief, not otherwise designated in this section.

*Pleading*—An application, complaint, petition, answer, motion, preliminary objection, protest, reply, new matter and reply to new matter or other similar document filed in a formal proceeding.

*Presiding officer*—

(i) A member or members of the Authority's Board, or other person designated by the Authority or this part to conduct proceedings.

(ii) A hearing officer as used in section 5705 of the act (relating to contested complaints).

(iii) This definition supersedes 1 Pa. Code § 31.3 (relating to definitions).

*Proof of service*—A certificate of service which complies with §§ 1001.55 and 1001.56 (relating to proof of service; and form of certificate of service).

*Protestants*—Persons objecting on the ground of private or public interest to the approval of an application or other matter which the Authority may have under consideration.

*Recommended decision*—An opinion and order submitted for the approval of the Authority by the presiding officer.

*Regulated person or regulated party*—A certificate holder, broker, taxicab driver or other person subject to the act.

*Respondents*—Persons subject to a statute or other delegated authority administered by the Authority who are required to respond to an order or notice issued by the Authority instituting a proceeding or investigation on its own initiative or otherwise.

*Rights*—A certificate of public convenience, driver's certificate, registration or waiver issued to a regulated party by the Authority under the act.

*Sale*—A change in ownership of a transferable right, including a change in ownership of securities in an entity that owns transferable rights.

*Securities*—The term as defined in section 102 of the Pennsylvania Securities Act of 1972 (70 P.S. § 1-102).

*Staff*—Employees or agents of the Authority assigned to implement the act, this part or an order of the Authority.

*State Police*—The Pennsylvania State Police.

*Submittal*—An application, amendment, exhibit or similar document involving matters filed in an adversarial or nonadversarial proceeding.

*TLD—Taxicab and Limousine Division*—The division of the Authority comprised of staff assigned to implement the purposes of the act, this part and the orders of the Authority.

*TLD Headquarters*—The office of the TLD identified on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld). Unless specifically provided otherwise, communications with any Authority staff member shall be directed to TLD Headquarters.

*Taxicab*—

(i) A motor vehicle designed for carrying no more than eight passengers, exclusive of the driver, as defined in section 5701 of the act and certified by the Authority under the act, this part or an order of the Authority.

(ii) The term includes partial-rights taxicabs, medallion taxicabs and other vehicles authorized by the Authority to provide call or demand service.

*Taxicab certificate*—

(i) A certificate issued by the Authority authorizing the holder to provide taxicab service under the act, this part or an order of the Authority.

(ii) The term includes medallion taxicab certificates and partial-rights taxicab certificates.

*Taxicab driver*—The individual to whom a current and valid taxicab driver's certificate has been issued by the Authority under section 5706 of the act.



*Taxicab driver's certificate*—The original photographic identification card issued by the Authority which confirms that an individual has complied with Chapter 1021 (relating to taxicab drivers) and is authorized to provide taxicab service under section 5706 of the act.

*Taxicab service*—

(i) The transportation of passengers or offering to transport passengers in a taxicab as a common carrier call or demand service in Philadelphia.

(ii) The term includes the stopping, standing or parking of a taxicab in a taxicab stand line or other location commonly used by the public to access taxicabs.

(iii) The term includes partial-rights taxicabs, medallion taxicabs and other vehicles authorized by the Authority to provide call or demand service.

*Transferable rights*—Rights issued by the Authority and identified as transferable in § 1027.2 (relating to transferable rights).

*Trial counsel*—An attorney admitted to practice law before the Supreme Court of Pennsylvania who is assigned to the Office of Trial Counsel to prosecute complaints on behalf of the Authority as provided in § 1003.75 (relating to Office of Trial Counsel).

*Verification*—When used in reference to a written statement of fact by the signer, the term means supported by one of the following:

(i) An oath or affirmation before an officer authorized by law to administer oaths, or before a particular officer or individual designated by law as one before whom it may be taken, and officially certified to in the case of an officer under seal of office.

(ii) An unsworn statement made subject to the penalties in 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

(b) Subsection (a) supersedes 1 Pa. Code § 31.3.

## **Subchapter B. TIME**

### **§ 1001.11. Date of filing.**

(a) Whenever a pleading, submittal or other document is required or permitted to be filed under this part or by statute, it will be deemed to be filed on the date actually received with the Clerk, or other office as specifically designated by the Authority.

(b) Subsection (a) supersedes 1 Pa. Code § 31.11 (relating to timely filing required).

### **§ 1001.12. Computation of time.**

(a) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this part or by statute, the day of the act, event or default after which the designated period of time begins to run is not included. The last day of the period is included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a

Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

(b) Except as otherwise provided by statute, in computing a period of time prescribed or allowed by this part or by statute which is measured by counting a specified number of days backward from a scheduled future act, event or default, the day of the scheduled future act, event or default is not included. The day on which the prescribed or allowed action is to occur shall be included, unless it is a Saturday, Sunday or a legal holiday in this Commonwealth, in which event the day of the prescribed or allowed action shall run until the next preceding day which is neither a Saturday, Sunday or holiday. A part-day holiday shall be considered as a holiday. Intermediate Saturdays, Sundays and legal holidays are included in the computation.

(c) Subsection (a) supersedes 1 Pa. Code § 31.12 (relating to computation of time).

#### **§ 1001.13. Issuance of Authority orders.**

(a) In computing a period of time involving the date of the issuance of an order by the Authority, the day of issuance of an order will be the date the Clerk enters the order. An order will not be made public prior to its entry except when, in the Authority's judgment, the public interest so requires. The date of entry of an order may or may not be the day of its adoption by the Authority. The Clerk will clearly indicate on each order the date of its adoption by the Authority and the date of its entry.

(b) An order of a presiding officer will contain notice of the date the order will become effective as an adjudication of the Authority, in the absence of Authority review as provided in § 1005.213 (relating to final orders and effect of failure to file exceptions).

(c) The date of entry of an order which is subject to review by Commonwealth Court is governed by Pa.R.A.P. No. 108 (relating to date of entry of orders). The date of issuance of any other order shall be deemed to be the date of entry for the purposes of computing the time for appeal under an applicable statute relating to judicial review of Authority action.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.13 (relating to issuance of agency orders).

#### **§ 1001.14. Effective dates of Authority orders.**

(a) An order of the Authority promulgating regulations shall be effective upon publication in the *Pennsylvania Bulletin* unless otherwise specially provided in the order.

(b) Except as provided in subsection (a), an order of the Authority shall be effective as of the date of entry unless otherwise specially provided in the order.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.14 (relating to effective dates of agency orders).

#### **§ 1001.15. Extensions of time and continuances.**

(a) Extensions of time shall be governed by the following:

(1) Except as otherwise provided by statute, whenever under this part or by order of the Authority, or notice given thereunder, an act is required or allowed to be done at or within a specified time, the time fixed or the period of time prescribed may, by the Authority, the presiding officer or other authorized person, for good cause be extended upon motion made before expiration of the period originally

prescribed or as previously extended. Upon motion made after the expiration of the specified period, the act may be permitted to be done where reasonable grounds are shown for the failure to act.

(2) Requests for the extension of time in which to file briefs shall be filed at least 5 days before the time fixed for filing the briefs unless the presiding officer, for good cause shown, allows a shorter time.

(b) Except as otherwise provided by statute, requests for continuance of hearings or for extension of time in which to perform an act required or allowed to be done at or within a specified time by this part by order of the Authority or the presiding officer, shall be by motion in writing, timely filed with the Authority, stating the facts on which the application rests, except that during the course of a proceeding, the requests may be made by oral motion in the hearing before the Authority or the presiding officer. Only for good cause shown will requests for continuance be considered. The requests for a continuance should be filed at least 5 days prior to the hearing date.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.15 (relating to extensions of time).

### **Subchapter C. REPRESENTATION BEFORE THE AUTHORITY**

#### **§ 1001.21. Appearance.**

(a) Individuals may represent themselves.

(b) Persons may be represented in accordance with § 1001.22 (relating to appearance by attorney or certified legal intern).

(c) Subject to subsections (a) and (b), in a proceeding before the Authority or a presiding officer, persons may be represented in the following manner:

(1) A partner may represent the partnership.

(2) A bona fide officer of a corporation, trust or association may represent the corporation, trust or association.

(3) An officer or employee of an agency, political subdivision or government entity may represent the agency, political subdivision or government entity.

(d) For an individual to represent an entity under subsection (c), the following information shall be presented along with any pleading or other document filed with the Clerk or to the presiding officer at the time of proceeding, whichever occurs first:

(1) For individuals appearing under subsection (c)(1) and (2):

(i) Confirmation of the individual's position with the represented entity.

(ii) A copy of a board resolution from the entity or a notarized letter from the entity's secretary confirming the individual's authorization to represent the entity.

(2) For individuals appearing under subsection (c)(3):

(i) A copy of the photographic identification card of the officer or employee issued by the agency, political subdivision or government entity.

(ii) An original letter executed by an authorized representative of the agency, political subdivision or government entity, other than the individual appearing in the proceeding before the Authority.

(3) The Authority or a presiding officer may review information submitted as provided in this subsection for sufficiency and may require supplementation or otherwise refuse acceptance of the information and then deny the requested representational status of the individual if the information submitted appears inauthentic.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 31.21 (relating to appearance in person).

#### **§ 1001.22. Appearance by attorney or certified legal intern.**

(a) Subject to § 1001.21(a) and (b) (relating to appearance), an attorney at law admitted to practice before the Supreme Court of Pennsylvania shall represent persons in Authority proceedings.

(b) An attorney not licensed in this Commonwealth may appear before the Authority in accordance with the Pennsylvania Bar Admission Rules.

(c) A law student meeting the requirements in Pa.B.A.R. No. 321 (relating to requirements for formal participation in legal matters by law students and law school graduates) may appear in an Authority proceeding consistent with Pa.B.A.R. No. 322 (relating to authorized activities of certified legal interns).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 31.22 (relating to appearance by attorney).

#### **§ 1001.23. Other representation prohibited at hearings.**

(a) Persons may not be represented at a hearing before the Authority or a presiding officer except as stated in § 1001.21 or § 1001.22 (relating to appearance; and appearance by attorney or certified legal intern).

(b) Subsection (a) supersedes 1 Pa. Code § 31.23 (relating to other representation prohibited at hearings).

#### **§ 1001.24. Notice of appearance or withdrawal.**

(a) *Individuals.* An individual appearing without legal representation before the Authority or a presiding officer shall file with the Clerk an address for service of a notice or other written communication. A change in address which occurs during the course of the proceeding shall be reported to the Clerk promptly.

(b) *Attorneys.*

(1) *Appearance by initial pleading.* An attorney who signs an initial pleading in a representative capacity will be considered to have entered an appearance in that proceeding.

(2) *Appearance in all other instances.* An attorney shall file a written notice of appearance with the Clerk.

(i) *Content of notice.* Initial pleadings, entries of appearance and notices of withdrawal must include:

(A) The attorney's name, mailing address and electronic mailing address.

(B) A Pennsylvania attorney identification number or, if not licensed in this Commonwealth, identification of the jurisdictions in which the attorney is licensed to practice law.

(C) A telephone number and telefacsimile number.

(D) The name and address of the person represented.

(ii) *Filing.*

(A) *Appearance.* The notice of appearance shall be served on the parties to the proceeding, and a certificate of service shall be filed with the Clerk.

(B) *Change in information.* A change in information provided in the notice of appearance which occurs during the course of the proceeding shall be reported to the Clerk and the parties promptly.

(3) *Withdrawal.* An attorney may withdraw an appearance by filing a written notice of withdrawal with the Clerk. The notice shall be served on the parties and the presiding officer, if one has been designated.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 31.24 (relating to notice of appearance).

**§ 1001.25. Form of notice of appearance.**

(a) A form of notice of appearance to be used by attorneys appearing before the Authority is available at the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld) and must be substantially similar to the following:

**BEFORE THE  
PHILADELPHIA PARKING AUTHORITY**

In the Matter of:

**NOTICE OF APPEARANCE**

Please enter my appearance in the above-designated matter on behalf of:

I am authorized to accept service on behalf of said party in this matter

On the basis of this notice, I request a copy of each document hereafter issued by the Authority in this matter.

I am already receiving or have access to a copy of each document issued by the Authority in this matter (alone, or in a consolidated proceeding) and do not on the basis of this notice require an additional copy.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Printed)

\_\_\_\_\_  
P.O. Box/Address

\_\_\_\_\_  
City, state and zip code

\_\_\_\_\_  
Telephone Number  
(including area code)

\_\_\_\_\_  
Telefacsimile Number  
(including area code)

\_\_\_\_\_  
Pennsylvania Attorney I.D. No./  
Other Jurisdiction(s) Admitted

\_\_\_\_\_  
Email Address

(b) *Supersession*. Subsection (a) supersedes 1 Pa. Code § 31.25 (relating to form of notice of appearance).

**§ 1001.26. Contemptuous conduct.**

(a) Contemptuous conduct at a hearing before the Authority or a presiding officer will be grounds for exclusion from the hearing and for summary suspension without a hearing for the duration of the hearing.

(b) Subsection (a) supersedes 1 Pa. Code § 31.27 (relating to contemptuous conduct).

**§ 1001.27. Suspension and disbarment.**

(a) The Authority may deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to a person who is found by the Authority, after notice and opportunity for hearing in the matter, to have done one or more of the following:

(1) Lacked the requisite qualifications to represent others.

(2) Lacked the requisite technical education, training or experience for a particular project or type of project submitted for Authority approval.

(3) Engaged in unethical, contemptuous or improper conduct before the Authority.

(4) Repeatedly failed to follow Authority or presiding officer directives.

(b) For the purpose of subsection (a), practicing before the Authority includes:

(1) Transacting business with the Authority.

(2) The preparation of a statement, opinion or other paper by an attorney, accountant, broker, engineer or other expert, filed with the Authority in a pleading, application, submittal or other document with the consent of the attorney, accountant, broker, engineer or other expert.

(3) Appearances at a hearing before the Authority or a presiding officer.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 31.28 (relating to suspension and disbarment).

**§ 1001.28. Power of attorney.**

A certificate holder may be represented by one individual attorney-in-fact at appointments identified in this part or as otherwise permitted by law.

**Subchapter D. DOCUMENTARY FILINGS**

**§ 1001.31. Requirements for documentary filings.**

- (a) *Form.* Pleadings must be divided into consecutively numbered paragraphs. Each paragraph must contain as far as practicable only one material allegation.
- (b) *Specificity.* The material facts on which a pleading is based shall be stated in a concise and summary form. Averments of time, place and items of special damage shall be specifically stated.
- (c) *Certain averments.* Averments of fraud or mistake shall be averred with particularity. Malice, intent, knowledge and other conditions of mind may be averred generally.
- (d) *Relief requested.* Any pleading demanding relief must specify the relief sought. Relief in the alternative or of several different types may be demanded.
- (e) *Attachments.* Copies of documents relied upon in the pleadings shall be identified and attached. Copies of reported court decisions, writings or orders already of record with the Authority need not be attached to the pleading if reference by docket number is made to the proceeding in which they were filed in accordance with § 1001.33 (referring to incorporation by reference).
- (f) *Identifying information.* Documents filed with the Authority in a proceeding must clearly contain the following information:
  - (1) The docket number or similar identifying symbols, if any.
  - (2) The title or caption of the proceeding before the Authority.
  - (3) Within the title of the document, the name of the person on whose behalf the filing is made. If more than one person is involved, only a single name is necessary.
  - (4) The unique identification number assigned to the Authority rights at issue in the pleading and the number assigned to any other Authority rights owned or issued to the filing party, or both, if any.
- (g) *Caption.* Every pleading must contain a caption setting forth the "Philadelphia Parking Authority," the number of the action and the name of the pleading. The caption of an initial pleading must set forth the names of all the parties, but in subsequent pleadings it is sufficient to state the name of the first party on each side in the complaint with an appropriate indication of other parties. The caption must be substantially similar to the following:

**BEFORE THE  
PHILADELPHIA PARKING AUTHORITY**

Complainant	:	
Complainant,	:	
	:	
v.	:	Docket No.
	:	
Respondent	:	
Respondent	:	

**COMPLAINT**

(h) *Supersession*. Subsections (a)—(g) supersede 1 Pa. Code § 33.1 (relating to title).

#### **§ 1001.32. Filing specifications.**

(a) A filing made with the Authority must be:

(1) *Typewritten*. Pleadings, submittals or other documents filed in proceedings, if not printed, must be typewritten on paper cut or folded to letter size, 8 to 8 1/2 inches wide by 10 1/2 to 11 inches long, with left-hand margin at least 1 inch wide and other margins at least 1 inch. The impression must be on only one side of the paper, unless there are more than four pages, and be double spaced, except that quotations in excess of a few lines must be single spaced and indented. Reproduced copies will be accepted as typewritten, if copies are clearly legible.

(2) *Printed*. Printed documents must be at least 12-point type on unglazed paper, cut or folded so as not to exceed 8 1/2 inches wide by 11 inches long, with inside margin at least 1 inch wide, and with double-leaded text and single-leaded, indented quotations.

(3) *Bound*. Pleadings, submittals and other documents, other than correspondence, must be stapled, fastened or otherwise bound at the left side only.

(b) *Supersession*. Subsection (a) supersedes 1 Pa. Code § 33.2 (relating to form).

#### **§ 1001.33. Incorporation by reference.**

(a) Documents on file with the Authority may be incorporated by reference into a subsequent pleading, submittal or other document. A document may be so incorporated only by reference to the specific document and to the prior filing and docket number at which it was filed.

(b) Documents on file with the Authority for more than 5 years may not be incorporated by reference in a current document unless the person filing the current document first ascertains that the earlier document continues to be readily available in the active records of the Authority.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.3 (relating to incorporation by reference).

#### **§ 1001.34. Single pleading or submittal covering more than one matter.**

(a) Except as otherwise provided under this chapter and Chapter 1005 (relating to formal proceedings), a single pleading may be accepted for filing with respect to a particular matter and one or more directly related matters and will be deemed to be a single filing for purposes of the computation of fees as provided in § 1001.43 (relating to Authority fee schedule).

(b) If, upon review, the Authority determines that the matters are not closely related or otherwise properly joined, the Authority will direct that the single pleading be refiled as two or more separate pleadings each subject to a separate filing fee.

(c) Subsection (a) supersedes 1 Pa. Code § 33.4 (relating to single pleading or submittal covering more than one matter).

#### **§ 1001.35. Execution.**



(a) *Signature.* A pleading, submittal or other document shall be signed in permanent ink by the party in interest, or by the party's attorney, as required under subsection (b), and show the office and mailing address of the party or attorney. An original hard copy shall be signed, and other copies filed must conform thereto unless otherwise ordered by the Authority.

(b) *Signatory.*

(1) A pleading, submittal or other document filed with the Authority shall be signed by one of the following:

(i) The person filing the documents, and severally if there is more than one person so filing.

(ii) An officer if it is a corporation, trust, association or other organized group.

(iii) An officer or employee thereof if it is another agency, a political subdivision or other governmental authority, agency or instrumentality.

(iv) An attorney having authority with respect thereto.

(2) A document filed by a corporation, trust, association or other organized group, may be required to be supplemented by appropriate evidence of the authority of the officer or attorney signing the documents.

(c) *Effect.*

(1) The signature of the individual signing a document filed with the Authority constitutes a certificate by the individual that:

(i) The individual has read the document being signed and filed, and knows the contents thereof.

(ii) The document has been signed and executed in the capacity specified upon the document with full power and authority to do so, if executed in a representative capacity.

(iii) The document is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, to the best of the individual's knowledge, information and belief formed after reasonable inquiry.

(iv) The document is not interposed for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation.

(2) If a document is signed in violation of this subsection, the presiding officer or the Authority, upon motion or upon its own initiative, may impose upon the individual who signed it, a represented party, or both, an appropriate sanction, which may include striking the document, dismissal of the proceeding or the imposition of penalties consistent with this part and the act.

(d) *Supersession.* Subsections (a)—(c) supersede 1 Pa. Code § 33.11 (relating to execution).

### **§ 1001.36. Verification and affidavit.**

(a) *Verification required.* Applications, petitions, formal complaints, motions and answers thereto containing an averment or denial of fact not appearing of record in the action shall be personally verified by a party thereto or by an authorized officer or other authorized employee of the party if a corporation,

partnership, association or other business entity. Under subsections (b) and (c), verification may be made by using a verification or by using an affidavit.

(b) *Form verification.* When a verification is used, notarization is not necessary. The filing date for the verification will be determined in accordance with § 1001.11(a) (relating to date of filing). The docket number or other applicable assigned Authority identification number for the filing must be clearly indicated on the original verification. The verification must be in the following form:

**VERIFICATION**

I, \_\_\_\_\_, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

Date: \_\_\_\_\_ Signature: \_\_\_\_\_

(c) *Affidavit form.* When an affidavit is used, it must be notarized. The original affidavit shall be submitted to the Authority and may be an attachment to a filing. The filing date for the affidavit will be determined in accordance with § 1001.11(a). The docket number or other applicable assigned Authority identification number for the filing must be clearly indicated on the original affidavit. The affidavit must be in the following form:

**AFFIDAVIT**

I, \_\_\_\_\_, (Affiant) being duly sworn (affirmed) according to law, depose and say that (I am authorized to make this affidavit on behalf of \_\_\_\_\_ corporation, being the holder of the office of \_\_\_\_\_ with that corporation, and that, I am an employee or agent of \_\_\_\_\_ and have been authorized to make this affidavit on its behalf and that) the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and (I or corporation) expect to be able to prove the same at any hearing hereof.

Signature \_\_\_\_\_

Sworn and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_,

20\_\_\_\_.

\_\_\_\_\_  
(Signature of official administering oath)

My Authority Expires: \_\_\_\_\_

(d) *Certification process.* An applicant for a certificate shall include in the verification or affidavit the following statement:

Applicant is not now engaged in intrastate transportation of property or passengers for compensation in this Commonwealth except as authorized by the Pennsylvania Public Utility Commission certificate or

permit or Philadelphia Parking Authority certificate, and will not engage in the transportation for which approval is herein sought, unless and until the transportation is authorized by the Authority.

(e) *Criminal penalty.* An individual who executes a pleading, application, submittal or other document knowing that it contains a false statement and who causes it to be filed with the Authority shall be subject to prosecution for the commission of a misdemeanor of the second degree in violation of 18 Pa.C.S. § 4904(a) (relating to unsworn falsification to authorities).

(f) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 33.12 (relating to verification).

#### **§ 1001.37. Number of copies to be filed.**

(a) Except as may be otherwise provided by this part or ordered or requested by the Authority, at the time pleadings, submittals or documents other than correspondence are filed with the Clerk, or other Authority office, there shall be furnished to the Authority an original and two conformed copies of the papers, including exhibits, if any.

(b) Subsection (a) supersedes 1 Pa. Code § 33.15 (relating to number of copies).

#### **§ 1001.38. Rejection of filings.**

The Authority may reject a filing if it does not comply with any applicable statute, regulation or order of the Authority.

### **Subchapter E. FEES**

#### **§ 1001.41. Filing fees.**

(a) A pleading, submittal or other document for which a filing fee is required to be charged will be received, but will not be deemed to be filed, until the filing fee required by the act, this part or an order of the Authority has been paid.

(b) Subsection (a) supersedes 1 Pa. Code § 33.21 (relating to filing fees).

#### **§ 1001.42. Mode of payment to the Authority.**

(a) The Authority will accept payment for fees, penalties, assessments or other costs required under the act, this part or an order of the Authority by money order or cashiers' check made payable to the "Philadelphia Parking Authority" at TLD Headquarters, in person or by mail.

(b) Subsection (a) supersedes 1 Pa. Code § 33.22 (relating to mode of payment of fees).

#### **§ 1001.43. Authority fee schedule.**

(a) The Authority will issue a new fee schedule for each fiscal year, subject to disapproval of the Legislature, under section 5707(b) of the act (relating to budget and fees).

(b) The Authority will provide general notice of the new fee schedule through publication in the *Pennsylvania Bulletin*. The Authority will provide direct notice of the fee schedule by email to each certificate holder as required under section 5707(b) of the act within 5 days of its effective date. The current fee schedule may be obtained from the Authority's web site at [www.phila.park.org/tld](http://www.phila.park.org/tld).

(c) *Supersession.* Subsection (a) supersedes 1 Pa. Code §§ 33.21(b) and 33.23 (relating to filing fees; and copy fees).

## **Subchapter F. SERVICE OF DOCUMENTS**

### **§ 1001.51. Service by the Authority.**

(a) *Applicability.* This section applies to service of an order, notice, pleading or other document originating with the Authority and other documents designated by the Authority or a presiding officer, except when the Authority specifically requires a different form of service.

(b) *Forms of service.*

(1) *First class mail.* Service may be made by mailing a copy thereof to the person to be served, addressed to the person designated in the initial pleading, submittal or notice of appearance at the person's residence, principal office or place of business.

(2) *Personal.* Service may be made personally by Authority staff or anyone authorized by the Authority or a presiding officer.

(3) *Email.* Service may be made by email upon the following persons:

(i) A certificate holder.

(ii) A broker.

(iii) A regulated person that has registered an email address with the Authority under subsection (c).

(iv) A person's attorney under § 1001.53(a) (relating to service on attorneys).

(v) A party to any Authority proceeding, including interveners and protestants for whom an email address is on file with the Clerk.

(vi) A party to any Authority proceeding in which a presiding officer orders notification of parties by telephone, telefacsimile or other electronic means when time periods are short and delivery by mail or other methods may not prove adequate. The presiding officer will confirm the alternative form of service in writing and a filing will be made with the Clerk regarding confirmation.

(c) *Voluntary email registration.* Any person may file an email address with the Clerk for purposes of receiving service under this part. By filing an email address with the Clerk the filing person agrees to receipt of service originating with the Authority under this section.

(d) *Change of address.* It is the duty of a party identified in subsection (b)(3) or (c), or both, to notify the Clerk within 48 hours of changes to the party's current address, including any email address on file with the Clerk.

(e) *Alternative service.* If the Authority is unable to serve a party by email or by mail at the party's last known address, the Authority may make service by publication in a newspaper of general circulation in the same area as the party's last known address. In the alternative, service may also be accomplished by

publication in the *Pennsylvania Bulletin* or by service on the Secretary of the Commonwealth, if appropriate.

(f) *Supersession.* Subsections (a)—(e) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

**§ 1001.52. Service by a party.**

(a) Pleadings, submittals, briefs and other documents shall be served upon parties in the proceeding and upon the presiding officer, if one has been assigned.

(b) Service may be made by one of the following methods:

(1) *First class mail.* Service may be made by mailing the requisite number of copies to each party as provided in § 1001.57 (relating to number of copies to be served), properly addressed with postage prepaid.

(2) *Personal.* Service may be made personally by delivering the requisite number of copies to each party as provided in § 1001.57. Personal service may only be made by an individual 18 years of age or older.

(3) *Telefacsimile or email.* Service may be made by telefacsimile or email to those parties who have agreed to accept service in that manner. Documents served electronically need not be followed by service of a hard copy if the parties have so agreed. This section is not intended to limit service by email available under any other section in this part.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.32 (relating to service by a participant).

**§ 1001.53. Service on attorneys.**

(a) When an attorney enters an appearance under § 1001.24 (relating to notice of appearance or withdrawal), service shall be directed to the attorney in the same manner as prescribed for the attorney's client. An attorney's entry of appearance must include an email address at which all communications and notices from the Authority or other parties to the attorney's client may be served.

(b) When a party is represented by an attorney, service upon the attorney shall be deemed service upon the party. Separate service on the party may be omitted.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 31.26 and 33.33 (relating to service on attorneys; and effect of service upon an attorney).

**§ 1001.54. Date of service.**

(a) The date of service shall be the day when the document served meets one of the following conditions:

(1) The document is deposited in the United States mail.

(2) The document is deposited with an overnight express package delivery service.

(3) The document is delivered in person.

(4) The document is transmitted by telefacsimile or email as provided in § 1001.51(b) or § 1001.52(b) (relating to service by the Authority; and service by a party) prior to 4:30 p.m. local prevailing time in the Eastern Time Zone (United States).

(b) Unless otherwise prescribed by the Authority or presiding officer, whenever a party is required or permitted to do an act within a prescribed period after service of a document upon the party and the document is served by first-class mail by the United States Postal Service, 3 days shall be added to the prescribed period.

(c) Subsection (a) supersedes 1 Pa. Code § 33.34 (relating to date of service).

**§ 1001.55. Proof of service.**

(a) A certificate of service in the form prescribed under § 1001.56 (relating to form of certificate of service) must accompany and be attached to the original and all copies of pleadings, submittals or other documents filed with the Authority when service is required to be made by the parties.

(b) Subsection (a) supersedes 1 Pa. Code § 33.35 (relating to proof of service).

**§ 1001.56. Form of certificate of service.**

(a) The form of certificate of service must be as follows:

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of § 1001.52 (relating to service by a party).

(List names and addresses of parties served and manner in which each was served.)

Dated this \_\_\_\_\_ day of 2 \_\_\_\_\_.

\_\_\_\_\_  
(Print Name)

Counsel for \_\_\_\_\_

\_\_\_\_\_  
(Signature)

(b) Subsection (a) supersedes 1 Pa. Code § 33.36 (relating to form of certificate of service).

**§ 1001.57. Number of copies to be served.**

(a) One copy of a document shall be served on the presiding officer if one has been designated. The following number of copies of documents shall be served on other parties in a proceeding:

(1) Briefs.

(i) Service of hard copies—two copies.

(ii) Service by telefacsimile or electronic mail, when permitted—one copy.

(2) Other documents—one copy.

(b) Subsection (a) supersedes 1 Pa. Code § 33.37 (relating to number of copies).

### **Subchapter G. PENALTY**

#### **§ 1001.61. Penalties.**

(a) *Monetary penalty range.* If a penalty has not been otherwise assigned to a violation of any provision of the act, this part or an order of the Authority, the penalty applicable to the violation may not be less than \$25 and not greater than \$1,000.

(b) *Additional penalties.* The penalty requested in a formal complaint initiated as provided in Chapter 1005 (relating to formal proceedings), may include one or more of the following:

(1) A monetary penalty payable to the Authority.

(2) A suspension of rights.

(3) A modification of rights.

(4) A cancellation of rights.

### **Subchapter H. MATTERS BEFORE OTHER TRIBUNALS**

#### **§ 1001.71. Notice and filing of copies of pleadings before other tribunals.**

(a) When matters over which the Authority may have jurisdiction under the act are raised in proceedings filed with a court or other regulatory body by a person subject to the act, either an appropriate application or petition, or notice of the proceedings and copies of the material pleadings filed therein, shall be filed simultaneously with the Clerk so that it may have sufficient notice and time for proper consideration of the matters within its jurisdiction.

(b) Upon filing of a petition for bankruptcy under the United States Bankruptcy Code (11 U.S.C.) by a certificate holder or broker a copy of the petition shall be simultaneously filed with the Clerk.

(c) An entity subject to the regulatory jurisdiction of the Authority, or its trustee in bankruptcy, shall file a copy of the reorganization plan for itself or for its bankrupt parent, subsidiary or affiliate with the Clerk for Authority review within 10 days after the debtor has filed the plan, its supplements and amendments, or has received notice that the plan has been filed with the court.

(d) If the reorganization plan submitted under subsection (c) contemplates the abandonment of taxicab, limousine or dispatcher service, the submittal must include an SA-1 Application as provided in § 1027.6 or § 1059.5 (relating to application for sale of transferable rights), as appropriate. If a reorganization plan of a certificate holder or broker includes the abandonment of the certificate or Authority issued right, the submittal must include specific notice to the Authority of the date of abandonment.

### **Subchapter I. AMENDMENTS OR WITHDRAWALS OF SUBMITTALS**

#### **§ 1001.81. Amendments.**

(a) An amendment to a submittal or pleading may be tendered for filing at any time and will be deemed filed in accordance with § 1001.11 (relating to date of filing) unless the Authority or presiding officer otherwise orders.

(b) Subsections (a) supersedes 1 Pa. Code § 33.41 (relating to amendments).

**§ 1001.82. Withdrawal or termination of uncontested matter or proceeding.**

(a) *Notice of withdrawal or termination.* A party that desires to terminate a noncontested matter or proceeding before the final decision by the Authority or a presiding officer or otherwise desires to withdraw a submittal shall file a motion for leave to withdraw the appropriate document with the Clerk. The motion will be granted or denied as a matter of discretion.

(b) *Contested proceedings.* Withdrawal of a pleading in a contested proceeding is governed under § 1005.64 (relating to withdrawal of pleadings in a contested proceeding).

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 33.42 (relating to withdrawal or termination).

**Subchapter J. DOCKET**

**§ 1001.91. Docket.**

(a) The Clerk will maintain a docket of all proceedings, and each proceeding as initiated will be assigned an appropriate designation. The docket will be available for inspection and copying by the public during the Authority's office hours.

(b) Subsection (a) supersedes 1 Pa. Code § 33.51 (relating to docket).

**Subchapter K. WAIVER OF RULES**

**§ 1001.101. Applications for waiver of formal requirements.**

(a) Pleadings, submittals or other documents which are subject to rejection under any provision of this chapter or Chapter 1003 or 1005 (relating to special provisions; and formal proceedings) may be accompanied by a request, under § 1005.23 (relating to petitions for issuance, amendment, repeal or waiver of Authority regulations) for waiver of any provisions with which the document tendered is in conflict or does not conform. The request must show the nature of the waiver or exception desired and set forth the reasons in support thereof. Unacceptable filings may be returned by the Clerk with an indication of the deficiencies thereof and the reasons for nonacceptance and return.

(b) Unless the Authority expressly so orders, the Clerk may not waive a failure to comply with the act, this part or an order of the Authority or another applicable requirement, and the failure may be cause for striking all or any part of the filings.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.61 (relating to applications for waiver of formal requirements).

**Subchapter L. UNOFFICIAL STATEMENTS, OPINIONS AND NOTICE**

**§ 1001.111. Unofficial statements and opinions by Authority personnel.**



Statements contained in formal opinions of the Authority or in decisions of a presiding officer which are not necessary in resolving the case, and informal opinions, whether oral or written, expressed by Authority members, presiding officers, legal counsel, employees or representatives of the Authority and reports drafted by Authority departments are only considered as aids to the public, do not have the force and effect of law or legal determinations, and are not binding upon the Commonwealth or the Authority.

**§ 1001.112. Notice of rulemaking proceedings.**

- (a) Before the adoption of a regulation, the Authority will publish a general notice as provided in 1 Pa. Code Chapter 7 (relating to procedure for adoption or change of regulations).
- (b) The order or notice will recite the statutory or other authority under which the regulation is proposed to be adopted and include either the terms of the proposed regulation or a description of the subjects and issues involved to inform interested persons of the nature of the proceeding, to permit interested persons to submit comments relative thereto within the time period required by the act.
- (c) The Authority may, upon petition by a person having an interest in the proposed regulation, hold public hearings on the proposed regulation. The petition for hearing must be in the form in § 1005.21 (relating to petitions generally), shall be filed concurrently with the comments and state the reasons for having a hearing and the person's interest in the proposed regulation.
- (d) Subsections (a)—(c) supersede 1 Pa. Code § 35.104 (relating to notice of rulemaking proceedings).

**CHAPTER 1003. SPECIAL PROVISIONS**

**Subchapter A. TEMPORARY EMERGENCY ORDERS**

**EMERGENCY RELIEF**

**§ 1003.1. Definitions.**

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

*Adjudication Department*—The department of the TLD created to conduct certain adjudications and other assigned functions as provided in § 1003.73 (relating to Adjudication Department).

*Emergency*—A situation which presents a clear and present danger to life or property or which is uncontested and requires action prior to the next scheduled public meeting.

*Emergency order*—An ex parte order issued by the Authority's Chairperson, the Executive Director, the Director or a standing presiding officer in the Adjudication Department in response to an emergency.

*Interim emergency order*—An interlocutory order issued by a presiding officer which is immediately effective and grants or denies injunctive relief during the pendency of a proceeding.

**EX PARTE EMERGENCY ORDERS**

**§ 1003.11. Petitions for issuance of emergency orders.**

(a) To the extent practicable, a petition for emergency order must be in the form of a petition as set forth in § 1005.21 (relating to petitions generally) and shall be served on the persons directly affected by the application.

(b) A petition for emergency order must be supported by a verified statement of facts which establishes the existence of an emergency, including facts to support the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

**§ 1003.12. Disposition of ex parte emergency orders.**

(a) *Authorization.* The Authority's Chairperson, the Executive Director, the Director or a standing presiding officer in the Adjudication Department have the authority to issue an emergency order.

(b) *Form.* An emergency order will be issued in writing and filed with the Clerk with copies to the members of the Authority.

(c) *Ratification.* An emergency order or the denial of a petition for emergency order issued by Authority's Chairperson, the Executive Director, the Director or a standing presiding officer in the Adjudication Department will be ratified, modified or rescinded by the Authority at the next scheduled public meeting after issuance of the order, provided that a case or controversy exists on the date of the meeting.

(d) *Service.* An emergency order or the denial of a petition for emergency order will be served by the Clerk upon the persons directly affected by the decision as provided in § 1001.51 (relating to service by the Authority) with copies to the members of the Authority.

**§ 1003.13. Hearings following issuance of emergency orders.**

(a) A person against whom an emergency order is issued may file a petition for an expedited hearing to determine whether the emergency order will remain in effect. The petition must conform to the form and service requirements in § 1005.21 (relating to petitions generally).

(b) The petition for expedited hearing shall be filed with the Clerk and a copy served upon the Adjudication Department's supervising presiding officer.

(c) The hearing will be held before a presiding officer within 10 days of receipt of the petition by the Clerk.

(d) If the emergency order is issued by the Authority Chairperson, the Executive Director or the Director, a presiding officer will have the authority to stay the effect of the order until the next scheduled public meeting of the Authority.

(e) The decision of the presiding officer will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating exceptions to recommended decisions).

## **INTERIM EMERGENCY RELIEF**

### **§ 1003.21. Petitions for interim emergency orders.**

(a) A party may submit a petition for an interim emergency order during the course of a proceeding. The petition shall be filed with the Clerk and served contemporaneously on the Adjudication Department's supervising presiding officer and on the parties.

(b) To the extent practicable, a petition for an interim emergency order must be in the form of a petition as set forth in § 1005.21 (relating to petitions generally). A petition for an interim emergency order must be supported by a verified statement of facts which establishes the existence of the need for interim emergency relief, including facts to support the following:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

(c) Allegations set forth in the petition shall be deemed to have been denied by the opposing parties and an answer is not required. A party may file an answer in the form in § 1005.41 (relating to answers to complaints, petitions, motions and other filings requiring a response) no later than 5 days after service of a copy of the petition.

(d) Other pleadings, memoranda or briefs related to a petition for interim emergency order are not permitted unless specifically requested by the presiding officer.

### **§ 1003.22. Hearing on petitions for interim emergency orders.**

An interim emergency order may not be issued until the presiding officer holds a hearing on the merits of the petition. The hearing will be held within 10 days of the filing of the petition.

### **§ 1003.23. Issuance of interim emergency orders.**

(a) A presiding officer will issue an order granting or denying interim emergency relief within 25 days of the filing of the petition.

(b) An order granting a petition for interim emergency relief will set forth the findings required under § 1003.21(b) (relating to petitions for interim emergency orders).

(c) An interim emergency order or an order denying interim emergency relief will be served as provided in § 1001.51 (relating to service by the Authority).

### **§ 1003.24. Form of interim emergency orders.**

(a) An order following a hearing on a petition for interim emergency relief will include:

- (1) A brief description of the evidence presented.

(2) A grant or denial of the petition.

(b) An order following a hearing on a petition for interim emergency relief may require a bond to be filed in a form satisfactory to the Director and will specify the amount of the bond.

**§ 1003.25. Authority review of interim emergency orders.**

(a) An order granting or denying interim emergency relief is immediately effective upon issuance by the presiding officer. A stay of the order will not be permitted while the matter is being reviewed by the Authority.

(b) The decision of the presiding officer will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions). Failure of the Authority to act within 30 days of the date exceptions are filed will be deemed to be an affirmance of the decision of the presiding officer.

**OUT OF SERVICE**

**§ 1003.31. Definitions.**

The following words and terms, when used in § 1003.32 (relating to out of service designation), have the following meanings, unless the context indicates otherwise:

*Out of service*—Immediate and temporary prohibition from the exercise of rights granted by the Authority under the act due to a public safety concern. An out of service designation will be narrowly tailored to create the most limited reduction of rights necessary to protect the public interest.

*Public safety concern*—Behavior of an individual or condition of a vehicle or equipment which violate the act, this part or an order of the Authority and which have an immediate and direct adverse impact upon the orderly operation of taxicabs and limousines in Philadelphia or which present a direct threat to public safety. For example, a limousine with a broken windshield, a taxicab with inaccurate colors and markings or a taxicab driver subject to a police arrest warrant may each result in an out of service designation.

**§ 1003.32. Out of service designation.**

(a) *Vehicles*. Upon observation of a condition of a taxicab or limousine that creates a public safety concern, the Enforcement Department may immediately place the taxicab or limousine out of service. Public notice of a vehicle's out of service status will be conspicuously affixed to the vehicle and may only be removed by the Authority after inspection as provided in § 1017.36 (relating to reinspection) or by order as provided in subsection (g).

(b) *Drivers*. A driver's certificate issued by the Authority under section 5706 of the act (relating to driver certification program) may be placed out of service by the Enforcement Department upon determination that the driver's operation of a taxicab or limousine will create a public safety concern or if the driver fails to appear at TLD Headquarters upon direction of the Enforcement Department without just cause.

(c) *Certificates and other rights*. When a regulation or order of the Authority directs that a certificate or other right issued by the Authority be placed out of service, the condition necessary for that determination shall be deemed to involve a threat to public safety and the procedures of this section shall apply.

(d) *Notice to the Clerk.* The Enforcement Department will provide notice of an out of service designation to the Clerk. The notice will be provided by 4:30 p.m. on the next day during which the Authority maintains office hours as provided in § 1001.8 (relating to Authority office hours and address). The notice will include the date and time that the out of service designation was made, and the following information about the respondent, if available:

- (1) Name.
- (2) Address.
- (3) Email address.
- (4) Telephone number.
- (5) Authority number assigned to the out of service rights.

(e) *Hearing to be scheduled.* Upon notification of an out of service designation as provided in subsection (c), the Clerk will schedule a hearing before an Adjudication Department presiding officer within 3 days of the out of service designation.

(f) *Formal complaint.*

(1) The Enforcement Department will file a formal complaint with the Clerk against the out of service respondent for the violations forming the basis of the out of service designation within 2 days of the designation. The complaint will be served as set forth in § 1001.51 (relating to service by the Authority).

(2) The out of service designation will be terminated and the Clerk will notify the respondent and the presiding officer of the cancellation of the scheduled hearing in the event a complaint is not filed as provided in paragraph (1).

(3) The out of service respondent shall file an answer to the Enforcement Department's complaint as provided in § 1005.41 (relating to answers to complaints, petitions, motions and other filings requiring a response). The answer shall be filed with the Clerk and served as provided in § 1001.52 (relating to service by a party).

(g) *Scope of hearing.*

(1) The averments of the Enforcement Department's complaint filed as provided in subsection (f)(1) will be deemed denied by the respondent for purposes of the out of service hearing.

(2) At the out of service hearing, the Enforcement Department will bear the burden of proof by a preponderance of the evidence that the out of service designation remains appropriate under this section. The respondent may submit evidence, cross-examine Enforcement Department witnesses and otherwise participate in the hearing as provided by Chapter 1005 (relating to formal proceedings).

(h) *Order.* An order following an out of service hearing may rescind, modify or continue the out of service designation. When an order of the presiding officer modifies or continues an out of service designation, the order will include a prompt date for a hearing on the Enforcement Department's formal complaint.

(i) *Appeal*. The decision of the presiding officer will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

## **Subchapter B. INFORMAL PROCEEDINGS GENERALLY**

### **§ 1003.41. Form and content of informal complaints.**

(a) Informal complaints averring a violation of the act, this part or an order of the Authority may be by letter or other writing. A form of informal complaint is not required, but in substance the report, letter or other writing must contain the essential elements of a formal complaint as specified in § 1005.12 (relating to content of formal complaints).

(b) Informal complaints shall be filed with the Clerk.

(c) Subsection (a) supersedes 1 Pa. Code § 35.5 (relating to form and content of informal complaints).

### **§ 1003.42. Authority action on informal complaints.**

(a) *Filing*. The Clerk will place a copy of an informal complaint related to a docketed matter in the official document folder. Each informal complaint will be forwarded to the Enforcement Department for review, unless the Enforcement Department is the subject of the complaint, in which case the matter will be referred to the Director.

(b) *Authority staff review*. The purpose of staff review will be to determine if the subject matter is within the Authority's jurisdiction and, if warranted, institute an informal investigation. Informal investigations are typically undertaken to gather data or to substantiate allegations of potential violations of the act, this part or order of the Authority and are conducted without hearing.

(c) *Authority staff action*. Upon the completion of the informal investigation of an informal complaint, staff will notify the informal complainant of the results. When staff determines that no violation or potential violation of the act, this part or an order of the Authority has occurred, the informal investigation will be terminated by letter.

(d) *Initiation of formal complaint*. In the event it is determined by staff, in conjunction with the Office of Trial Counsel, that a violation of the act, this part or an order of the Authority has occurred and when formal action is deemed to be warranted, the Authority will file a formal complaint as provided in Chapter 1005 (relating to formal proceedings).

(e) *Caveat*. The submission of an informal complaint does not entitle complainant to a formal hearing before the Authority.

(f) *Supersession*. Subsections (a)—(d) supersede 1 Pa. Code §§ 35.6 and 35.7 (relating to correspondence handling of informal complaints; and discontinuance of informal complaints without prejudice).

### **§ 1003.43. Other initiation of formal complaints.**

The informal complainant may file and prosecute a formal complaint averring any violation of the act, this part or an order of the Authority by a regulated person under § 1005.11(a)(4) (relating to formal

complaints generally) within 30 days of service of an informal complaint termination letter from the Enforcement Department.

### **Subchapter C. APPLICATIONS AND PROTESTS**

#### **§ 1003.51. Applications generally.**

- (a) *Form.* Applications for authorization or permission filed with the Authority must conform to the requirements in this part.
- (b) *Review.* Applications in nonadversarial proceedings will be reviewed by the Director. Applications in adversarial proceedings will be referred by the Director to a presiding officer with instructions to conduct hearings to develop an evidentiary record.
- (c) *Approval.* In nonadversarial proceedings, the Director will make recommendations related to the approval of an application to the Authority. In adversarial proceedings, the presiding officer will issue a recommended decision related to the approval of an application to the Authority.
- (d) *Denial.* The Director or the presiding officer may deny an application. The denial will be in writing and clearly detail the reasons the application was denied. Applications denied by the Director may be appealed as provided in § 1005.24 (relating to appeals from actions of the staff). Applications denied by the presiding officer shall be subject to exceptions as provided in § 1005.211 (relating to exceptions to recommended decisions).
- (e) *Protest.* Applications subject to protest shall be deemed to be adversarial proceedings and shall proceed as provided in § 1003.54 (relating to protests).
- (f) *Compliance; conditions for approval for certificate or registration.*
  - (1) When the Authority approves an application related to a certificate of public convenience for taxicab, limousine or dispatcher services or a broker registration, the applicant will be notified of the approval by email.
  - (2) The applicant shall file with the Authority within 30 days of receipt of the notice, a certificate of insurance or other security required by this part, relating to insurance and security for the protection of the public.
  - (3) The applicant shall file all required tariffs and lists of applicable rates and charges with the Director prior to exercising any rights granted by the Authority.
  - (4) The Authority will not issue a certificate or registration until the requirements in this subsection have been met.
  - (5) Failure of an applicant to comply with this section within the 30-day period referenced in paragraph (2) may result in the dismissal of the application and rescission of prior approval, unless the Authority has, upon written request demonstrating good cause, extended the time for compliance.
  - (6) This subsection is intended to supplement the application requirements related to each specific certificate or registration as provided in this part.
- (g) *Supersession.* Subsections (a)—(f) supersede 1 Pa. Code § 35.1 (relating to applications generally).

**§ 1003.52. Contents of applications.**

(a) Applications must conform to this section unless a form or other specific requirements are required in this part. Applications must include the information and be in a form the Authority requires, including the following:

(1) The application must be typed or printed. The application may not be handwritten. The Manager of Administration may accept handwritten driver applications if the application is legible.

(2) The application must state clearly and concisely the authorization or permission sought.

(3) The application must cite by appropriate reference the statutory provisions, regulations or other authority under which the authorization or permission is sought.

(4) The application must set forth, in the order indicated, the following:

(i) The exact legal name of the applicant.

(ii) The jurisdiction under the statutes of which the applicant was created or organized and the location of the principal place of business of the applicant, when the applicant is a corporation, trust, association or other entity.

(iii) The name, title, mailing address, telephone number and electronic mail address, if available, of the person to whom correspondence or communication in regard to the application is to be addressed. The Authority will serve, when required, notices, orders and other papers upon the person named, and service will be deemed to be service upon the applicant.

(b) Subsection (a) supersedes 1 Pa. Code § 35.2 (relating to contents of applications).

**§ 1003.53. Applications requiring notice.**

(a) Notice of applications to the Authority for rights under the act will be published in the *Pennsylvania Bulletin* and as may otherwise be required by the Authority. This subsection does not apply to applications for taxicab driver certificates or limousine driver certificates.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.1 and 35.2 (relating to applications generally; and content of applications).

**§ 1003.54. Protests.**

(a) A person may file a protest to an application for Authority rights in one of the following circumstances:

(1) The person will be directly affected by the granting of the application.

(2) The protestant can and will provide all or part of the proposed service.

(b) A person objecting to the approval of an application shall file with the Clerk and serve upon the applicant and the applicant's attorney, if any, a written protest which contains the following:



- (1) The applicant's name and the docket number of the application.
  - (2) The name, business address and telephone number of the protestant.
  - (3) The name, business address and telephone number of the protestant's attorney or other representative.
  - (4) A statement of the protestant's interest in the application, including a statement of any adverse impact which approval of the application can be expected to have on the protestant.
  - (5) A list of all Authority and PUC certificate or registration numbers under which the protestant operates, accompanied by a copy of any portion of the protestant's authority upon which its protest is predicated.
  - (6) A statement of any restrictions to the application which would protect the protestant's interest, including a concise statement of any amendment which would result in a withdrawal of the protest.
  - (7) Other information required by the notice published as provided in § 1003.53 (relating to applications requiring notice).
- (c) At the time a protest petition is filed the protest fee shall be paid as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).
  - (d) A protest shall be filed within the time specified in the notice appearing in the *Pennsylvania Bulletin*, which will be at least 15 days from the date of publication. Failure to file a protest in accordance with this subsection shall bar subsequent participation in the proceeding, except when permitted by the Authority for good cause shown.
  - (e) Upon the filing of a timely protest, the application will be referred to a presiding officer of the Adjudication Department for a recommended decision as provided in §§ 1005.201—1005.204 (relating to recommended decisions). TLD staff will participate in the protest proceeding.
  - (f) The protestant will be allowed to participate in the proceeding as a party intervenor.
  - (g) A protest will be treated as a pleading and the applicant may, within 20 days after the closing date for the filing of protests, file an answer to the protest. The failure of the applicant to answer a protest will be deemed a denial of the averments made therein.
  - (h) Upon withdrawal of all protests prior to the initiation of the recommended decision proceeding, an application will be decided by the Director as provided in § 1003.51 (relating to applications generally).
  - (i) Subsections (a)—(h) supersede 1 Pa. Code §§ 35.23 and 35.24 (relating to protest generally; and effect of protest).

**§ 1003.55. Applications for temporary certificate of public convenience.**

(a) *Application.*

- (1) An applicant for a certificate of public convenience may seek temporary use of the rights requested on an expedited basis.

(2) A request for temporary rights shall be made through the relevant application form which may be obtained on the Authority's web site at [www.phila park.org/tld](http://www.phila park.org/tld).

(3) Temporary rights issued by the Authority will expire automatically and without further notice in the following manner:

(i) On the expiration date provided at the time the temporary rights are granted, which may not exceed 6 months from the date the temporary rights are granted.

(ii) On the date the application for nontemporary rights is granted or denied.

(4) The Authority will include the applicant's request for temporary rights in the notice of application published in the *Pennsylvania Bulletin*.

(b) *Standard for granting temporary certificates.* Temporary certificates are disfavored. Temporary rights will only be issued to an applicant for a certificate in the following circumstances:

(1) The applicant clearly identifies that an emergency situation that necessitates the granting of emergency rights exists in Philadelphia.

(2) The Authority determines that an emergency condition does exist in Philadelphia and that the immediate granting of the temporary rights will assist in the amelioration of the emergency.

(3) The applicant appears from the initial review of the application to be capable of safely and adequately providing service, including the filing of compliant rates, tariffs and proof of insurance.

(c) *Revocation of temporary certificate.* A grant of a temporary certificate may be later revoked by the Authority if it determines that the applicant is unfit under this subpart.

(d) *Continuation of temporary certificate.* Temporary certificates issued under this section may not be renewed or extended. A person may apply for new temporary rights upon the expiration of any previously granted temporary rights.

(e) *Filing of protests.* A person who can and will provide all or part of the proposed service may file a protest to the temporary certificate. Protests shall be consistent with § 1003.54 (relating to protests). The protest must indicate whether it protests the application for temporary rights or for permanent rights, or both.

#### **Subchapter D. FORMS AND GUIDANCE DOCUMENTS**

##### **§ 1003.61. Official forms and guidance documents.**

Forms for certain applications, petitions, complaints and other documents may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld) or from TLD Headquarters.

#### **Subchapter E. TAXICAB AND LIMOUSINE DIVISION**

##### **§ 1003.71. Definitions.**

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

*TLD—Taxicab and Limousine Division*—The division of the Authority comprised of staff assigned to implement the purposes of the act, this part and the orders of the Authority.

*Trial counsel*—An attorney admitted to practice law before the Supreme Court of Pennsylvania who is assigned to the Office of Trial Counsel to prosecute complaints on behalf of the Authority as provided in § 1003.75 (relating to Office of Trial Counsel).

**§ 1003.72. TLD staffing generally.**

(a) *Director*. The Authority's Executive Director will designate a Director of the TLD to administer the operations of TLD staff and to perform the specific functions provided in the act, this part and the orders of the Authority.

(b) *Manager of Administration*. The Executive Director will designate a Manager of Administration to complete the tasks directed by this part. The Manager of Administration will report to the Director.

(c) *Administration*. The Authority's Executive Director will designate additional staff and internal TLD departments not otherwise required under this subpart to assist the Director and Manager of Administration with the implementation of the act, this part and orders of the Authority.

**§ 1003.73. Adjudication Department.**

(a) *Designation*. The TLD will include an Adjudication Department to provide for the administration of hearings and appeals related to enforcement actions and as otherwise provided for in the act, this part or an order of the Authority.

(b) *Standing presiding officers*. The Authority will appoint at least one individual to the Adjudication Department as a standing presiding officer to facilitate the purposes of the act and this part related to hearings and appeals. The Authority may assign additional tasks to the Adjudication Department, including the obligation to produce a recommended decision under §§ 1005.201—1005.204 (relating to recommended decisions).

(c) *Qualifications*. A presiding officer appointed to the Adjudication Department shall have been admitted to practice law before the Supreme Court of Pennsylvania for at least 7 years prior to the date of designation.

(d) *Additional staff*. The Executive Director may designate additional Adjudication Department staff necessary to provide for the orderly operation of the Department, including court reporters.

(e) *Supersession*. Subsections (a)—(d) supersede 1 Pa. Code §§ 35.185—35.187 (relating to designation of presiding officers; disqualification of a presiding officer; and authority delegated to presiding officers)

**§ 1003.74. Enforcement Department.**

(a) The TLD will include an Enforcement Department to be comprised of staff and inspectors necessary to conduct all functions necessary for the enforcement of the act, this part or an order of the Authority, including the following:

- (1) To examine the condition and management of any entity providing taxicab service, limousine service or other products or services subject to the act.
  - (2) To provide technical support to trial counsel in all prosecutorial proceedings.
  - (3) To initiate certain formal complaints as provided in § 1005.13 (relating to citation complaints by the Authority).
- (b) The Enforcement Department will be supervised by a manager appointed by the Executive Director, who will report to the Director for administrative purposes only.

**§ 1003.75. Office of Trial Counsel.**

(a) *Designation.* The TLD will include an Office of Trial Counsel to be comprised of at least one attorney admitted to practice law before the Supreme Court of Pennsylvania. Trial counsel will be appointed by the Executive Director and will provide legal counsel and representation to the following departments:

- (1) The Enforcement Department.
- (2) Other departments of the Authority permitted by the act, this part or order of the Authority.

(b) *Duties generally.* The Office of Trial Counsel has the following duties and powers:

(1) To advise the Enforcement Department on all matters, including the granting of rights, certificates or registrations, the conduct of background investigations, audits and inspections and the investigation of potential violations of the act, this part or an order of the Authority.

(2) Make recommendations and objections relating to the issuance of certificates, registrations or other rights.

(3) Initiate, in its sole discretion, proceedings for violations of the act, this part or an order of the Authority by filing a complaint or other pleading with the Authority seeking civil fines or penalties, the imposition of conditions on a certificate, registration, other right or the suspension or cancellation of conditions on a certificate, registration or other right.

(4) Withdraw, amend or otherwise alter, in its sole discretion, a complaint or other pleading with the Authority in a manner consistent with this part.

(5) Act as the prosecutor in enforcement proceedings.

(6) Seek a settlement that may include fines, penalties or other actions or limitations on rights subject to approval by the presiding officer.

(7) Appear at administrative hearings and other proceedings before a presiding officer or the Authority.

(c) *Supervision.* The Office of Trial Counsel will be supervised by the then longest continually appointed trial counsel and will have no reporting obligations to the Director. The supervising trial counsel will report to the General Counsel on administrative matters and otherwise adhere to the requirements in this subchapter.

**§ 1003.76. Conduct.**

(a) Trial counsel representing the Enforcement Department, or an employee involved in the hearing process, may not discuss the case ex parte with a presiding officer assigned to the case, the General Counsel or an attorney assigned to the case by the General Counsel.

(b) A presiding officer, the General Counsel or an attorney assigned to the case by the General Counsel or a member of the Authority may not discuss or exercise a direct supervisory responsibility over any employee with respect to an enforcement hearing with which the employee is involved.

(c) If it becomes necessary for the General Counsel or an attorney appointed by the General Counsel or a member of the Authority to become involved on behalf of the Authority in any formal proceeding, the General Counsel or an attorney appointed by the General Counsel or the member of the Authority involved shall be prohibited from participating in the adjudication of that matter.

## **CHAPTER 1005. FORMAL PROCEEDINGS**

### **Subchapter A. PLEADINGS**

#### **GENERAL PROVISIONS**

##### **§ 1005.1. Pleadings allowed.**

(a) Except as limited by specific provisions of this part, the pleadings in an action before the Authority include the following:

- (1) Application and protest.
- (2) Formal complaint, answer, new matter and reply to new matter.
- (3) Petition and answer.
- (4) Motion and answer.

(b) Pleadings must be typed or printed in 12-point Times New Roman, except that headings may be in bolded 14-point Times New Roman. Pleadings may not be handwritten.

#### **FORMAL COMPLAINTS**

##### **§ 1005.11. Formal complaints generally.**

(a) Formal complaints averring an act done or omitted to be done by a person subject to the jurisdiction of the Authority, in violation, or claimed violation of a statute which the Authority has jurisdiction to administer, or of this part or an order of the Authority, may be filed with the Authority by:

- (1) The Enforcement Department.
- (2) The Office of Trial Counsel.
- (3) The PUC.

(4) Philadelphia law enforcement or licensing officials, as provided under section 5705(b) of the act (relating to contested complaints).

(5) An informal complainant within 30 days of service of a termination letter from the Authority declining further action as provided in §§ 1003.42(c) and 1003.43 (relating to Authority action on informal complaints; and other initiation of formal complaints).

(b) If the complaint relates to a provision in a tariff, regulation, report or other similar document on file with the Authority as a matter of public record, the document should be identified.

(c) A copy of the complaint will be served upon the respondent as follows:

(1) By the Authority in accordance with § 1001.51 (relating to service by the Authority).

(2) By a complainant other than the Authority in accordance with § 1001.52 (relating to service by a party).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.9 (relating to formal complaints generally).

#### **§ 1005.12. Content of formal complaints.**

(a) Except as permitted under § 1005.13 (relating to citation complaints by the Authority), a formal complaint must set forth the following:

(1) The name, mailing address, telephone number, telefacsimile number and electronic mailing address, if applicable, of the complainant.

(2) If the complainant is represented by an attorney, the name, mailing address, telephone number, telefacsimile number and Pennsylvania Supreme Court identification number of the attorney and, if available, the electronic mailing address.

(3) The name, mailing address and certificate or license number of the respondent complained against, if known, and the nature and character of its business.

(4) The interest of the complainant in the subject matter—for example, customer, competitor, and the like.

(5) A clear and concise statement of the act or omission being complained of including the result of any informal complaint or informal investigation.

(6) A clear and concise statement of the relief sought, provided that penalties entered in a proceeding initiated as provided in § 1005.11(a)(4) (relating to formal complaints generally) will be consistent with § 1001.61 (relating to penalties).

(7) Except for a document referenced within § 1005.11(b), a document or the material part thereof, or a copy must be attached when a claim is based upon the document, the material part thereof, or a copy. If the document, the material part thereof, or a copy is not accessible, the complaint must set forth that the document, the material part thereof, or the copy is not accessible and the reason, and set forth the substance of the document or material part thereof.

(b) A verification executed in accordance with § 1001.36 (relating to verification and affidavit) must be attached to the formal complaint.

(c) The complaint must reference the act, the regulation or order and quote the pertinent portions thereof.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.9, 35.10 and 35.14 (relating to formal complaints generally; form and content of formal complaints; and orders to show cause).

**§ 1005.13. Citation complaints by the Authority.**

(a) *Citations.* The Enforcement Department or trial counsel may issue a formal complaint through a form citation for any violation of the act, this part or order of the Authority. The form citation will be filed with the Clerk and include the following relevant information, unless the circumstances of the violation render the information impracticable to obtain at the time of filing:

(1) A unique citation number.

(2) The Authority number issued to the certificate, driver's certificate, registration or other right of the respondent.

(3) If the operation of a motor vehicle is at issue, the following information will be provided, if practicable:

(i) The driver's name.

(ii) The driver's home address.

(iii) The driver's gender.

(iv) The driver's birth date.

(v) The information required under paragraph (4).

(4) If the incident involves a motor vehicle, the following information will be provided, if practicable:

(i) The vehicle's make.

(ii) The vehicle's model.

(iii) The vehicle identification number.

(iv) The vehicle's license plate number and state of issuance.

(v) The vehicle's color.

(vi) The vehicle's dispatcher.

(vii) The vehicle's registered owner.

(viii) Designation of the vehicle's impoundment, if applicable.

- (ix) The vehicle's insurer and the policy number.
- (5) The location of the incident.
- (6) The time and date of the incident.
- (7) The meter number and type, if applicable.
- (8) The section of the act, this part or an order of the Authority alleged to have been violated.
- (9) The penalty sought for the violation.
- (10) The date the citation was issued.
- (11) The issuing officer's name, signature and badge number.

(b) *Answer to citations.* No pleading response to a citation is necessary. Upon receipt of a citation the respondent shall do one of the following:

- (1) Pay the penalty amount identified on the citation within 15 days after the date of service. Payment shall be made as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).
- (2) File a request with the Clerk for a hearing within 15 days after the date of service. A correctly filed request for hearing shall be deemed a denial of each averment made in the citation. Requests for hearings may be made by completing the applicable portion of the citation and serving it upon the Clerk or by appearing at TLD Headquarters and completing a hearing request form.

(c) *Default orders.*

- (1) If payment of a citation is not made or a request for a hearing is not filed as provided in subsection (b), a default order will be issued by the Authority or a presiding officer sustaining the complaint and assessing the penalty, as proposed in the complaint, against the respondent.
- (2) If a respondent fails to appear at a hearing requested under subsection (b), without good cause shown, the Authority or presiding officer, upon review of evidence of service of the Authority's hearing notice upon the respondent, will issue a default order sustaining the complaint and assessing the fine, as proposed in the complaint, against the respondent.

(d) *Hearing.* Hearings conducted under this section will otherwise proceed under this subpart.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code §§ 35.9, 35.10 and 35.14 (relating to formal complaints generally; form and content of formal complaints; and orders to show cause).

**§ 1005.14. Joinder of formal complaints.**

- (a) Two or more complainants may join in one complaint if they are complaining against the same respondent, and if the subject matter and relief sought is substantially the same.
- (b) Subsection (a) supersedes 1 Pa. Code § 35.11 (relating to joinder of formal complaints).



**§ 1005.15. Satisfaction of formal complaints.**

(a) If the respondent satisfies a complaint either before or after a hearing, a statement to that effect signed by the complainant shall be filed with the Clerk setting forth that the complaint has been satisfied and requesting dismissal or withdrawal of the complaint. Except when requested by the parties, the Authority or presiding officer will not be required to render a final order upon the satisfaction of a complaint.

(b) Subsection (a) supersedes 1 Pa. Code § 35.41 (relating to satisfaction of complaints).

**PETITIONS**

**§ 1005.21. Petitions generally.**

(a) Petitions are pleadings that may be filed by the trial counsel, an Authority division, parties, applicants, certificate holders, registrants, drivers and other persons authorized by the Authority. Petitions shall be filed with the Clerk.

(b) Petitions must be in writing, state clearly and concisely the grounds for the petition, the interest of the petitioner in the subject matter, the facts and any legal argument relied upon and the relief sought and otherwise comply with §§ 1001.31—1001.36.

(c) Petitions must conform to § 1001.6 (relating to filing generally) and be served on all persons directly affected.

(d) Subsection (a)—(c) supplement 1 Pa. Code §§ 35.17 and 35.18 (relating to petitions generally; and petitions for issuance, amendment, waiver or deletion of regulations).

**§ 1005.22. Petitions for declaratory orders.**

(a) Petitions for the issuance of a declaratory order to terminate a controversy or remove uncertainty must:

(1) State clearly and concisely the controversy or uncertainty which is the subject of the petition.

(2) Cite the statutory provision or other authority involved.

(3) Include a complete statement of the facts and grounds prompting the petition.

(4) Include a full disclosure of the interest of the petitioner.

(b) The petitioner shall serve a copy of the petition on the Director, General Counsel, all persons directly affected and on other parties who petitioner believes will be affected by the petition. Service shall be evidenced with a certificate of service filed with the petition.

(c) Copies shall also be served in compliance with Authority direction.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.19 (relating to petitions for declaratory orders).

**§ 1005.23. Petitions for issuance, amendment, repeal or waiver of Authority regulations.**

- (a) A petition to the Authority for the issuance, amendment, waiver or repeal of a regulation shall be filed with the Clerk and set forth clearly and concisely the interest of the petitioner in the subject matter, the specific regulation, amendment, waiver or repeal requested, and cite by appropriate reference the statutory provision or other authority involved.
- (b) A petition under this section must set forth the purpose of and the facts claimed to constitute the grounds requiring the regulation, amendment, waiver or repeal.
- (c) In addition to other considerations, the relief sought in a petition under this section will not be granted if the Authority determines that the requested relief is inconsistent with the purposes of the act, will disrupt or harm taxicab or limousine operations in Philadelphia or will adversely affect the public interest.
- (d) A copy of the petition shall be served on all persons directly affected by the petition, the Director, General Counsel, and as otherwise required by the Authority. Service shall be evidenced with a certificate of service filed with the petition.
- (e) A petition for the issuance or amendment of a regulation must incorporate the proposed regulation or amendment.
- (f) A petition for waiver of a regulation will initially be determined by the Director upon submission of documents. The Director's decision is subject to appeal as provided in § 1005.24 (relating to appeals from actions of the staff).
- (g) Subsections (a)—(f) supersede 1 Pa. Code § 35.18 (relating to petitions for issuance, amendment, waiver or deletion of regulations).

**§ 1005.24. Appeals from actions of the staff.**

- (a) Actions taken by staff, other than a presiding officer, under the act, this part or an order of the Authority will be deemed to be the final action of the Authority unless appealed by petition to the Authority within 15 days after service of notice of the action, unless a different time period is specified in this subpart or in the act. This section does not apply to staff decisions related to informal complaints, which must be addressed as provided in § 1003.43 (relating to other initiation of formal complaints).
- (b) An action taken by staff under delegated authority will note the parties' right to appeal the action under this section.
- (c) Petitions for appeal from actions of staff must be filed with the Clerk, served as provided in § 1001.52 (relating to service by a party) and will be assigned to a presiding officer for a recommended decision as provided in §§ 1005.201—1005.204 (relating to recommended decisions).
- (d) Petitions for appeal from actions of the staff must set forth any legal basis upon which the petition is based and aver any material factual disputes related to the staff action necessitating an on the record hearing and otherwise comply with § 1005.21 (relating to petitions generally).
- (e) A party may file an answer to a petition for appeal with the Clerk within 20 days of service, and in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other parties as provide in § 1001.52.
- (f) Subsections (a)—(e) supersede 1 Pa. Code § 35.20 (relating to appeals from actions of the staff).

## INTERVENTION

### § 1005.31. Initiation of intervention.

(a) Participation in a proceeding as an intervenor may be initiated as follows:

(1) By the filing of a notice of intervention by another agency of the Commonwealth which is authorized by statute to participate in the proceeding.

(2) By order of the Authority or presiding officer upon grant of a petition to intervene.

(b) Subsection (a) supersedes 1 Pa. Code § 35.27 (relating to initiation of intervention).

### § 1005.32. Eligibility to intervene.

(a) *Persons.* A petition to intervene may be filed by a person claiming a right to intervene or an interest of a nature that intervention is necessary or appropriate to the administration of the statute under which the proceeding is brought. The right or interest may be one of the following:

(1) A right conferred by statute of the United States or of the Commonwealth.

(2) An interest which may be directly affected and which is not adequately represented by existing participants, and as to which the petitioner may be bound by the action of the Authority in the proceeding.

(3) Another interest of a nature so that participation of the petitioner may be in the public interest.

(b) *Commonwealth.* The Commonwealth or an officer or agency thereof may intervene as of right in a proceeding subject to subsection (a).

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.28 (relating to eligibility to intervene).

### § 1005.33. Form and content of petitions to intervene.

(a) Petitions to intervene must set out clearly and concisely the following:

(1) The facts from which the alleged intervention right or interest of the petitioner can be determined.

(2) The grounds of the proposed intervention.

(3) The petitioner's position regarding the issues in the proceeding.

(b) When the circumstances warrant, petitions to intervene filed on behalf of more than one person may be required to list those persons and entities comprising the represented group.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.29 (relating to form and contents of petitions to intervene).

### § 1005.34. Filing of petitions to intervene.

(a) Petitions to intervene and notices of intervention may be filed with the Clerk at any time following the filing of an application, petition, complaint or other document seeking Authority action, but in no event later than the date fixed for the filing of petitions to intervene or protests in any order or notice with respect to the proceedings published in the *Pennsylvania Bulletin*, unless, in extraordinary circumstances for good cause shown, the Authority or the presiding officer authorizes a late filing. When a person has been permitted to intervene notwithstanding his failure to file his petition within the time prescribed in this section, the Authority or presiding officer may, when the circumstances warrant, permit the waiver under § 1005.149 (relating to copies and form of documentary evidence) with respect to copies of exhibits for the intervenor.

(b) Subsection (a) supersedes 1 Pa. Code § 35.30 (relating to filing of petitions to intervene).

**§ 1005.35. Notice, service and action on petitions to intervene.**

(a) *Notice and service.* Petitions to intervene, when filed with the Clerk, must show service thereof upon all parties to the proceeding in conformity with § 1001.52 (relating to service by a party).

(b) *Action on petitions.* As soon as practicable after the expiration of the time for filing answers to petitions as provided in § 1005.45 (relating to answers to petitions to intervene), the Authority or presiding officer will grant or deny the petition in whole or in part or may, if found to be appropriate, authorize limited participation.

(c) *Rights upon grant of petition.* Admission as an intervenor will not be construed as recognition by the Authority that the intervenor has a direct interest in the proceeding or might be aggrieved by an order of the Authority in the proceeding. Intervenors are granted no rights which survive discontinuance of a case.

(d) *Actions on petitions filed after a hearing has commenced.* Petitions to intervene may not be filed or acted upon during a hearing unless permitted by the Authority or presiding officer after opportunity for all parties to object thereto. Only to avoid detriment to the public interest will any presiding officer tentatively permit participation in a hearing in advance of, and then only subject to, the granting by the Authority of a petition to intervene.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code § 35.31 (relating to notice and action on petitions to intervene).

**§ 1005.36. Limitation of participation in hearings.**

(a) When there are two or more intervenors having substantially like interests and positions, the Authority or presiding officer may, to expedite the hearing, arrange appropriate limitations on the number of attorneys who will be permitted to cross-examine and make and argue motions and objections on behalf of the intervenors.

(b) Subsection (a) supersedes 1 Pa. Code § 35.32 (relating to limitation of participation in hearings).

**ANSWERS**

**§ 1005.41. Answers to complaints, petitions, motions and other filings requiring a response.**

(a) *Time for filing.* Unless a different time is prescribed by statute, the Authority or the presiding officer, answers to complaints, petitions, motions and other filings requiring a response shall be filed with the Clerk and served upon all other parties within 20 days after the date of service.

(b) *Form of answer.* Answers must be in writing and so drawn as fully and completely to advise the parties and the Authority as to the nature of the defense. Answers must admit or deny specifically and in detail each material allegation of the pleading answered, and state clearly and concisely the facts and matters of law relied upon. Answers must be set forth in paragraphs numbered to correspond with the pleading answered and otherwise comply with §§ 1001.31—1001.36.

(c) *Failure to file an answer.* A respondent failing to file an answer within the applicable period may be deemed in default, and relevant facts stated in the pleadings may be deemed admitted.

(d) *Supersession.* Subsections (b)—(c) supersede 1 Pa. Code §§ 35.35 and 35.37 (relating to answers to complaints and petitions; and answers to orders to show cause).

#### **§ 1005.42. Answers seeking affirmative relief or raising new matter.**

(a) *Answers seeking affirmative relief.* In its answer, a respondent may seek relief within the jurisdiction of the Authority against other parties in a proceeding if common questions of law or fact are present. The answer must conform to this chapter for answers generally and set forth:

- (1) The facts constituting the grounds of complaint.
- (2) The provisions of the statutes, rules, regulations or orders relied upon.
- (3) The injury complained of.
- (4) The relief sought.

(b) *Answers raising new matter.* An affirmative defense shall be pleaded in an answer or other responsive pleading under the heading of "New Matter." A party may set forth as new matter another material fact which is not merely a denial of the averments of the preceding pleading.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.38 (relating to respondents seeking affirmative relief).

#### **§ 1005.43. Replies to answers seeking affirmative relief or new matter.**

(a) Unless otherwise ordered by the Authority, replies to answers seeking affirmative relief or to new matter shall be filed with the Clerk and served within 20 days after date of service of the answer, but not later than 5 days prior to the date set for the commencement of the hearing.

(b) Failure to file a timely reply to new matter may be deemed in default, and relevant facts stated in the new matter may be deemed to be admitted.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.39 (relating to replies to respondents seeking affirmative relief).

#### **§ 1005.44. Answers to amendments of pleadings.**

(a) An answer to an amendment, modification or supplement to an application, complaint, petition or other pleading under § 1005.61 (relating to amendments of pleadings generally) shall be filed with the

Clerk within 20 days after the date of service of the amendment, modification or supplement, unless for cause the Authority or presiding officer with or without motion prescribes a different time.

(b) Subsection (a) supersedes 1 Pa. Code § 35.40 (relating to answers to amendments of pleadings).

**§ 1005.45. Answers to petitions to intervene.**

(a) A party may file an answer to a petition to intervene within 20 days of service and, in default thereof, may be deemed to have waived objection to the granting of the petition. Answers shall be served upon all other parties.

(b) Subsection (a) supersedes 1 Pa. Code § 35.36 (relating to answers to petitions to intervene).

**CONSOLIDATION**

**§ 1005.51. Consolidation.**

(a) The Authority or presiding officer, with or without motion, may order proceedings involving a common question of law or fact to be consolidated. The Authority or presiding officer may make orders concerning the conduct of the proceeding as may avoid unnecessary costs or delay.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.45 and 35.122 (relating to consolidation; and consolidation of formal proceedings).

**AMENDMENT AND WITHDRAWAL OF PLEADINGS**

**§ 1005.61. Amendments of pleadings generally.**

(a) *Generally.* A modification of or supplement to an application, complaint, petition or other pleading shall be deemed as an amendment to the pleading, and must comply with the requirements in this chapter relating to the pleading amended.

(b) *Limitation.* An amendment to a pleading may not be filed more than 20 days after the date an answer or other response to the original pleading was due to be filed with the Clerk, unless directed or permitted by the Authority or the presiding officer after opportunity for all parties to be heard thereon.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code § 35.48 (relating to amendments of pleadings generally).

**§ 1005.62. Amendments to conform to the evidence.**

(a) *Amendment by consent.* When the parties introduce issues at a hearing not raised in the pleadings without objection of any party, the issues shall be treated in all respects as if they had been raised in the pleadings.

(b) *Amendment following objection.* If evidence upon new issues is objected to on the ground that it is not within the issues raised by the pleadings, the Authority or the presiding officer may allow the pleadings to be amended and the evidence to be received, when it appears that the presentation of the merits of the proceedings will be served thereby without prejudicing the public interest, the rights of a party and that the omission of the amended information was not calculated to delay the proceedings.

(c) *Continuance following objection.* A continuance may be granted by the Authority or the presiding officer under § 1001.15 (relating to extensions of time and continuances) when necessary to allow the objecting party to address new issues and evidence.

(d) *Notice of amendment.* If an amendment adopted under this section has the effect of broadening the issues in the proceeding, notice of the amendment shall be given in the same manner as notice was given at the commencement of the proceeding and to the same persons who received the notice.

(e) *Supersession.* Subsections (a)—(d) supersede 1 Pa. Code § 35.49 (relating to amendments to conform to the evidence).

### **§ 1005.63. Directed amendments.**

(a) The Authority may at any time, or during a hearing, presiding officers may on their own motion or the motion of a party, direct parties to state their case more fully or in more detail by way of amendment. The amendment shall be reduced to writing and filed within the time fixed by the Authority or the presiding officer.

(b) Subsection (a) supersedes 1 Pa. Code § 35.50 (relating to directed amendments).

### **§ 1005.64. Withdrawal of pleadings in a contested proceeding.**

(a) Except as provided in subsections (b) and (c), a party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Authority or presiding officer and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 20 days of service. After considering the petition, an objection thereto and the public interest, the Authority or presiding officer will determine whether the withdrawal will be permitted.

(b) In an enforcement proceeding initiated by the Authority, trial counsel may withdraw any pleading upon notice to the respondent to be provided under § 1001.51 (relating to service by the Authority).

(c) A protest to an application may be withdrawn by filing a notice of withdrawal directed to the Authority or the presiding officer. The notice must state that the protest is withdrawn and provide the reasons for the withdrawal.

(d) Withdrawal or termination of an uncontested proceeding is governed under § 1001.82 (relating to withdrawal or termination of uncontested matter or proceeding).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.51 (relating to withdrawal of pleadings).

## **MOTIONS**

### **§ 1005.71. Motions.**

(a) *Scope and content.* A request may be made by motion for relief desired, except as may be otherwise expressly provided in this subpart. A motion must set forth the ruling or relief sought, and state the grounds therefore and the statutory or other authority upon which it relies.

(b) *Presentation of motions.* A motion may be made in writing at any time, and a motion made during a hearing may be stated orally upon the record, or the presiding officer may require that an oral motion be

reduced to writing and filed separately. Written motions must contain a notice which states that a responsive pleading shall be filed within 20 days of the date of service of the motion.

(c) *Response to motions.* A party has 20 days from the date of service within which to answer or object to a motion, unless the period of time is otherwise fixed by the Authority or the presiding officer.

(d) *Rulings on motions.*

(1) The Authority or presiding officer will rule upon motions when an immediate ruling is essential in order to proceed with the hearing.

(2) A motion made during the course of hearing, which if granted would otherwise dispose of parties' rights, should be acted upon by the presiding officer prior to taking further testimony if, in the opinion of the presiding officer, the action is warranted.

(3) If a motion involves a question of jurisdiction, the establishment of a prima facie case or standing, the presiding officer may render a final determination with regard to a motion prior to the termination of hearings by issuing an initial or recommended decision.

(e) *Preliminary motions.*

(1) Preliminary motions are available to parties and may be filed in response to a pleading, except the following:

(i) Motions.

(ii) Answers to motions.

(2) Preliminary motions must state specifically the legal and factual grounds relied upon and be limited to the following:

(i) Lack of Authority jurisdiction or improper service of the pleading initiating the proceeding.

(ii) Failure of a pleading to conform to this chapter or the inclusion of scandalous or impertinent matter.

(iii) Insufficient specificity of a pleading.

(iv) Legal insufficiency of a pleading.

(v) Lack of capacity to sue or nonjoinder of a necessary party.

(vi) Pendency of a prior proceeding or agreement for alternative dispute resolution.

(f) *Supersession.* Subsection (a) supersedes 1 Pa. Code § 35.177 (relating to scope and contents of motions). Subsection (b) supersedes 1 Pa. Code § 35.178 (relating to presentation of motions). Subsection (c) supersedes 1 Pa. Code § 35.179 (relating to objections to motions). Subsection (d) supersedes 1 Pa. Code § 35.180 (relating to action on motions). Subsection (e) supersedes 1 Pa. Code §§ 35.54 and 35.55 (relating to motions as to complaints; and motions as to answer).

## **Subchapter B. HEARINGS**



## GENERAL

### § 1005.81. Notice of proceeding; hearing; waiver of hearing.

(a) When notice and hearing are required under the act, publication in the *Pennsylvania Bulletin* of a notice of application or other initial pleading is sufficient to provide notice of the proceeding. Service on interested persons is also sufficient to provide notice. Hearings will be held upon the filing of the pleading, unless waived by the parties.

(b) If the appropriate pleading is not filed within the set period of time, or when the parties have waived hearings, the Authority or presiding officer may dispose of the matter without a hearing upon the basis of the pleadings or submittals and the studies and recommendations of the staff.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.101, 35.103 and 35.121 (relating to waiver of hearing; preliminary notice to Department of Justice; and initiation of hearings).

### § 1005.82. Scheduling of hearing.

(a) A hearing calendar of all matters set for hearing will be maintained by the Clerk and will be in order of assignment as far as practicable. All matters will be heard at TLD Headquarters, unless a different site is designated by the Authority or the presiding officer. The Authority or the presiding officer, in its discretion with or without motion, for cause may at any time with due notice to the parties advance or postpone any proceeding on the hearing calendar.

(b) Hearings will be held before the Authority or presiding officer and all appearances, including staff counsel participating, will be entered upon the record, with a notation on whose behalf each appearance is made. A notation will be made in the record of the names of the members of the staff of the Authority participating, including accountants, and other experts, who are assisting in the investigation of the matter. This subsection supersedes 1 Pa. Code §§ 35.123 and 35.125 (relating to conduct of hearings; and order of procedure).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.102 (relating to hearing calendar).

### § 1005.83. Notice of nonrulemaking proceedings.

(a) The Authority or presiding officer is authorized to schedule prehearing conferences and hearings. Parties will be given reasonable notice of the time and place of the prehearing conference or hearing. In fixing the time and place of conferences and hearings, regard will be given to the convenience and necessity of the parties or their attorneys so far as time and the proper execution of the functions of the Authority permit.

(b) A protestant shall attend the initial hearing or prehearing conference, if one has been scheduled. Failure to attend may result in the dismissal of the protest by the Authority or presiding officer.

(c) Subsection (a) supersedes 1 Pa. Code §§ 35.105 and 35.106 (relating to notice of nonrulemaking proceedings; and contents of notice of nonrulemaking proceedings).

## HEARING CONFERENCES

### § 1005.91. Conferences generally.

Conferences will be scheduled and conducted in accordance with 1 Pa. Code §§ 35.111—35.116 (relating to prehearing conferences).

## **STIPULATIONS**

### **§ 1005.101. Presentation and effect of stipulations.**

(a) Parties may stipulate to relevant matters of fact or the authenticity of relevant documents. The stipulations may be received in evidence at a hearing, and when so received shall be binding on the parties to the stipulation with respect to the matters therein stipulated.

(b) The parties may make stipulations independently of orders or rulings issued under § 1005.91 (relating to conferences generally).

(c) The Authority or presiding officer may disregard in whole or in part a stipulation of facts under this section but may grant further hearing if requested by a party to the stipulation within 15 days after issuance of an Authority order disregarding the stipulation of fact.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.155 (relating to presentation and effect of stipulations).

### **§ 1005.102. Restrictive amendments to applications for rights issued by the Authority.**

(a) Parties to an application for Authority rights may stipulate as to restrictions or modifications to the proposed rights. Stipulations in the form of restrictive amendments or modifications must:

(1) Be in writing.

(2) Explain why the stipulation is in the public interest.

(3) Be signed by each party to the stipulation.

(4) Be submitted to the Manager of Administration for insertion into the document folder.

(b) Restrictive amendments shall be binding on the parties but not on the Authority if it is determined they are not in the public interest. If a restrictive amendment is not accepted by the Authority, it may remand the matter for appropriate proceedings.

## **HEARINGS**

### **§ 1005.111. Order of procedure.**

(a) In a proceeding, the party having the burden of proof shall open and close unless otherwise directed by the presiding officer. In a hearing on investigations and in proceedings which have been consolidated for hearing, the presiding officer may direct who will open and close. Oral rejoinder, if proposed by the party with the burden of proof, shall be completed before any cross-examination of the witness is conducted.

(b) Except when the presiding officer determines that it is necessary to develop a comprehensive evidentiary record, the participation of a person granted the right to intervene in a proceeding will be

limited to the presentation of evidence through the submission of testimony under § 1005.151 (relating to oral examination).

(c) In proceedings when the evidence is peculiarly within the knowledge or control of another party, the order of presentation in subsections (a) and (b) may be varied by the presiding officer.

(d) The presiding officer may direct the order of parties for purposes of cross-examination, subject to § 1005.112(f) (relating to presentation by parties).

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.125 (relating to order of procedure).

**§ 1005.112. Presentation by parties.**

(a) A party has the right of presentation of evidence, cross-examination, objection, motion and argument subject to the limitations of this subpart. The taking of evidence and subsequent proceedings shall proceed with reasonable diligence and with the least practicable delay.

(b) When an objection to the admission or exclusion of evidence before the Authority or the presiding officer is made, the ground relied upon shall be stated briefly. A formal exception is unnecessary and may not be taken to rulings thereon.

(c) The Authority or presiding officer may require or allow a factual statement of the scope of a pleading or the position of a party in the proceeding. Facts admitted on the record by a party or by testimony, exhibits or in writing, need not be further proved.

(d) The Authority or the presiding officer may limit appropriately the number of witnesses who may be heard upon an issue.

(e) A party will not be permitted to introduce evidence during a rebuttal phase which:

(1) Is repetitive.

(2) Should have been included in the party's case-in-chief.

(3) Substantially varies from the party's case-in-chief.

(f) If a party conducts friendly cross-examination of a witness, the presiding officer may permit the other parties a second opportunity to cross-examine after friendly cross-examination is completed. The recross-examination shall be limited to the issues on which there was friendly cross-examination.

(g) Subsections (a)—(f) supersede 1 Pa. Code § 35.126 (relating to presentation by the parties).

**§ 1005.113. Failure to appear, proceed or maintain order in proceedings.**

(a) Except as provided in § 1005.13(c) (relating to citation complaints by the Authority), after being notified, a party who fails to be represented at a scheduled conference or hearing in a proceeding will:

(1) Be deemed to have waived the opportunity to participate in the conference or hearing.

(2) Not be permitted thereafter to reopen the disposition of a matter accomplished at the conference or hearing.

(3) Not be permitted to recall witnesses who were excused from further examination.

(b) Subsection (a) does not apply if the presiding officer determines that the failure to be represented was unavoidable and that the interests of the other parties and of the public would not be prejudiced by permitting the reopening or further examination. Counsel shall be expected to go forward with the examination of witnesses at the hearing under § 1005.111 (relating to order of procedure), or as has been otherwise stipulated or has been directed by the presiding officer.

(c) If the Authority or the presiding officer finds, after notice and opportunity for hearing, that the actions of a party, including an intervenor, in a proceeding obstruct the orderly conduct of the proceeding and are inimical to the public interest, the Authority or the presiding officer may take appropriate action, including dismissal of the complaint, application or petition, if the action is that of complainant, applicant or petitioner.

## **TRANSCRIPT**

### **§ 1005.121. Transcripts generally.**

(a) If required by law, hearings will be stenographically recorded by the Authority's official reporter.

(b) Notwithstanding the review provisions in § 1005.122 (relating to review of testimony), the hearing transcript will be a part of the record and the sole official transcript of the proceeding.

(c) The transcripts will include a verbatim report of the hearings and nothing will be omitted therefrom except as is directed by the presiding officer. Changes in the transcript shall be made as provided in § 1005.123 (relating to transcript corrections).

(d) Subsections (a)—(c) supersede 1 Pa. Code § 35.131 (relating to recording of proceedings).

### **§ 1005.122. Review of testimony.**

(a) In proceedings when testimony was electronically recorded and subsequently transcribed, a party may review the recording to ensure it was transcribed accurately.

(b) Review will not be permitted except upon written request within 20 days after the transcript has been filed with the Authority.

(c) Upon request for review, the Authority or presiding officer will schedule a time and place for the review which shall be open to all parties. The court reporter shall submit the tapes and equipment necessary for the review and shall arrange for the court reporter responsible for transcribing the tapes to be present at the review.

(d) Actual costs associated with making the tapes available for review, including the time of the court reporter, shall be paid by the party requesting review.

(e) Nothing in this section requires the electronic recording of testimony.

### **§ 1005.123. Transcript corrections.**

- (a) A correction in the official transcript may be made only to make it accurately reflect the evidence presented at the hearing and to speak the truth.
- (b) Proposed corrections of a transcript may be submitted by either of the following means:
  - (1) By written stipulation by the parties of record who were present when the transcription was taken.
  - (2) Upon written request of one or more parties of record present when the transcription was taken.
- (c) Proposed corrections shall be filed as follows:
  - (1) Within 10 days after the transcript has been filed with the Clerk.
  - (2) Within 10 days after the electronically recorded testimony has been reviewed.
  - (3) Upon permission of the presiding officer granted prior to the closing of the record.
- (d) Objections or other comments to the proposed corrections shall be filed within 10 days of service of the proposed corrections.
- (e) Proposed corrections and objections or other comments shall be served upon the parties of record present when the original transcription was taken.
- (f) The presiding officer will rule upon a proposed correction of a transcript within 20 days of its receipt. A request for corrections not acted upon within 20 days is deemed to be:
  - (1) Denied if opposed in a timely manner.
  - (2) Granted if unopposed.
- (g) Subsections (a)—(f) supersede 1 Pa. Code § 35.132 (relating to transcript corrections).

**§ 1005.124. Copies of transcripts.**

- (a) A party or other person desiring copies of the transcript may obtain copies from the official reporter upon payment of the fees fixed therefore.
- (b) Subsection (a) supersedes 1 Pa. Code § 35.133 (relating to copies of transcripts).

**Subchapter C. INTERLOCUTORY REVIEW**

**§ 1005.131. Interlocutory review generally.**

Interlocutory review will be conducted in accordance with 1 Pa. Code § 35.190 (relating to appeals to agency head from rulings of presiding officers). For purposes of implementing this section, the agency head is the Board.

**Subchapter D. EVIDENCE AND WITNESSES**

**EVIDENCE**

**§ 1005.141. Admissibility of evidence.**

(a) In oral and documentary proceedings, neither the Authority nor the presiding officer will be bound by technical rules of evidence, and all relevant evidence of reasonably probative value may be received. Reasonable examination and cross-examination will be permitted at all oral hearings.

(b) In the discretion of the Authority or presiding officer, evidence may be excluded if:

(1) It is repetitious or cumulative.

(2) Its probative value is outweighed by:

(i) The danger of unfair prejudice.

(ii) Confusion of the issues.

(iii) Considerations of undue delay or waste of time.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.161 (relating to form and admissibility of evidence).

**§ 1005.142. Admission of evidence.**

(a) The Authority or presiding officer will rule on the admissibility of evidence and otherwise control the reception of evidence so as to confine it to the issues in the proceeding.

(b) For an exhibit to be received into evidence, it will be marked for identification and moved into evidence.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.162 (relating to reception and ruling on evidence).

**§ 1005.143. Control of receipt of evidence.**

(a) The Authority or presiding officer has all necessary authority to control the receipt of evidence, including the following:

(1) Ruling on the admissibility of evidence.

(2) Confining the evidence to the issues in the proceeding and impose, when appropriate:

(i) Limitations on the number of witnesses to be heard.

(ii) Limitations of time and scope for direct and cross-examinations.

(iii) Limitations on the production of further evidence.

(iv) Other necessary limitations.

(b) The Authority or presiding officer will actively employ these powers to direct and focus the proceedings consistent with due process.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.127, 35.162 and 35.163 (relating to limiting number of witnesses; reception and ruling on evidence; and designation of relevant portions of documentary evidence).

**§ 1005.144. Additional evidence.**

(a) At any stage of the hearing or thereafter, the Authority or the presiding officer may call for further admissible evidence upon an issue and require that the evidence be presented by the parties concerned, either at the hearing or at the adjournment thereof. If a hearing has adjourned, the Authority or presiding officer will reconvene the hearing to receive additional evidence. Notice of the intent to reconvene a hearing will be provided to the parties under § 1001.51 (relating to service by the Authority).

(b) Subsection (a) supersedes 1 Pa. Code § 35.128 (relating to additional evidence).

**§ 1005.145. Effect of pleadings.**

(a) Pleadings listed in § 1005.1 (relating to pleadings allowed) will, without further action, be considered as part of the record as pleadings.

(b) Except as provided in subsection (c) and in the case of a noncontested proceeding, a pleading or any part thereof may not be considered as evidence of a fact other than that of filing thereof unless offered and received into evidence.

(c) A fact admitted by a party in an answer, filed under oath, to a numbered allegation in a pleading may be considered as evidence of the fact without the pleading and answer being offered and received into evidence.

(d) Subsections (a) and (b) supersede 1 Pa. Code § 35.125(d) (relating to order of procedure). Subsection (c) supersedes 1 Pa. Code § 35.35 (relating to answers to complaints and petitions).

**§ 1005.146. Public documents.**

(a) A report, decision, opinion or other document or part thereof need not be produced or marked for identification, but may be offered in evidence as a public document by specifying the document or part thereof and where it may be found, if the document is one of the following:

(1) A report or other document on file with the Authority.

(2) An official report, decision, opinion, published scientific or economic statistical data or similar public document which is issued by a governmental department, agency, committee, Authority or similar entity which is shown by the offeror to be reasonably available to the public.

(b) Upon the request of a party and at the direction of the Authority or presiding officer, a party who incorporates by reference a pleading shall provide a copy of the pleading to the party requesting one.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.164, 35.165 and 35.166 (relating to documents on file with agency; public documents; and prepared expert testimony).

**§ 1005.147. Records of other proceedings.**

(a) When a portion of the record in another proceeding before the Authority is offered in evidence and shown to be relevant and material to the instant proceeding, a true copy of the record shall be presented in the form of an exhibit, together with additional copies as provided in § 1005.149 (relating to copies and form of documentary evidence), unless both of the following occur:

(1) The party offering the record agrees to supply, within a period of time specified by the Authority or the presiding officer, the copies at his own expense, if any, when so required.

(2) The portion is specified with particularity so as to be readily identified, and upon motion is admitted into evidence by reference to the records of the other proceedings.

(b) Subsection (a) supersedes 1 Pa. Code § 35.167 (relating to records in other proceedings).

**§ 1005.148. Official and judicial notice of fact.**

(a) Official notice or judicial notice of facts may be taken by the Authority or the presiding officer.

(b) When the decision of the Authority or the presiding officer rests on official notice or judicial notice of a material fact not appearing in the evidence in the record, the parties will be so notified.

(c) Upon notification that facts are about to be or have been noticed, a party adversely affected shall have the opportunity upon timely request to show that the facts are not properly noticed or that alternative facts should be noticed.

(d) The Authority or the presiding officer in its discretion will determine whether written presentations suffice, or whether oral argument, oral evidence or cross-examination is appropriate in the circumstances.

(e) Subsections (a)—(d) supersede 1 Pa. Code § 35.173 (relating to official notice of facts).

**§ 1005.149. Copies and form of documentary evidence.**

(a) Except as otherwise provided in this subpart, when exhibits of a documentary character are offered in evidence, copies shall be furnished to the presiding officer and to the parties present at the hearing, unless the presiding officer otherwise directs. Two copies of each exhibit of documentary character shall be furnished for the use of the Authority unless otherwise directed by the presiding officer.

(b) Whenever practicable, all exhibits of a documentary character received in evidence must be on paper of good quality and so prepared as to be plainly legible and durable, whether printed, typewritten or otherwise reproduced, and conform to Chapter 1001, Subchapter D (relating to documentary filings) whenever practicable.

(c) Subsection (a) supersedes 1 Pa. Code § 35.169 (relating to copies to parties and agency). Subsection (b) supersedes 1 Pa. Code § 35.168 (relating to form and size of documentary evidence).

**WITNESSES**

**§ 1005.151. Oral examination.**

(a) Witnesses shall be examined orally unless the testimony is taken by deposition as permitted by the Authority or presiding officer or the facts are stipulated in the manner provided in § 1005.91 or § 1005.101 (relating to conferences generally; and presentation and effect of stipulations) or the testimony



of expert witnesses is submitted in prepared written form as permitted by the Authority or presiding officer. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(b) Subsection (a) supersedes 1 Pa. Code § 35.137 (relating to oral examination).

#### **§ 1005.152. Written testimony.**

(a) *General.* Use of written testimony in Authority proceedings is encouraged, especially in connection with the testimony of witnesses determined by the Authority or presiding officer to be experts. Written direct testimony is required of expert witnesses testifying in rate cases.

(b) *Use.* The Authority or presiding officer may direct that expert testimony to be given upon direct examination be submitted as prepared written testimony. A reasonable period of time will be allowed to prepare written testimony.

(c) *Rules regarding use.* Written testimony is subject to the same rules of admissibility and cross-examination of the sponsoring witness as if it were presented orally in the usual manner.

(d) *Cross-examination.* Cross-examination of the witness presenting written testimony shall proceed at the hearing at which testimony is authenticated if service of the written testimony is made upon each party of record at least 20 days prior to the hearing, unless the presiding officer for good cause otherwise directs. In a rate proceeding, the presiding officer or the Authority will establish the schedule for the filing and authentication of written testimony, and for cross-examination by other parties.

(e) *Form.* Written testimony must normally be prepared in question and answer form, include a statement of the qualifications of the witness and be accompanied by exhibits to which it relates. A party offering prepared written testimony shall insert line numbers in the left-hand margin on each page. A party should also use a logical and sequential numbering system to identify the written testimony of individual witnesses.

(f) *Service.* Written testimony shall be served upon the presiding officer and parties in the proceeding in accordance with the schedule established by this chapter. At the same time the testimony is served, a certificate of service for the testimony shall be filed with the Clerk.

(g) *Copies.* At the hearing at which the testimony is authenticated, counsel for the witness shall provide two copies of the testimony to the court reporter.

(h) *Supersession.* Subsections (a)—(g) supersede 1 Pa. Code §§ 35.138, 35.150 and 35.166 (relating to expert witnesses; scope and conduct of examination; and prepared expert testimony).

#### **§ 1005.153. Offers of proof.**

(a) An offer of proof may be requested when opposing counsel contends the witness is not competent to testify to the subject matter or that the evidence to be offered is inadmissible. An offer of proof also may be made when the presiding officer has sustained an objection to the admission of testimony or tangible evidence. If the proffered evidence is tangible, it shall be marked for identification and constitute the offer of proof. If the proffered evidence is oral testimony, the offer of proof shall consist of a summary of the evidence which counsel contends would be adduced by the testimony. The presiding officer may also request a statement of the basis for admissibility of the evidence.

(b) Subsection (a) supersedes 1 Pa. Code § 35.190(b) (relating to appeals to agency head from rulings of presiding officers).

## **SUBPOENAS**

### **§ 1005.161. Subpoenas.**

Matters related to subpoenas shall be as provided in 1 Pa. Code § 35.142 (relating to subpoenas).

### **§ 1005.162. Depositions.**

Matters related to depositions shall be as provided in 1 Pa. Code §§ 35.145—35.152 (relating to depositions).

## **CLOSE OF THE RECORD**

### **§ 1005.171. Close of the record.**

- (a) The record will be closed at the conclusion of the hearing unless otherwise directed by the Authority or presiding officer.
- (b) After the record is closed, additional matter may not be relied upon or accepted into the record unless allowed for good cause shown by the Authority or presiding officer upon motion.
- (c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.231 and 35.232 (relating to reopening on application of party; and reopening by presiding officer).

## **Subchapter E. PRESIDING OFFICERS**

### **§ 1005.181. Designation of presiding officer.**

- (a) When evidence is to be taken in a proceeding, either the Authority, a standing presiding officer appointed under § 1003.73(b) (relating to Adjudication Department) or an Authority representative appointed according to law and qualified as provided in § 1005.182 (relating to qualifications) may preside at the hearing.
- (b) Subsection (a) supersedes 1 Pa. Code § 35.185 (relating to designation of presiding officers).

### **§ 1005.182. Qualifications.**

- (a) An authority representative appointed as provided in § 1005.181 (relating to designation of presiding officer) will be one of the following:
  - (1) A member of the Authority.
  - (2) The Director.
  - (3) An attorney admitted to practice law before the Supreme Court of Pennsylvania for at least 7 years prior to the date of designation.

(b) A presiding officer appointed to preside over an enforcement proceeding shall meet the qualifications in subsection (a)(3).

**§ 1005.183. Disqualification of a presiding officer.**

(a) A party may file a motion for disqualification of a presiding officer which shall be accompanied by affidavits alleging personal bias or other disqualification.

(b) A presiding officer may withdraw from a proceeding when deemed disqualified in accordance with law.

(c) A motion for disqualification shall be filed with the Clerk and served on the presiding officer and the parties to the proceeding.

(d) The presiding officer will rule upon a motion for disqualification within 30 days of receipt. Failure to rule upon a motion for disqualification within 30 days of its receipt will be deemed to be a denial of the motion.

(e) The ruling of the presiding officer on a motion for disqualification is subject to the interlocutory appeal procedure in § 1005.131 (relating to interlocutory review generally).

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.186 (relating to disqualification of a presiding officer).

**§ 1005.184. Authority of presiding officer.**

(a) The presiding officer will have the authority, within the powers of the act, this part or an order of the Authority. This authority includes, but is not limited to, the power to exclude irrelevant, immaterial or unduly repetitive evidence, to prevent excessive examination of witnesses, to schedule and impose reasonable limitations on discovery and to otherwise regulate the course of the proceeding.

(b) Upon the conclusion of a proceeding, the presiding officer will have the authority to issue a decision. Each decision of a presiding officer will be considered a recommended decision as provided in § 1005.201 (relating to recommended decisions generally), except as provided in section 5705(a) of the act (relating to contested complaints).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.187 (relating to authority delegated to presiding officers).

**§ 1005.185. Restrictions on duties and activities.**

(a) Presiding officers will not perform duties inconsistent with their duties and responsibilities as such.

(b) Except as required for the disposition of ex parte matters not prohibited by the act, a presiding officer will not consult a person or party on a fact in issue unless upon notice and opportunity for all parties to participate.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.188 (relating to restrictions on duties and activities).

**§ 1005.186. Manner of conduct of hearings.**

- (a) The presiding officer will conduct a fair and impartial hearing and maintain order.
- (b) The presiding officer may note on the record a party's disregard of a ruling. When necessary, the presiding officer may submit a report to the Authority recommending suspension and disbarment of the offending person as provided by § 1001.27 (relating to suspension and disbarment).
- (c) Subsections (a) and (b) supersede 1 Pa. Code § 35.189 (relating to manner of conduct of hearings).

**§ 1005.187. Unavailability of presiding officer.**

- (a) If a presiding officer becomes unavailable, the Adjudication Department's supervising presiding officer may either designate another qualified standing presiding officer to prepare the initial or recommended decision or cause the record to be certified to the Authority for decision.
- (b) Subsection (a) supersedes 1 Pa. Code § 35.203 (relating to unavailability of presiding officer).

**Subchapter F. BRIEFS**

**§ 1005.191. Content and form of briefs.**

- (a) When briefs are required by this part or upon direction of the Authority or presiding officer in a proceeding, the brief must contain the following:
  - (1) A concise statement or counter-statement of the case.
  - (2) Reference to the pages of the record or exhibits where the evidence relied upon by the filing party appears.
  - (3) An argument preceded by a summary. The party with the burden of proof shall, in its main or initial brief, completely address, to the extent possible, every issue raised by the relief sought and the evidence adduced at hearing.
  - (4) A conclusion with requested relief.
- (b) Briefs must also contain the following, if and as directed by the presiding officer:
  - (1) A statement of the questions involved.
  - (2) Proposed findings of fact with references to transcript pages or exhibits where evidence appears, together with proposed conclusions of law.
  - (3) Proposed ordering paragraphs specifically identifying the relief sought.
- (c) Exhibits should not be reproduced in the brief, but may, if desired, be reproduced in an appendix to the brief.
- (d) Briefs of more than 20 pages must contain on their front leaves a table of contents with page references and a table of citations, which may be prepared without pagination.

(e) Briefs must be as concise as possible and, except for briefs in rate cases, be limited to 60 pages in length, unless some other limitation is imposed or allowed by the presiding officer. The length of briefs in rate cases will be controlled by the presiding officer.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.192 (relating to content and form of briefs).

**§ 1005.192. Filing and service of briefs.**

(a) *Service.* Copies shall be served on the parties in accordance with § 1001.57 (relating to number of copies to be served).

(b) *Number of copies.* An original and 12 copies of a brief shall be filed with the Clerk in proceedings before the Authority, with only 3 copies filed in proceedings before a presiding officer.

(c) *Filing of briefs in nonrate proceedings.*

(1) *Initial brief.* An initial brief shall be filed by the party with the burden of proof except as provided by agreement or by direction of the presiding officer.

(2) *Response brief.* A party may file a response brief to the initial brief.

(d) *Filing of briefs in rate proceedings.*

(1) *Main brief.* A main brief may be filed by a party except as provided by agreement or by direction of the presiding officer.

(2) *Reply brief.* A party may file a reply brief to a main brief regardless of whether the party filed a main brief.

(e) *Filing of amicus curiae briefs.* A person interested in the issues involved in an Authority proceeding, although not a party, may, without applying for leave to do so, file amicus curiae briefs with the Clerk in regard to those issues. Unless otherwise ordered, amicus curiae briefs shall be filed and served in the manner and number required and within the time allowed by this section, absent good cause.

(f) *Deadlines.* Initial briefs, main briefs, responsive briefs and reply briefs shall be filed and served within the time fixed by the presiding officer. If no specific times are fixed, initial briefs or main briefs shall be filed and served within 20 days after the date of service of notice of the filing of the transcript and responsive briefs or reply briefs shall be filed within 20 days after date of service of the notice of the filing of the transcript.

(g) *Late-filed briefs.* Briefs not filed and served on or before the dates fixed therefore will not be accepted, except by special permission of the Authority or the presiding officer as permitted under § 1001.15 (relating to extensions of time and continuances).

(h) *Supersession.* Subsections (a)—(g) supersede 1 Pa. Code §§ 35.191 and 35.193 (relating to proceedings in which briefs are to be filed; and filing and service of briefs).

**Subchapter G. RECOMMENDED DECISIONS AND APPEALS**

**RECOMMENDED DECISIONS**

**§ 1005.201. Recommended decisions generally.**

- (a) This subchapter applies only to proceedings referred to a presiding officer for a recommended decision by a provision of this part or order of the Authority.
- (b) The Authority will employ the use of recommended decisions in lieu of proposed reports.

**§ 1005.202. Certification of record without decision.**

- (a) If a proceeding is referred to a presiding officer as provided in § 1005.201 (relating to recommended decisions generally), that officer will normally file a decision. The record will be certified to the Authority without a decision of the presiding officer only as required or allowed by the Authority.
- (b) Subsection (a) supersedes 1 Pa. Code §§ 35.201—35.207 (relating to proposed reports generally).

**§ 1005.203. Appeal hearings.**

In the event a matter is referred to a presiding officer with instructions to conduct hearings to develop an evidentiary record or if the petition for appeal avers a material factual dispute which the presiding officer determines necessitates a hearing, the hearing will be conducted as provided in Subchapter B (relating to hearings).

**§ 1005.204. Briefs and oral argument before presiding officer.**

- (a) In matters which do not require a hearing to develop an evidentiary record, the presiding officer may issue a recommended decision upon review of the petition and answer, if any.
- (b) On the presiding officer's own motion or at the request of a party, the presiding officer may order the filing of briefs in a form consistent with Subchapter F (relating to briefs) on a schedule the presiding officer deems appropriate.
- (c) In the event briefs are filed, on the presiding officer's own motion or at the request of a party the presiding officer may order the presentation of oral argument and impose limits on the argument that are deemed appropriate. When determining the propriety of oral argument the presiding officer will consider the limitations of time, the nature of the proceedings, the complexity or importance of the issues of fact or law involved and the public interest.
- (d) Subsections (a)—(c) supersede 1 Pa. Code § 35.204 (relating to oral argument before presiding officer).

**EXCEPTIONS TO RECOMMENDED DECISIONS**

**§ 1005.211. Exceptions to recommended decisions.**

- (a) Subject to subsection (f), a party may file written exceptions to the recommended decision of a presiding officer with the Clerk within 15 days after the recommended decision is issued, unless some other exception period is provided. Exceptions may not be filed with respect to an interlocutory decision.
- (b) Each exception must be numbered and identify the finding of fact or conclusion of law to which exception is taken and cite relevant pages of the decision. Supporting reasons for the exceptions must follow each specific exception.

(c) The exceptions must be concise. The exceptions and supporting reasons must be limited to 20 pages in length. Statements of reasons supporting exceptions must, insofar as practicable, incorporate by reference and citation, relevant portions of the record and passages in previously filed briefs. A separate brief in support of or in reply to exceptions may not be filed with the Clerk.

(d) An original and 12 copies of the exceptions shall be filed with the Clerk.

(e) Unless otherwise ordered by the Authority, §§ 1001.11 and 1001.54 (relating to date of filing; and date of service) will not be available to extend the time periods for filing exceptions.

(f) A presiding officer's decision related to an enforcement proceeding will not be subject to exception or administrative appeal, except as provided in section 5705(a) of the act (relating to contested complaints).

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.211 and 35.212 (relating to procedure to except to proposed report; and content and form of briefs on exceptions).

#### **§ 1005.212. Replies.**

(a) A party has the right to file a reply to an exception in proceedings before the Authority. Unless otherwise directed by the Authority or presiding officer, a reply shall be filed within 10 days of the date that an exception is filed and be limited to 20 pages in length and in paragraph form. A reply must be concise and incorporate by reference relevant passages in previously filed briefs. A reply may not raise new arguments or issues, but be limited to responding to the arguments or issues in the exception.

(b) Unless otherwise ordered by the Authority, §§ 1001.11 and 1001.54 (relating to date of filing; and date of service) will not be available to extend the time periods for filing replies to an exception.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.211 (relating to procedure to except to proposed report).

#### **§ 1005.213. Final orders and effect of failure to file exceptions.**

(a) *Enforcement proceedings.* A presiding officer's decision related to an enforcement proceeding will become a final order or adjudication of the Authority as provided in section 5705(a) of the act (relating to contested complaints).

(b) *Other proceedings.* If no exceptions are filed in a proceeding included within § 1005.211(a) (relating to exceptions to recommended decisions), the decision of the presiding officer will become a final order or adjudication of the Authority without further Authority action unless, within 15 days after the decision is issued, two or more members of the Authority request that the General Counsel schedule the decision for Authority review. Authority action on exceptions will be a final order or adjudication.

(c) *Supersession.* Subsections (a) and (b) supersede 1 Pa. Code §§ 35.213 and 35.226 (relating to effect of failure to except to proposed report; and final orders).

#### **§ 1005.214. Oral argument before the Authority.**

(a) In a case brought to the Authority by the filing of an exception or appeal, a request for oral argument before the Authority shall be filed in writing together with the appeal.

(b) In a case where exceptions are filed under § 1005.211 (relating to exceptions to recommended decisions), a request for oral argument before the Authority shall be filed in writing together with exceptions to the recommended decision or a reply.

(c) In a case where a recommended decision will not be issued, a request for oral argument before the Authority shall be filed in writing together with the initial or responding brief.

(d) If oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the briefs.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.214 and 35.221 (relating to oral argument on exceptions; and briefs and oral argument in absence of proposed report).

**§ 1005.215. Withdrawal of appeals.**

(a) The filing of exceptions to a recommended decision will be deemed to be an appeal to the Authority of the recommended decision and is subject to review by the Authority.

(b) An appeal to the Authority may be withdrawn at any time. If the presiding officer's previous decision is not otherwise subject to Authority review, it becomes final and effective upon the filing of a notice of withdrawal.

**Subchapter H. REOPENING, RECONSIDERATION AND REHEARING**

**§ 1005.221. Reopening prior to a final decision.**

(a) At any time after the record is closed but before a final decision is issued, a party may file a petition to reopen the proceeding for the purpose of taking additional evidence.

(b) A petition to reopen must set forth clearly the facts claimed to constitute grounds requiring reopening of the proceeding, including material changes of fact or of law alleged to have occurred since the conclusion of the hearing.

(c) Within 10 days following the service of the petition, another party may file an answer thereto.

(d) The record may be reopened upon notification to the parties in a proceeding for the reception of further evidence if there is reason to believe that conditions of fact or of law have so changed as to require, or that the public interest requires, the reopening of the proceeding.

(1) The presiding officer may reopen the record if the presiding officer has not issued a decision or has not certified the record to the Authority.

(2) The Authority may reopen the record after the presiding officer has issued a decision or certified the record to the Authority.

(e) Subsections (a)—(e) supersede 1 Pa. Code §§ 35.231—35.233 (relating to reopening of record).

**§ 1005.222. Petitions for relief.**

(a) Petitions for rehearing, reargument, reconsideration, clarification, rescission, amendment, supersedeas or the like must be in writing and specify, in numbered paragraphs, the findings or orders involved, and



the points relied upon by petitioner, with appropriate record references and specific requests for the findings or orders desired.

(b) A copy of every petition covered under subsection (a) shall be served upon each party to the proceeding.

(c) Petitions for reconsideration, rehearing, reargument, clarification, supersedeas or others shall be filed within 10 days after the Authority order involved is entered or otherwise becomes final.

(d) Answers to a petition covered under subsection (a) shall be filed and served within 10 days after service of a petition.

(e) The filing of a petition as provided in this section will not act to toll any period of appeal related to judicial review of an Authority action. The expiration of a period of appeal without action by the Authority will be deemed a denial of the petition by the Authority.

(f) Subsections (a)—(e) supersede 1 Pa. Code § 35.241 (relating to application for rehearing or reconsideration).

### **Subchapter I. REPORTS OF COMPLIANCE**

#### **§ 1005.231. Reports of compliance.**

(a) A person subject to the jurisdiction of the Authority who is required to do or perform an act by an Authority order, certificate, registration, driver's certificate or other right shall file with the Director a notice stating that the requirement has or has not been met or complied with.

(b) The notice shall be filed within 30 days following the date when the requirement becomes effective, unless the Authority, by regulation, by order or by making specific provision thereof in the certificate, registration, driver's certificate or other right provides otherwise for compliance or proof of compliance. The notice shall be accompanied by a verification in accordance with § 1001.36 (relating to verification and affidavit).

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.251 (relating to reports of compliance).

#### **§ 1005.232. Compliance with orders prescribing rates.**

(a) When the Authority makes a final decision concerning a rate filing and permits or requires the adoption of rates other than the rates originally filed, the certificate holder affected shall file, within 20 days of entry of the final order, a tariff revision consistent with the Authority's decision together with a proof of revenues and supporting calculations. The certificate holder shall simultaneously serve copies of the tariff revision, along with the proof of revenues and supporting calculations, on the parties in the proceeding. A utility may also be required to provide an electronic, red-lined copy of any filing made to assist the parties in promptly identifying and analyzing the filing.

(b) Unless otherwise specified in the order, the tariff revision shall be effective upon statutory notice to the Authority and to the public and, whether made effective on statutory notice or under authority granted in the order, shall bear under the effective date on the title page the following notation:

"Filed in compliance with the order of Philadelphia Parking Authority, entered \_\_\_\_\_ □2□ \_\_\_\_ □(date) at \_\_\_\_ □:□ \_\_\_\_ □(time)."

(c) Exceptions to a tariff revision under this section may be filed by a party to the proceeding within 10 days of the date of service of the compliance filing, and must be strictly limited in scope to the factual issue of alleged deviation from requirements of the Authority order. The utility making the compliance filing may respond to exceptions within 5 days. Further pleadings will not be permitted.

(d) Rates contained in a tariff revision filed in compliance with an Authority order may not be imposed prior to entry of a subsequent order by the Authority approving the compliance filing. Notwithstanding the filing of an exception, the Authority may allow the compliance rates to become effective.

## **Subchapter J. APPEALS TO COURT**

### **§ 1005.241. Notice of taking appeal.**

When an appeal is taken from an order of the Authority to the Commonwealth Court, the appellant shall immediately give notice of the appeal to all parties to the Authority proceeding, the Clerk and the General Counsel, as provided under § 1001.52 (relating to service by a party).

### **§ 1005.242. Preparation and certification of records.**

A record will not be certified as complete until copies of exhibits or other papers have been furnished when necessary to complete the Authority file. Copies will be requested by the Authority.

### **§ 1005.243. Certification of interlocutory orders.**

(a) When the Authority has made an order which is not a final order, a party may by motion request that the Authority find, and include the findings in the order by amendment, that the order involves a controlling question of law as to which there is a substantial ground for difference of opinion and that an immediate appeal to Commonwealth Court from the order may materially advance the ultimate termination of the matter. The motion shall be filed within 10 days after service of the order, and is procedurally governed under § 1005.71 (relating to motions). Unless the Authority acts within 30 days after the filing of the motion, the motion will be deemed denied.

(b) Neither the filing of a motion under subsection (a), nor the adoption of an amended order containing the requested finding, will stay a proceeding unless otherwise ordered by the Authority or Commonwealth Court.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.225 (relating to interlocutory orders).

## **Subpart B. TAXICABS**

### **CHAPTER 1011. GENERAL PROVISIONS**

#### **§ 1011.1. Purpose.**

This subpart establishes and prescribes Authority regulations and procedures for taxicab service in Philadelphia.

#### **§ 1011.2. Definitions.**

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

*Controlling interest*—

(i) A controlling interest is an interest in a legal entity, applicant or certificate holder if a person's voting rights under state law or corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the corporation, partnership, limited liability company or other form of legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence. A member, partner, director or officer of a corporation, partnership, limited liability company or other form of legal entity is deemed to have a controlling interest.

(ii) A person who owns or beneficially holds less than 5% of the securities of a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity shall be deemed as having rebutted the presumption of control by clear and convincing evidence.

*Dispatcher's certificate*—A certificate issued by the Authority to a dispatcher.

*Driver history report*—A driver's license report containing details about a driver's history including accidents and violations issued by a jurisdiction within the United States.

*Driver's license*—A license or permit to operate a motor vehicle issued by the Department of Transportation or similarly authorized government entity in another jurisdiction of the United States.

*Federal Tax Identification number*—The Social Security number of an individual or the Employer Identification number of a business entity, fiduciary or other person.

*Holding company*—A person, other than an individual, which, directly or indirectly, owns, has the power or right to control or to vote 20% or more of the outstanding voting securities of a corporation or other form of business organization. A holding company indirectly has, holds or owns the power, right or security if it does so through an interest in a subsidiary or successive subsidiaries.

*Inspector*—Enforcement Department uniformed or nonuniformed staff assigned to investigate and enforce the act, this part and orders of the Authority who will be identifiable by an Authority issued badge number.

*Key employee*—An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that affect the operations of an applicant or a regulated person.

*Limousine certificate*—A certificate granting the owner the right to operate a class of limousine service as provided in Subpart C (relating to limousines).

*Medallion*—A piece of metal in a shape and with a color to be determined by the Authority which is to be affixed to a vehicle by Authority staff before that vehicle may provide citywide taxicab service.

*Medallion lienholder*—A person holding a recorded lien against a medallion as provided under section 5713 of the act (relating to property and licensing rights) and § 1013.21 (relating to notice of medallion lien).

*Medallion number*—The number assigned to and placed on a particular medallion by the Authority, under § 1017.14 (relating to taxicab numbering).

*Medallion taxicab*—A taxicab certified by the Authority to provide citywide taxicab service and affixed with a medallion by the Authority as provided in § 1013.2 (relating to attachment of a medallion) and section 5714(a) of the act (relating to certificate and medallion required).

*Medallion taxicab certificate*—A certificate granting the owner the right to operate one or more medallion taxicabs under this part.

*Moving violations*—Any debt owed to the Commonwealth or one of its political subdivisions for violations of 75 Pa.C.S. (relating to Vehicle Code) that is not under appeal.

*Parking violations*—Any debt owed to the City of Philadelphia related to a violation of the Philadelphia Traffic Code (12 Phila. Code §§ 100—3012) that is not under appeal.

*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) of the act (relating to power of authority to issue certificates of public convenience) and 5714(d)(2) of the act.

*Partial-rights taxicab certificate*—A certificate granting the owner the right to operate one or more partial-rights taxicabs under this part.

*Proposed buyer*—The party seeking to acquire an ownership interest in a medallion or certificate, as the context provides.

*Transfer fee*—The nonrefundable fee charged by the Authority to review an application to sell transferable rights.

### **§ 1011.3. Annual rights renewal process.**

(a) *Expiration of certificate.* All rights will expire annually, including the following:

- (1) Except as provided in subsection (f), a certificate will expire on June 30 of each year.
- (2) A taxicab driver's certificate will expire 1 year from its date of issuance or renewal.
- (3) Except as provided in subsection (f), a broker registration will expire on June 30 of each year.

(b) *Expired rights.*

- (1) Expired rights will be placed out of service by the Authority as provided in § 1003.32 (relating to out of service designation).
- (2) Taxicab driver certificates that have been expired for 1 year or more will be deemed cancelled.

(c) *Renewal forms.*

(1) Rights issued by the Authority shall be renewed by completing and filing the required renewal form with the Manager of Administration. Renewal forms may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld) or from TLD Headquarters.

(2) The renewal forms may require the submission of additional information or documents to confirm continuing eligibility under the act or this part.

(3) The renewal forms must be verified as provided in § 1001.36 (relating to verification and affidavit) and filed as follows:

(i) For medallion taxicab certificates, Form TX-1 "Medallion Renewal" shall be filed on or before February 15 of each year.

(ii) For partial-rights taxicab certificates, Form PR-1 "Partial Rights Renewal" shall be filed on or before February 15 of each year.

(iii) For dispatcher certificates, Form DSP-6 "Dispatcher Renewal" shall be filed on or before February 15 of each year.

(iv) For taxicab drivers' certificates, Form DR-3 "Driver Renewal" shall be filed between 60 and 90 days before the expiration date printed on the taxicab driver's certificate.

(v) For broker registrations, a Form BR-4 "Broker Renewal" shall be filed on or before February 15 of each year.

(d) *Renewal denial.* The Authority will deny renewal of rights in the following circumstances:

(1) If the owner of the rights subject to renewal fails to complete the renewal process.

(2) The renewal process reveals information about the renewing person or those with a controlling interest in the renewing person that would have resulted in a denial of an initial application for the rights.

(3) The renewing person fails to comply with § 1011.4 (relating to annual assessments and renewal fees).

(e) *Suspended rights.* Rights subject to suspension for any reason must be renewed on the dates and in the manner provided by this section regardless of the suspended status.

(f) *New certificates and registrations.* A certificate or broker registration will not be subject to the renewal requirements in this section during the calendar year in which it is first issued.

#### **§ 1011.4. Annual assessments and renewal fees.**

(a) *Assessments and renewal fees.* The owners of rights issued by the Authority shall pay an annual assessment or renewal fee in an amount established each year under section 5707(b) of the act (relating to budget and fees) and as set forth in the Authority's annual fee schedule as provided in § 1001.43 (relating to Authority fee schedule).

(b) *Payment of assessments by certificate holders.* Except as provided in subsection (c), the annual assessment for certificate holders is due on or before June 15 of each year.

(c) *Installment payments.* Upon request by a taxicab certificate holder through the annual renewal form required under § 1011.3 (relating to annual rights renewal process), the Director may permit certificate holders to pay the assessment in two equal installments on or before June 15 and December 15 of each year, as limited under subsections (d) and (e).

(d) *Assessment payment by appointment.*

(1) In person appointments to make installment payments for annual assessments may be scheduled by the Director any time after the renewal form is filed. The Director may reschedule appointment times to accommodate the availability of the certificate holder. Notice of appointment times will be provided at least 10 days in advance and as provided in § 1001.51 (relating to service by the Authority).

(2) The scheduled appointment will become the new due date for the installment assessment payment.

(3) The Authority will provide notice of assessment payment appointments as provided in § 1001.51.

(e) *Eligibility.* A certificate will be ineligible for assessment installment payments if the certificate holder or any person having a controlling interest in the certificate holder has done any of the following in the previous 2 years:

(1) Failed to pay an assessment to the Authority on schedule.

(2) Failed to begin and complete the annual rights renewal process on schedule.

(3) Been subject to suspension or cancellation of any rights issued by the Authority under the act, this part or an order of the Authority.

(f) *Payment of renewal fees by taxicab drivers.* The annual renewal fee for taxicab drivers is due with the filing of the DR-3 as provided in § 1011.3(c)(3)(iv) (relating to annual rights renewal process).

(g) *Payment of renewal fees by brokers.* The annual renewal fee for brokers is due with the filing of the BR-4 as provided in § 1011.3(c)(3)(v).

(h) *Late assessment or renewal fee payments.*

(1) An installment assessment payment will be considered late if not paid at the appointed time and date for payment.

(2) Rights issued by the Authority may be placed out of service at the time an assessment or renewal fee payment becomes late, as provided in § 1003.32 (relating to out of service designation).

#### **§ 1011.5. Ineligibility due to conviction or arrest.**

(a) Except as provided in subsection (e), a person is ineligible to own any interest in any right issued by the Authority if the person, or a person having a controlling interest in the person or a key employee, has been subject to a conviction as defined in § 1001.10 (relating to definitions) in the past 5 years and for 6 months from the date the convicted person completes the sentence imposed, including incarceration, probation, parole and other forms of supervised release.

(b) In the event a regulated party owning a transferable right becomes ineligible to hold rights issued by the Authority due to a conviction, the regulated party shall immediately cease use of the rights and initiate

the sale of the rights to an eligible person as provided in Chapter 1027 (relating to sale of rights) within 180 days of the conviction.

(c) A regulated party or applicant shall inform the Director within 72 hours of being subject to an arrest or conviction as defined under § 1001.10.

(d) In the event a criminal prosecution is initiated against a regulated party for a crime that may lead to a conviction as defined in § 1001.10, the Enforcement Department or trial counsel may place the subject rights out of service as provided in § 1003.32 (relating to out of service designation).

(e) A person subject to an order of Accelerated Rehabilitative Disposition shall be ineligible to own any interest in any right issued by the Authority until the terms of the order have been completed.

(f) Upon consideration of a petition seeking a waiver related to this section, as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal or waiver of Authority regulations), the Authority will also consider:

- (1) The nature of the petitioner's duties subject to the act.
- (2) The nature and seriousness of the offense or conduct.
- (3) The circumstances under which the offense or conduct occurred.
- (4) The age of the petitioner when the offense or conduct was committed.
- (5) Whether the offense or conduct was an isolated or a repeated incident.
- (6) Evidence of rehabilitation, including good conduct in the community.
- (7) Counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the petitioner.

**§ 1011.6. Fleet program.**

(a) The Authority will maintain a fleet program to assist taxicab certificate holders with the process of accurately transferring liability for Philadelphia parking violations from the owner of the vehicle to the driver of the vehicle when the parking violation was issued.

(b) Each taxicab certificate holder engaged in the leasing of a taxicab to a taxicab driver shall enroll in the Authority's fleet program. Information related to enrollment and an enrollment application may be obtained from the Authority at [www.philapark.org/tld](http://www.philapark.org/tld).

**§ 1011.7. Payment of outstanding fines, fees and penalties.**

(a) Regulated persons and applicants for any right issued by the Authority shall pay all assessments, fees, penalties and other payments due to the Authority under the act, this part or an order of the Authority on schedule, unless the matter related to the payment is under appeal.

(b) Regulated persons and applicants for any right issued by the Authority shall remain current on the payment of parking violations and moving violations, unless the violation is under appeal.

(c) For purposes of this section, regulated persons and applicants include those with a controlling interest in the regulated person or applicant, or both.

**§ 1011.8. Facility inspections.**

(a) Inspectors may enter upon the premises of taxicab certificate holders where taxicabs are parked, stored or maintained during ordinary business hours to inspect vehicles or records, or both, associated with the operation of taxicabs in Philadelphia, including inspection reports and lease agreements between the certificate holder and another regulated party.

(b) Inspectors may enter upon the premises of dispatchers used to dispatch taxicabs in Philadelphia, during ordinary business hours, to inspect dispatching equipment or records, or both, to assure that the dispatcher's equipment and procedures comply with the act and Chapter 1019 (relating to dispatchers).

(c) Inspectors may enter upon the premises of brokers during ordinary business hours to review records related to either completed or pending transfers filed with the Authority as provided in § 1027.6 (relating to application for sale of transferable rights) to assure compliance with the act and Chapter 1029 (relating to brokers).

**§ 1011.9. Taxicab service limitations.**

(a) Only the following individuals may provide taxicab service:

- (1) The owner, if the owner is a taxicab driver.
- (2) An employee of the certificate holder who is a taxicab driver.
- (3) A taxicab driver who leases the taxicab directly from the certificate holder.

(b) A certificate holder shall supervise its taxicab to make certain that only those taxicab drivers authorized by this section provide taxicab service.

**§ 1011.10. Discrimination in service.**

A regulated person may not refuse service to a member of the public on the basis of gender, sexual orientation, race, religious preference, nationality, age, point of origin, point of destination or to a person with a disability.

**§ 1011.11. Record retention.**

(a) The following records shall be maintained in the English language for 2 years from the date of origin:

(1) *Taxicab certificate holders.*

(i) Each lease agreement for a taxicab or medallion, or both.

(ii) Records of payment by a driver under each lease agreement for a taxicab or medallion, or both.

(iii) Records related to accidents involving vehicles used as taxicabs, including repair records.



(iv) Trip sheets or service logs used by a certificate holder's drivers when the certificate holder is exempted from the standard meter requirements in this subpart under § 1017.24(e) (relating to meter activation and display).

(2) *Dispatchers.*

(i) Records of dues paid by taxicab certificate holders or drivers for dispatching services.

(ii) Prior lists of associated taxicabs.

(iii) Prior rule books or other terms of participation applicable to taxicab certificate holders or drivers that are associated with the dispatcher.

(3) *Brokers.* Brokers shall retain documents submitted to the Authority for review of each proposed sale of rights, including closing documents

(b) Paper or electronic records, or both, shall be maintained in chronological order by date and time of day.

(c) A regulated party shall produce records maintained under subsection (a) to the Authority upon written request or upon inspection as provided in § 1011.8 (relating to facility inspections). In the event the records require a special form of software to search or interpret, a regulated party shall make that software available to the Authority.

**§ 1011.12. Aiding or abetting violations.**

A person may not aid, abet, encourage or require a regulated party to violate the act, this part or an order of the Authority.

**§ 1011.13. Interruptions of service.**

(a) A discontinuance in the provision of taxicab service for 5 or more days shall be reported by the certificate holder to the Manager of Enforcement within 7 days of the discontinuation of service. The written report must include the cause of interruption and its probable duration and may be forwarded by email.

(b) A discontinuance in the provision of dispatcher service for 2 or more hours shall be reported by the certificate holder to the Manager of Enforcement in writing within 5 hours of the beginning of the discontinuation of service. The written report must include the cause of interruption and its probable duration and may be forwarded by email.

**§ 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).

(b) A partial-rights taxicab certificate or dispatcher certificate may not be placed in voluntary suspended status for more than 1 year.

(c) A medallion taxicab certificate or individual medallion may not be placed in a voluntarily suspended status for more than 6 months.

(d) The Authority will not grant an application for voluntary suspension if the approval will result in a reduction of five percent or more of the aggregate number of authorized medallion taxicabs in Philadelphia.

(e) To request approval from the Authority for the voluntary suspension of a certificate, the certificate holder shall file a completed CPC-1 "Voluntary Suspension Application" with the Director and pay the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The CPC-1 may be obtained at [www.philapark.org/tld](http://www.philapark.org/tld).

(f) Before a CPC-1 is granted, a certificate holder shall be in compliance with § 1011.7 (relating to payment of outstanding fines, fees and penalties) and pay the entire Authority assessment that will come due during the proposed period of voluntary suspension.

**§ 1011.15. Death or incapacitation of a certificate holder or certain persons with controlling interest.**

(a) *Definitions.* The following word, when used in this section, has the following meanings, unless the context indicates otherwise:

*Incapacitation*—A determination by a court that an individual is incapacitated as provided in 20 Pa.C.S. § 5511 (relating to petition and hearing; independent evaluation) or, for non-Pennsylvania residents, a substantially similar order from a court of competent jurisdiction.

(b) *Death or incapacitation of an individual certificate holder.*

(1) Upon the death or incapacitation of an individual certificate holder, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for 6 months.

(2) The legal representative of the deceased or incapacitated certificate holder shall immediately begin the process of finding a qualified person to buy the certificate as provided in Chapter 1027 (relating to sale of rights), including the use of a broker or attorney. Nothing in this section prohibits the legal representative from buying the certificate.

(3) In the event an SA-1 for the certificate is not correctly filed, as provided in § 1027.6 (relating to application for sale of transferable rights), within 90 days of the date the certificate holder died or was declared incapacitated, the certificate will be placed out of service as provided in § 1003.32 (relating to out of service designation) and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or trial counsel.

(4) In the event an SA-1 for the certificate is correctly filed within 90 days of the date the certificate holder died or was declared incapacitated, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for the duration of the SA-1 review period and through closing on the sale.

(c) *Death, incapacitation or dissolution of certain persons with controlling interest in a certificate.*

(1) Upon the death, incapacitation or dissolution of a person that owns 5% or more of the certificate holder's securities, the rights conferred by the certificate shall continue with the certificate holder for 3 months.

(2) The certificate holder shall immediately begin the process of finding a qualified person to buy the securities of the certificate holder referenced in paragraph (1) as provided in Chapter 1027, including the use of a broker or attorney. Nothing in this section will prohibit the certificate holder from acquiring the securities of the person referenced in paragraph (1).

(3) In the event an SA-1 for the sale of the securities referenced in paragraph (1) is not correctly filed as provided in § 1027.5 (relating to agreement of sale) within 6 months of the date of the person's death, incapacitation or dissolution, the certificate will be placed out of service as provided in § 1003.32 and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or trial counsel.

(4) In the event an SA-1 for the sale of the securities referenced in paragraph (1) is correctly filed, as provided in § 1027.6, within 6 months of the date of the person's death, incapacitation or dissolution, the rights conferred by the certificate shall continue for the duration of the SA-1 review period and through closing on the sale.

(d) *Ineligibility of successor or legal representative.* This section may not be interpreted to permit the operation or use of Authority rights by a person otherwise prohibited from the ability to receive Authority rights. For example, the executor of the estate on a deceased individual certificate holder who would be ineligible to possess Authority rights as provided in § 1011.5 (relating to ineligibility due to conviction or arrest) may not operate or supervise the operation of the rights conferred by the certificate.

#### **§ 1011.16. Power of successors by law.**

(a) If a trustee, receiver, assignee, custodian or similar officer or officers is appointed by a court of competent jurisdiction, or is selected by creditors in accordance with provisions of law, with authority to take or retain possession and to operate the property and business of a certificate holder, the officer shall have authority to perform the service authorized in the certificate of the debtor certificate holder for 90 days from his appointment or selection.

(b) The appointed officer may petition the Authority for authorization to exercise the rights conferred by the certificate for an additional period of time, and the Authority may, for good cause shown, grant authority.

(c) If the petition is filed within 60 days of the appointment or selection of the petitioner, the appointed officer shall have authority to exercise the rights conferred by the certificate pending a decision by the Authority on the petition. Pertinent orders or decrees of the court having jurisdiction may be deemed cause for the granting of petitions by the Authority.

#### **§ 1011.17. Limitations.**

Operations covered under §§ 1011.15 and 1011.16 (relating to death or incapacitation of a certificate holder or certain persons with controlling interest; and power of successors by law) are subject to the terms and conditions of the certificate of public convenience and may not be conducted without full compliance with the act, this part or an order of the Authority, including insurance coverage.

#### **§ 1011.18. Application review generally.**

Application for rights required by this subpart will be reviewed as provided in § 1003.51 (relating to applications generally).

**§ 1011.19. Exclusive service.**

Taxicabs may transport persons on request on an exclusive basis.

**§ 1011.20. Service in unauthorized territory.**

Taxicab service between points outside authorized territory may not be validated by the subterfuge of routing the taxicab through authorized territory. A certificate holder or taxicab driver may not attempt to evade operating rights restrictions by encouraging or causing the passengers to make a theoretical or actual fare-paying break in a trip by routing it through authorized territory.

**CHAPTER 1013. MEDALLION TAXICABS**

**Subchapter A. GENERAL REQUIREMENTS**

**§ 1013.1. Certificate and medallion required.**

A vehicle may not provide citywide taxicab service unless a current and valid certificate is issued by the Authority to the owner of the vehicle and the medallion assigned to that certificate is attached to the vehicle.

**§ 1013.2. Attachment of a medallion.**

Only the Enforcement Department may attach a medallion to a vehicle. Prior to attaching the medallion, the Authority will inspect the vehicle, as provided in § 1017.2 (relating to preservice inspection).

**§ 1013.3. Removal of a medallion.**

(a) A medallion may only be removed from a vehicle by the Authority, or upon advance written approval from the Authority, by the medallion owner.

(b) Upon removal from a vehicle, the medallion will be held by the Authority for safe keeping until attachment of the medallion is scheduled with the Authority as provided in § 1013.2 (relating to attachment of a medallion). If removed by the medallion owner, the medallion shall be delivered to the Authority within 2 business days after removal.

**§ 1013.4. Medallion renewal.**

(a) A medallion must clearly display the calendar year or years in which it is valid.

(b) The Authority will schedule each medallion taxicab then in compliance with the act, this part and all orders of the Authority to have its expiring medallion removed and a new medallion attached before December 31 of the year preceding the earliest year displayed on the new medallion.

**Subchapter B. LIENS ON MEDALLIONS**

**§ 1013.21. Notice of medallion lien.**

A person who accepts a medallion as security shall file its lien in accordance with 13 Pa.C.S. (relating to Uniform Commercial Code). No notice or filing with the Authority of medallion liens is required.

**§ 1013.22. Execution on and seizure of a medallion.**

(a) If a medallion lienholder executes on or seizes a medallion, it shall notify the Director of all particulars, in writing, within 5 days of taking the action. Any seized medallion shall be delivered to the Authority within 5 days of seizure and will be held by the Authority pending further disposition.

(b) A medallion shall be sold within 1 year of seizure or execution as provided in sections 5713 and 5718 of the act (relating to property and licensing rights; and restrictions) and Chapter 1027 (relating to sale of rights).

**§ 1013.23. Invalidation upon execution or seizure.**

(a) The execution or seizure of a medallion invalidates the medallion for purposes of providing taxicab service.

(b) Upon reclaiming a medallion from execution or seizure, a certificate holder shall petition the Director for an order reversing the invalidation imposed by this section. The petition shall be filed with the Clerk and be in a form consistent with § 1005.21 (relating to petitions generally).

(c) The petition for validation of a medallion shall be granted by the Director upon determination that the certificate holder and the relevant medallion are in compliance with the act, this part and all orders of the Authority.

(d) Determinations of the Director may be appealed as provided in § 1005.24 (relating to appeals from actions of the staff).

**CHAPTER 1015. PARTIAL RIGHTS TAXICABS**

**§ 1015.1. Purpose.**

This chapter establishes and prescribes certain Authority regulations and procedures for partial-rights taxicab service in Philadelphia.

**§ 1015.2. Certificate required.**

(a) A partial-rights taxicab may not provide taxicab service in Philadelphia unless certificated by the Authority.

(b) Each vehicle operated as a partial-rights taxicab shall be registered with the Department of Transportation in the name of the owner of the partial-rights certificate.

**CHAPTER 1017. VEHICLE AND EQUIPMENT REQUIREMENTS**

**Subchapter A. GENERAL PROVISIONS**

**§ 1017.1. Definitions.**

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

*Antique vehicle*—A motor vehicle, but not a reproduction thereof, that is 25 years old or older as provided in § 1017.3(a) (relating to age and milage computation), which has been maintained in or restored to a condition, which is substantially in conformance with manufacturer specifications.

*Compliance inspection*—The inspection of a taxicab or taxicab equipment, or both, by the Authority to assure compliance with the act, this part and orders of the Authority, which will include all of the components of a State inspection, except that emissions testing will not occur. Anytime the inspection of a taxicab, a meter or other taxicab service related equipment is required by the act, this part or an order of the Authority it will be a compliance inspection.

*Field inspection*—The unscheduled inspection of a taxicab by an inspector for compliance with the act, this part and all orders of the Authority.

*State inspection*—The annual inspection required under 75 Pa.C.S. Chapter 47 (relating to inspection of vehicles).

*TLD inspection sticker*—A certificate of inspection issued and affixed by the Enforcement Department to a vehicle subject to this part upon confirmation of compliance with the act, this part or orders of the Authority after a compliance inspection.

#### **§ 1017.2. Preservice inspection.**

A vehicle may not perform taxicab service without a TLD inspection sticker as provided in § 1017.32 (relating to TLD inspection sticker required).

#### **§ 1017.3. Age and mileage computation.**

(a) *Method of age computation.* The age of a taxicab will be determined by comparing its model year to the current model year.

(b) *Imputed mileage.* A vehicle with an odometer reading that differs from the number of miles the vehicle has actually traveled or that has had a prior history involving the disconnection or malfunctioning of an odometer or which appears to the Authority to have an inaccurate odometer reading based on prior inspection records will be assigned an imputed mileage equal to 3,333 miles per month from the last reliable odometer recording through the date of inspection. If a reliable baseline odometer reading cannot be ascertained, the vehicle may not be introduced for service or continue in service as a taxicab.

(c) *Reporting of odometer malfunctions.* A certificate holder or taxicab driver who knows or suspects that the odometer reading of a taxicab differs from the number of miles the taxicab has actually traveled shall disclose that status to the Enforcement Department immediately.

#### **§ 1017.4. Age and mileage limitations.**

(a) *Retirement age and mileage.*

(1) Except as provided in subsection (c), a taxicab will not be eligible for inspection as provided in § 1017.31 (relating to biannual inspections by Authority) upon reaching an age of 8 years old, as calculated under § 1017.3(a) (relating to age and mileage computations). For example, the last day on which a 2006 model year vehicle may be operated in taxicab service is the day before the taxicab's first scheduled biannual inspection after December 31, 2014.

(2) Except as provided in subsection (c), a taxicab will not be eligible for inspection as provided in § 1017.31 upon reaching 250,000 cumulative miles on the vehicle's odometer.

(b) *Entry mileage.* Except as provided in subsection (c), a vehicle will not be eligible for inspection as provided in § 1017.2 (relating to preservice inspection) if it has 135,000 or more cumulative miles on the vehicle's odometer.

(c) *Antique vehicles.* The Director may authorize the operation of antique vehicles as taxicabs upon review of a petition for waiver as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal or waiver of Authority regulations).

### **§ 1017.5. Basic vehicle standards.**

(a) *State vehicle standards.* In addition to standards required under the act, this part and orders of the Authority, a taxicab must continually satisfy the applicable Department of Transportation equipment inspection standards in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection) when providing taxicab service.

(b) *Standard taxicab vehicle requirements.* Each taxicab is subject to the following requirements:

(1) A taxicab must have four functioning doors which comply with the standards provided in 67 Pa. Code Chapter 175, which must have the following properly aligned, installed and maintained components:

(i) Hinges.

(ii) Door gaskets and doorway padding.

(iii) Latches.

(iv) Doors that open without resistance and close securely.

(v) Functioning door locks operable by the passenger.

(2) A medallion taxicab shall utilize the services of a dispatcher approved by the Authority under Chapter 1019 (relating to dispatchers) and dispatch-related equipment must function properly.

(3) Unless otherwise permitted by the Authority, a medallion taxicab must be equipped with an operable two-way radio connected to a dispatch system approved by the Authority. Unless otherwise permitted by the Authority, a partial-rights taxicab that is not affiliated with a dispatcher must be equipped with an operable two-way radio capable of communication with the certificate holder or an agent of the certificate holder.

(4) Except as provided in paragraph (5), the taxicab must have a functioning dome light firmly affixed to its roof. The dome light must be lit when the vehicle is available for service. The dome light must comply with the approved design submitted by the taxicab's certified dispatcher under § 1019.7 (relating to name, colors and markings review).

(5) A rooftop-advertising panel with ends that illuminate to indicate when the taxicab is available for service may be used in lieu of the dome light.

- (6) A taxicab must display taxicab rates approved by the Authority as provided in section 5703 or 5720 of the act, or both (relating to rates; and wages).
- (7) A taxicab must be equipped with handgrips in the passenger compartment for use while entering or exiting the vehicle.
- (8) A taxicab must be equipped with working seatbelts for every passenger and the driver.
- (9) A taxicab must have four full sized tires which continuously meet or exceed the applicable standards of 67 Pa. Code § 175.80 (relating to inspection procedure) and otherwise comply with the Authority's tire requirements, which include the following:
- (i) Snow tires or all-weather tires on the drive wheels between October 1 and April 1.
  - (ii) A full sized and usable spare tire that complies with the standards of this section is properly stored in the taxicab.
  - (iii) Properly affixed and matching hubcaps or wheel covers for all four tires.
- (10) A taxicab may not use retread tires.
- (11) The taxicab must have a trunk or storage area large enough to accommodate a folded manual wheelchair.
- (12) A taxicab must be equipped with a protective shield which separates the front seat from the back seat and bears the manufacturer's name, as provided in section 5714(b) of the act (relating to certificate and medallion required). The protective shield must meet the following minimum requirements:
- (i) The upper portion of the shield must extend from the top of the front seat to a point not more than 3 inches from the ceiling of the vehicle and must be constructed of a clear, see-through, bullet-resistant material.
  - (ii) The shield must have either a sliding window controlled by the vehicle operator and capable of being locked by the driver or a payment exchange cup or tray or similar device which allows the operator to receive payment from passengers in the back seat of the vehicle without unduly exposing the vehicle operator to danger.
  - (iii) The upper portion of the shield may not obstruct the vehicle operator's view of the road to the rear of the vehicle.
  - (iv) The lower portion of the shield must extend the full length of the front seat and be constructed of a bullet-resistant material.
  - (v) Both the upper and lower portions of the shield must extend from a point flush with the left-hand side of the vehicle across the vehicle to a point flush with the right-hand side of the vehicle.
  - (vi) The shield may not have an edge or projection protruding into the area where a passenger or driver will sit or move.
  - (vii) The lower portion of the shield must be installed in a manner which complies with the legroom requirements in paragraph (2).



(viii) The shield must be installed in a manner which does not prevent voice communication between the vehicle operator and passengers in the vehicle.

(ix) The shield must be installed in a manner which allows heat and air conditioning to maintain the taxicab's temperature at levels required under paragraph (19).

(x) The shield must be sufficiently transparent to allow a passenger to easily read the meter and the taxicab driver's certificate.

(13) A taxicab must be equipped with a meter approved for use as provided in § 1017.23 (relating to approved meters) and may not be equipped with a device that has the capability of allowing the meter to register a nonapproved rate.

(14) A taxicab may not be equipped with a push bumper.

(15) The interior, exterior and trunk compartment of a taxicab must be clean so as to present a positive appearance and to prevent possible transfer of dirt, dust, grease, paint or other markings to a passenger's clothing or luggage.

(16) Spare tires in the trunk must be covered.

(17) A taxicab's passenger seats may not be torn or have protruding springs or other material capable of tearing a passenger's skin or clothing. Passenger seat tears must be properly repaired and may not be mended with tape.

(18) A taxicab's interior must consist of matching features, including door panels.

(19) Except upon a passenger's request to the contrary, the passenger area of a taxicab must remain a constant temperature between 60° and 78° Fahrenheit. While in a taxi-stand line, a taxicab is exempt from this temperature requirement until it reaches the position of first, second or third vehicle from the front of the line.

(20) A taxicab must be free of objectionable odors. For example, a taxicab may not smell like urine, feces, animals, insects, decomposing organisms, poor human hygiene or garbage.

(21) A taxicab's passenger compartment must contain at least two seats with space that measures 28 inches or more from the back of the passenger's seats to any barrier in front of it.

(22) A taxicab must contain a legible commercially produced map of the City of Philadelphia for use by the taxicab driver.

(23) A taxicab's exterior paint must be in good repair and consistent with the colors and markings of the taxicab's dispatcher and the exterior of the vehicle shall be free of damage.

(24) In addition to other postings required by this subpart, a taxicab must have posted in the passenger compartment in a place easily observed by passengers, the following information:

(i) A prohibition against smoking, eating and drinking while in the taxicab.

(ii) The availability of noncash payment options.

- (iii) The list of Passengers' Rights and Driver's Rights issued by the Authority.
  - (iv) Information on how to submit a taxicab service related complaint to the Authority in both written English and Braille.
  - (v) The taxicab's dispatcher and the number assigned to the taxicab under § 1017.14 (relating to taxicab numbering).
- (25) The Authority may require the installation of a separate heating and air conditioning system in a taxicab if necessary to comply with paragraph (19).
- (c) *Interstate travel.* No requirement of this subpart or any Authority regulation may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States.
  - (d) *Smoking prohibited.* Persons may not smoke in a taxicab.
  - (e) *Advertising prohibited.*
    - (1) Unless otherwise permitted by the Authority and as provided in subsection (b)(5), the display of advertisements on the exterior or interior of a taxicab is prohibited, except for the colors and markings and postings required by the act, this part or an order of the Authority.
    - (2) Advertisements, colors, markings and other displays required by this part must be securely fastened to the taxicab and may not obscure the driver's view in any direction.
  - (f) *Inspection by certificate holder.* A certificate holder shall inspect each of its taxicabs on a daily basis to confirm that the taxicab complies with this subpart. A certificate holder may select a person to conduct the inspections required under this subsection on the certificate holder's behalf.

#### **§ 1017.6. Required documents.**

A taxicab must contain the following documents for review by an inspector upon request:

- (1) Proof of current and valid financial responsibility as required under Chapter 1025 (relating to insurance required) and section 5704 of the act (relating to power of authority to require insurance).
- (2) Proof of vehicle ownership and a copy of the vehicle or medallion lease, if applicable.

#### **§ 1017.7. Transportation of blind, deaf or physically disabled persons with service animals.**

Taxicabs must transport dogs trained for the purpose of assisting blind, deaf or physically disabled persons when accompanying blind, deaf or physically disabled persons paying a regular fare. The guide dogs shall be properly leashed and may not occupy a seat.

### **Subchapter B. COLORS AND MARKINGS**

#### **§ 1017.11. Distinctive colors and markings.**

- (a) *Taxicabs generally.*

(1) A taxicab must display the colors and markings of its dispatcher as approved by the Authority as provided in § 1019.7 (relating to name, colors and markings review).

(2) The doors and the rear quarter panels of the taxicab must be dedicated to information about the dispatcher, including its name and phone number.

(3) A taxicab may not use the services of more than one dispatcher.

(b) *Partial-rights taxicabs.*

(1) Taxicabs operated through a partial-rights certificate must have the same colors and markings.

(2) Taxicabs operated through a partial-rights certificate must have colors and markings that are different and distinguishable from every other partial-rights taxicab and each medallion taxicab.

(c) *Simulation of colors and markings.* A person may not mark, paint or design the exterior appearance of a taxicab to display inaccurate information, including an association with a dispatcher to which the vehicle is not associated.

#### **§ 1017.12. Required markings and information.**

(a) In addition to the name, colors and markings required under § 1019.7 (relating to name, colors and markings review), a taxicab must continually display the following markings and information:

(1) The identification number required under § 1017.14 (relating to taxicab numbering) must be posted on the front fenders of the taxicab and on the rear of the taxicab in print at least 3 inches in height and at least 1/2 inch in width.

(2) Beginning January 1, 2012, a vehicle will not be eligible for inspection as provided in § 1017.2 or § 1017.31 (relating to preservice inspection; and biannual inspections by Authority) unless the name of the certificate holder appears on the front fenders of the taxicab in print at least 2 inches in height and at least 1/2 inch in width.

(3) Current inspection stickers required under § 1017.32 (relating to TLD inspection sticker required) must be attached to the lower passenger side windshield.

(4) If the vehicle is a medallion taxicab, the current medallion must be attached to the hood of the vehicle.

(5) A taxicab must be registered with the Department of Transportation and obtain commercial registration plates identifying the vehicle as a taxicab bearing the letters "TX."

(b) The Authority will produce the standardized postings required by this part for taxicabs and may permit certificate holders to produce substantially similar postings. The Authority will specify the location of each posting. A list of the required postings and the locations of the posting will be made available at [www.phila.park.org/tld](http://www.phila.park.org/tld).

#### **§ 1017.13. Removal of name, colors and markings.**

(a) A vehicle may not be operated with the name, colors and markings of a taxicab unless the vehicle is authorized for taxicab service as provided in this part.

(b) The name, colors and markings identifying a vehicle as a taxicab shall be removed by the certificate holder within 72 hours of the removal of a medallion or other event which prohibits a vehicle from providing taxicab service. For example, a vehicle's dispatcher name, taxicab colors and markings shall be removed when the vehicle is sold, the vehicle is removed from service due to mileage or age restrictions, or is otherwise not intended to immediately reinstate taxicab service under this part.

#### **§ 1017.14. Taxicab numbering.**

(a) *Medallion taxicabs.* The identification number of a medallion taxicab will be the number on the medallion attached to the taxicab.

(b) *Partial-rights taxicabs.*

(1) Each partial-rights certificate holder shall notify the Director by filing Form PRT-2 "Vehicle Numbering" of its intention to use a new identification number for a taxicab or to reassign an existing number to a different taxicab. The PRT-2 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(2) The Director may deny the requested partial-rights taxicab number assignment if it is determined that the requested number may lead to regulatory or public confusion.

(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) 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) 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) 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) 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) 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) MCT Transportation, Inc. d/b/a Montco Suburban Taxi (Pennsylvania Public Utility Commission A-00119955) 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.

#### **Subchapter C. METERS**

**§ 1017.21. Taxicab meters.**

(a) *Generally.* Each taxicab must be equipped with one sealed meter that satisfies the requirements in this subchapter.

(b) *Inspection and seals.*

(1) A taxicab meter must be inspected by the Authority prior to use.

(2) The Authority will conduct meter accuracy testing to assure the meter is calibrated as provided in § 1017.22 (relating to meter calibration and testing).

(3) Upon determining that a meter functions properly, the Enforcement Department will attach a numbered seal to the meter.

(4) A meter may not be used in a taxicab unless it is sealed as provided in paragraph (3). If the seal becomes broken or damaged, the certificate holder shall remove the taxicab from service immediately and schedule a new meter inspection by the Enforcement Department.

(c) *Location of meter.* The meter shall be installed in the center of the driver portion of the taxicab in a position that permits the passenger to view the current fare.

**§ 1017.22. Meter calibration and testing.**

(a) A taxicab meter must be calibrated in accordance with the certificate holder's approved tariff or standard rates set by the Authority and meters must otherwise properly calculate fares, including the assigned monetary rates, calculations of time and calculations of distance traveled.

(b) Meter testing may include the road operation of the taxicab with an inspector while the meter is engaged.

(c) A meter must be able to pass an accuracy test conducted by an inspector at any time.

**§ 1017.23. Approved meters.**

The Authority will maintain a list of meters approved for use in taxicabs. The list of approved taxicab meters may be obtained from the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

**§ 1017.24. Meter activation and display.**

(a) A taxicab meter may not be in operation before the taxicab is engaged by a passenger. The taxicab meter must be in operation during the entire time the vehicle is engaged by a passenger.

(b) A taxicab passenger shall be required to pay only the amount recorded by the taxicab meter.

(c) The meter must continuously display the current rate charged for an active fare and the display must be visible to the passenger.

(d) The meters in every taxicab must have properly attached and approved receipt printers specified by the Authority in § 1017.23 (relating to approved meters), including the following:

- (1) The ability to issue a receipt containing information required by the Authority, including:
    - (i) The mileage of the trip and amount paid, expressed in United States dollars.
    - (ii) The vehicle's taxicab number.
    - (iii) The taxicab's dispatcher.
    - (iv) The driver's certificate number.
    - (v) The Authority's phone number or email address to be used to report complaints.
    - (vi) The time and date of the fare.
  - (2) The ability to provide drivers with driving directions through a global positioning system.
  - (3) Global positioning system tracking to monitor the location of each taxicab and provide driving directions to the taxicab driver.
  - (4) The ability to pay fares through the use of credit card and debit card processing hardware mounted in the passenger compartment. A transaction, processing or other fees associated with the acceptance of a credit card or debit card fare payment and delivery of the fare payment to the taxicab driver may not exceed 5% of the total fare amount.
  - (5) A driver recognition function to permit only Authority certified drivers in possession of a taxicab driver's certificate to activate and then use the meter to provide taxicab service.
  - (6) The ability to be remotely disabled by the Authority.
  - (7) The ability to communicate voice and text messages between the driver, dispatcher and the Authority.
  - (8) A distress button that can be easily activated by a driver to silently communicate to the dispatcher the need for emergency assistance.
- (e) Partial-rights certificate holders are not required to comply with subsection (d).

**§ 1017.25. One meter.**

A taxicab is prohibited from containing a taxicab meter other than the approved meter inspected and sealed by the Authority.

**§ 1017.26. Certificate holder responsible.**

The certificate holder shall inspect each taxicab meter prior to service each day to assure it has been approved for use by the Authority, is sealed as provided in § 1017.21(b)(3) (relating to taxicab meters) and is in proper working order. Unsealed or improperly sealed meters and malfunctioning meters shall be reported to the Enforcement Department immediately. A certificate holder may select a person to conduct the inspections required under this subsection on the certificate holder's behalf.

**Subchapter D. TAXICAB INSPECTIONS**

**§ 1017.31. Biannual inspections by Authority.**

In addition to other inspections required or permitted by the act, this part or an order of the Authority, every taxicab must submit to at least two scheduled inspections by the Authority on an annual basis at a time and location designated by the Authority. Each scheduled inspection will consist of one of the following:

- (1) A compliance inspection.
- (2) A compliance inspection combined with a full State inspection.

**§ 1017.32. TLD inspection sticker required.**

(a) The Authority will affix a TLD inspection sticker to the lower right hand side of the taxicab's windshield upon successful completion of the following inspections:

- (1) Each biannual compliance inspection as provided in § 1017.31 (relating to biannual inspections by Authority).
  - (2) A reinspection as provided in § 1017.36 (relating to reinspection), but only if the existing TLD inspection sticker has already expired or will expire before the next biannual inspection as provided in § 1017.31.
  - (3) A compliance inspection as provided in § 1017.2 (relating to preservice inspection).
- (b) A taxicab may not provide service unless a current TLD inspection sticker is properly affixed to the taxicab.
- (c) Each TLD inspection sticker will expire 6 months from the date it is affixed to the taxicab.
- (d) Only the Authority may conduct State inspections of taxicabs and affix certificates of inspection as provided in 75 Pa.C.S. § 4728 (relating to display of certificate of inspection).

**§ 1017.33. Failure to appear for scheduled inspection.**

If a taxicab fails to appear for an inspection as provided in § 1017.31 (relating to biannual inspections by Authority), the certificate holder may be subject to a penalty through issuance of a formal complaint.

**§ 1017.34. Field inspections.**

- (a) Inspectors may stop and inspect taxicabs in operation, or appearing to be in operation, to ensure continued compliance with the act, this part or any order of the Authority.
- (b) Upon field inspection, an inspector may instruct a taxicab driver to drive the taxicab directly to TLD Headquarters for a compliance inspection if the inspector believes that the taxicab is not in compliance with this chapter and represents a public safety concern.

**§ 1017.35. Failure to submit to field inspection.**

(a) Upon instruction by an inspector, a taxicab driver shall stop the taxicab and permit the inspector to conduct a field inspection of the taxicab.

(b) If a taxicab driver fails to permit a full field inspection, the taxicab may be placed out of service, as provided in § 1003.32 (relating to out of service designation).

**§ 1017.36. Reinspection.**

If a taxicab fails any Authority inspection or is removed from taxicab service for any reason, the taxicab may not resume taxicab service until a compliance inspection is successfully completed by the Authority.

**§ 1017.37. Inspection subsequent to vehicular accident or damage.**

(a) A taxicab is prohibited from providing service after it is involved in one or more of the following:

(1) An incident that shall be reported to the police under 75 Pa.C.S. § 3746 (relating to immediate notice of accident to police department).

(2) An incident resulting in damage to the taxicab which requires replacement or repair to any of the following parts of the taxicab:

(i) Airbags or passenger restraints.

(ii) An axle.

(iii) The vehicle's frame.

(3) An incident involving any contact with a taxicab which renders it incapable of being legally operated on a highway.

(b) The certificate holder and driver shall contact the police and then the Manager of Enforcement immediately upon the occurrence of any incident in subsection (a) and the certificate holder shall remove the taxicab from service.

(c) For a vehicle to reenter service after the occurrence of a condition referenced in subsection (a), the certificate holder shall schedule a compliance inspection with the Authority. The Authority will not charge a fee for an inspection conducted under this subsection.

(d) On or before the scheduled time for the Authority compliance inspection required under subsection (c), the certificate holder shall provide the Authority with a written list of the repairs made to the taxicab subsequent to the incident which caused it to be removed from service. The list of repairs required under this subsection shall be provided on the letterhead of the repair facility and executed by the repairman.

**§ 1017.38. Change of vehicle.**

(a) In addition to the requirements in §§ 1013.2 and 1013.3 (relating to attachment of a medallion; and removal of a medallion), a medallion may not be attached to a different vehicle unless the vehicle has completed a compliance inspection.

(b) A partial-rights taxicab may not be replaced with another vehicle nor may an additional vehicle be added to a partial-rights certificate, unless the vehicle has completed a compliance inspection.



**§ 1017.39. License plate change.**

(a) A taxicab may not be operated with a license plate other than that which was assigned and attached to the taxicab at the time of its last compliance inspection.

(b) A license plate other than the one referenced in subsection (a) may be attached to a taxicab only after email notification to the Manager of Enforcement. The notification must include the reason the replacement is to be made and the new license plate number.

**§ 1017.40. Transfer inspection.**

A taxicab subject to the transfer of a certificate or medallion or from one certificate holder to another must have completed a compliance inspection before it provides taxicab service.

**§ 1017.41. Attendance at scheduled inspection.**

(a) The certificate holder or its attorney-in-fact shall attend each taxicab inspection conducted by the Authority, except field inspections as provided in § 1017.34 (relating to field inspections).

(b) The attorney-in-fact shall appear with the original power of attorney, which shall be in compliance with § 1001.28 (relating to power of attorney).

**§ 1017.42. Prerequisites to inspection.**

(a) The Authority will not initiate an inspection of a taxicab, except as provided in § 1017.34 (relating to field inspections), if the taxicab is out of compliance with the act, this part or an order of the Authority.

(b) The Authority will not initiate an inspection of a taxicab, except as provided in § 1017.34, if the certificate holder is out of compliance with the act, this part or an order of the Authority, including the following sections:

(1) Section 1011.3 (relating to annual rights renewal process).

(2) Section 1011.5 (relating to ineligibility due to conviction or arrest).

(3) Section 1011.7 (relating to payment of outstanding fines, fees and penalties).

**§ 1017.43. Approved models and conditions.**

The Authority will publish a list of approved makes and models of vehicles permitted for use as taxicabs, which will be available at [www.philapark.org/tld](http://www.philapark.org/tld). The list of approved makes and models of vehicles is not exclusive and may be amended upon written request to the Manager of Enforcement.

**§ 1017.44. Reconstructed vehicles prohibited.**

Salvaged or reconstructed vehicles may not provide taxicab service.

**Subchapter E. IMPOUNDMENT OF VEHICLES AND EQUIPMENT**

**§ 1017.51. General.**

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

*Registered lienholder*—A person having a vehicle lien interest that is registered with the Department of Transportation or the similarly authorized registering agency of the jurisdiction identified on the license plate of the vehicle, if any, on the date the vehicle was impounded.

*Registered owner*—The owner of the vehicle as registered with the Department of Transportation, or the similarly authorized registering agency of the jurisdiction identified on the license plate of the vehicle, if any, on the date the vehicle was impounded.

*Vehicle*—The term includes the vehicle and equipment used or capable of being used to provide taxicab service.

### **§ 1017.52. Impoundment of vehicles and equipment.**

(a) *Impoundments generally.* The Authority may impound vehicles, medallions and equipment used to provide call or demand service as provided in section 5714(g) of the act (relating to certificate and medallion required).

(b) *Enforcement proceedings.* The Enforcement Department or trial counsel will initiate an enforcement proceeding as provided in § 1005.11 (relating to formal complaints generally) against the regulated party or owner of the impounded property, if other than a regulated party, related to an impoundment made under this section and the act.

(c) *Notice of impoundment.* The Authority will issue a notice of impoundment to the registered owner of the vehicle and registered lienholder of the vehicle or medallion, or both, if any, as provided in section 5714(g)(2)(ii) of the act.

(d) *Recovery of impounded property.* Except as provided in subsection (g), the owner or lienholder of the property impounded as provided in this section may recover the impounded property by paying all penalties, fines and costs required under section 5714(g)(1) of the act.

(e) *Public auction.* Confiscated property may be sold at public auction as provided in section 5714(g)(2)(i) of the act.

(f) *Return of funds.* If the enforcement proceeding initiated as provided in subsection (b) results in a determination that the respondent was not liable for the violations referenced in the complaint and that the grounds for the impoundment were unsubstantiated, the costs of towing and impoundment paid by the respondent as provided in subsection (d) will be refunded.

(g) *Stay of auction.* Upon motion of the respondent or a registered owner or a registered lienholder as an intervening party as permitted under § 1005.31 (relating to initiation of intervention), the presiding officer may enter an order staying the public auction of the impounded property for a period as the presiding officer deems just. Costs of impoundment will continue to accrue during the period of any stay imposed through this subsection.

(h) *Emergency hold on impounded property.*

- (1) To advance the interests of the act or to protect the public good, the Enforcement Department or trial counsel may motion the presiding officer to stay the return of property impounded as provided in this section through the conclusion of the enforcement proceeding, although requirements for recovery as provided in subsection (d) have been met.
- (2) The presiding officer will issue a decision in support of the determination required under this section.
- (3) The decision of the presiding officer issued as provided in paragraph (2) will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).
- (4) If the release of impounded property is stayed, the enforcement proceedings will be conducted on an expedited basis.

### **Subchapter F. TAXICAB LEASES**

#### **§ 1017.61. Control of vehicle.**

Each certificate holder shall supervise the use of its taxicabs to assure that each taxicab is operated in compliance with the act, this part or an order of the Authority.

#### **§ 1017.62. Taxicab leases.**

(a) *Lessees.*

- (1) A taxicab may be leased to a taxicab driver.
- (2) A taxicab may not be subject to a sublease agreement.

(b) *Basic components of a lease.* A taxicab lease must be in writing and contain information required by the Authority, including the following:

- (1) The name, address and telephone contact information for each party.
- (2) The certificate number or medallion number, or both, subject to the lease.
- (3) The term of the lease.
- (4) The monetary consideration for the lease, in United States dollars.
- (5) Other consideration to be paid by a taxicab driver if different from that in paragraph (4).
- (6) Specification of any service limitation of the taxicab in a city of the first class, including those related to partial-rights taxicabs.
- (7) Written confirmation that a lease may be ended by either party only upon 10 days notice, or a period equal to the lease term if less than 10 days. This paragraph does not limit the rights of a party to terminate the lease for breach.
- (8) The original dated and witnessed signature of the certificate holder and the taxicab driver.

- (9) The driver's certificate number and the expiration date then appearing on the driver's certificate.
- (c) *Copies of lease.* A copy of a taxicab lease agreement shall be provided to the taxicab driver and a second copy must be in the taxicab for review by the Authority, the PUC or law enforcement upon demand.
- (d) *Retention of lease.* The certificate holder shall retain copies of each taxicab lease as provided in § 1011.11 (relating to record retention).

**§ 1017.63. Receipts.**

- (a) A taxicab certificate holder shall provide to each of its taxicab drivers a receipt book to note any payment received for taxicab service in the event the meter does not provide a receipt as provided in § 1017.24 (relating to meter activation and display). Each receipt must provide information substantially similar to that required under § 1017.24 and identify the taxicab certificate holder's name and contact information, including address and telephone number.
- (b) The Authority may design and require the use of standardized receipts.

**CHAPTER 1019. DISPATCHERS**

**§ 1019.1. Purpose and prohibition.**

- (a) This chapter establishes and prescribes Authority regulations and procedures for the certification and operation of dispatching services in Philadelphia under sections 5711(c)(6) and 5721 of the act (relating to power of authority to issue certificates of public convenience; and centralized dispatcher).
- (b) A person may not provide dispatching services in Philadelphia without a certificate issued by the Authority as provided in this chapter.

**§ 1019.2. Ineligible persons for dispatcher service.**

An applicant is ineligible to be a dispatcher under the following circumstances:

- (1) If the applicant, a person with a controlling interest in the applicant or a key employee is ineligible to own Authority issued rights as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).
- (2) The applicant is incapable of providing dispatching services through persons or communication devices that speak, read and write the English language.
- (3) The applicant, a person with a controlling interest in the applicant or a key employee knowingly makes a false statement on a dispatcher application.
- (4) The applicant, a person with a controlling interest in the applicant or a key employee is in violation of § 1011.7 (relating to payment of outstanding fines, fees and penalties).
- (5) The applicant or any person having a controlling interest over the applicant is 20 years of age or younger.

**§ 1019.3. Dispatcher application.**

(a) *General.* To obtain a dispatcher's certificate a person shall complete and file a Form No. SA-1 "Application" with the Manager of Administration along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The SA-1 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) *SA-1 application.* The completed SA-1 shall be verified as provided in § 1001.36 (relating to verification and affidavit) and be filed with the Director in person by the owner of the applicant and include all of the information required by the Authority, including the following:

(1) The name of the applicant and contact information, including a mailing address, a Philadelphia business address, a telephone number, an email address and a facsimile number.

(2) An identification of the applicant as an individual or a person as provided in § 1001.10 (relating to definitions).

(3) If the applicant is not an individual, the following must be included:

(i) The articles of incorporation, operating agreement, formation documents or other applicable organizing documents for the applicant.

(ii) A certificate of good standing for the applicant from the Corporation Bureau.

(iii) A copy of the Department of State's entity page for the applicant.

(iv) The trade name, if any, of the applicant and a copy of the trade name registration certificate, if applicable.

(4) The mailing address and physical address of the applicant, if different.

(5) A list of all Authority or PUC certificates or other rights in which the applicant or any person with a controlling influence in the applicant has any controlling interest, including taxicab medallions.

(6) The name, address, telephone number, facsimile number and email address of any attorney or broker, or both, assisting the applicant through the Authority's dispatcher certification process.

(7) A certified criminal history report issued within 30 days of the filing of the application from any jurisdiction in which the following individuals have lived during the last 5 years through the date of application:

(i) An individual applicant.

(ii) Any person with a controlling interest in the applicant.

(iii) Each key employee.

(8) A written statement verified as provided in § 1001.36, which provides that:

(i) The applicant, each person with a controlling interest in the applicant and each key employee have not been subject to a conviction as provided in § 1001.10.

- (ii) The applicant, each person with a controlling interest in the applicant and each key employee are in compliance with § 1011.7 (relating to payment of outstanding fines, fees and penalties).
- (iii) The applicant, each person with a controlling interest in the applicant and each key employee are current on all reports due in relation to other rights issued by the Authority.
- (iv) The applicant can comply with the requirements in § 1019.8 (relating to dispatcher requirements).
- (9) A copy of the applicant's business plan.
- (10) A completed original of Form No. DSP-3 "Business Experience Questionnaire." A copy of the DSP-3 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).
- (11) The Federal Tax Identification number of the applicant.
- (c) *DSP-2 application.* At the time an SA-1 is filed, an applicant for a dispatcher's certificate shall also file a DSP-2 "Dispatcher Colors and Markings Change/Application" as provided in § 1019.7 (relating to name, colors and markings review).

#### **§ 1019.4. Application changes.**

An applicant for a dispatcher certificate shall immediately notify the Authority in writing of any changes that affect the accuracy of the information in the application while the application is under review by the Authority.

#### **§ 1019.5. Facility inspection.**

- (a) An applicant for a dispatcher's certificate shall make its proposed operating locations available for inspection by the Enforcement Department as part of the application process and throughout the term of its status as a dispatcher. A facility inspection may be conducted without prior notice.
- (b) Dispatchers shall provide all dispatching services from facilities located in Philadelphia or from a location in this Commonwealth within 10 miles of Philadelphia.

#### **§ 1019.6. Review of dispatcher application.**

- (a) An application for a dispatcher's certificate will be denied by the Authority if the dispatcher is unable to meet the requirements in this chapter, including § 1019.8 (relating to dispatcher requirements).
- (b) An application for a dispatcher's certificate will be granted if the applicant complies with the requirements in this subchapter and the Authority finds that the applicant is capable of providing dependable service according to the act, this part and orders of the Authority.

#### **§ 1019.7. Name, colors and markings review.**

- (a) To change or establish any name, colors or markings, a dispatcher shall file a DSP-2 "Dispatcher Colors and Markings Change/Application" along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The DSP-2 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) The Authority will not approve a DSP-2 application if it determines that the requested name or colors and markings are similar to those of an existing dispatcher.

(c) Upon approval of a DSP-2 application, the dispatcher shall have the exclusive right to use the approved name, colors and markings, provided the certificate has not expired or been cancelled.

(d) Each dispatcher shall use only a single name, colors and marking scheme for all the medallion taxicabs it dispatches.

(e) Each dispatcher shall use a distinctive name, colors and marking scheme for partial-rights taxicabs it dispatches as provided in § 1017.11(b) (relating to distinctive colors and markings).

(f) A dispatcher may not change an approved name, colors and markings scheme without advance approval of the Authority as provided in this section.

(g) The colors and markings of a dispatcher must be consistent with the requirements in Chapter 1017 (relating to vehicle and equipment requirements).

#### **§ 1019.8. Dispatcher requirements.**

A dispatcher shall continually maintain standards and equipment capable of providing prompt and adequate service to the public, including the following:

(1) Control a radio frequency signal of sufficient strength to transmit and receive real time verbal communication and data throughout Philadelphia.

(2) Respond to customer calls 24 hours a day.

(3) Have taxicabs available for dispatch 24 hours a day, 7 days a week.

(4) Dispatch taxicabs with current Authority rights to provide the service requested.

(5) Obtain the Authority's confirmation, which may be provided by the Authority through email, of a taxicab's good standing before commencing to provide it with dispatching service.

(6) Have at least one display advertisement in a telephone book with citywide circulation in Philadelphia or a web site which displays all of the information necessary to order a taxicab through the dispatcher.

(7) Have a minimum of four coordinated telephone lines to receive incoming calls for service from the public.

(8) Operate and maintain a taxicab meter system approved by the Authority as provided in § 1017.23 (relating to approved meters), including computer hardware and software, means of communication between the dispatcher and each taxicab meter and the Authority.

(9) Answer customer questions about rates and services provided within 12 hours.

(10) Answer customer questions or complaints about service in writing and within 5 days of receipt of the complaint.

(11) Maintain records as provided in § 1019.14 (relating to dispatcher records).

(12) A dispatcher may not discriminate against nor allow its affiliated drivers to discriminate against any member of the public and may not refuse service to any section of Philadelphia. Partial-rights taxicabs may only be dispatched to provide service consistent with the certificate holder's rights.

(13) A dispatcher shall be able to receive and respond to emergency or distress alerts received from taxicab drivers 24 hours a day, 7 days a week.

(14) In addition to the requirements in the act, this part or an order of the Authority, a dispatcher may institute rules of conduct for drivers and certificate holders associated with the dispatcher.

(15) A dispatcher shall report violations of the act, this part or an order of the Authority committed by a driver or certificate holder associated with the dispatcher to the Authority immediately.

**§ 1019.9. List of affiliated taxicabs.**

A dispatcher shall file a complete Form No. DSP-4 "Dispatcher Affiliated Taxicabs" with the Authority on the first business day of each month noting the taxicab numbers and certificate holders associated with the dispatcher at that time. A Form No. DSP-4 may be obtained at [www.philapark.org/tld](http://www.philapark.org/tld). If a taxicab is added or removed from a dispatcher's customer list, the dispatcher shall report the change within 24 hours to the Authority by email.

**§ 1019.10. Dispatcher rates.**

(a) A dispatcher may not provide service to taxicabs unless it has filed a Form No. DSP-5 "Dispatcher Rates" with the Authority establishing the rates schedule charged for the dispatcher's services. Only the rates identified in the DSP-5 filing may be charged by the dispatcher, or any agent or employee of a dispatcher. The DSP-5 may be obtained at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) A dispatcher may amend its DSP-5 filing at any time, with an effective date 30 days from the date of filing.

(c) A dispatcher shall provide a copy of its DSP-5 to each of its associated drivers and certificate holders.

(d) Under section 5721 of the act (relating to centralized dispatcher), the Authority may deny the filing of a DSP-5 if it determines that the suggested rates are unreasonable.

**§ 1019.11. Disclosure of conflicts.**

(a) A dispatcher shall disclose, through the filing of the DSP-4, any dispatching services that may be provided to taxicabs owned or operated by the dispatcher, a person with a controlling interest in the dispatcher, key employee or immediate family members of the dispatcher.

(b) For the purposes of this section, "immediate family members" means the spouse or domestic partner, parent, grandparent, great-grandparent, great-great grandparent, children, siblings (including "half" and step-siblings), uncles/aunts, grand uncles/aunts, grandchildren, nephews/nieces, first cousins, great-grandchildren and grand nephews/nieces of the dispatcher.

**§ 1019.12. Bond required.**



(a) Within 30 days of receipt of the Authority's email notification of its intention to grant an applicant's SA-1 application, the applicant shall file a bond or irrevocable letter of credit consistent with this section with the Authority.

(b) A dispatcher may not provide dispatching services unless the bond or irrevocable letter of credit required by this section has been filed and accepted by the Authority and the requirements in § 1003.51(f) (relating to applications generally) have been satisfied.

(c) A dispatcher's bond or irrevocable letter of credit shall be issued in an amount of at least \$10,000 and upon terms and in a form as will insure the dispatcher's adherence to the law, the Authority's regulations and orders and the interests of the dispatcher's clients, including payment of all fines, fees and penalties incurred by the dispatcher.

**§ 1019.13. Minimum number of medallion taxicab affiliations.**

(a) A dispatcher shall remain affiliated with at least 20 active medallion taxicabs for dispatching services with each taxicab displaying the name, colors and markings of the dispatcher approved as provided in this subchapter.

(b) If a dispatcher fails to maintain the minimum number of affiliated taxicabs the Enforcement Department or trial counsel will provide 30 days notice of its intention to initiate an enforcement proceeding through a formal complaint as provided in § 1005.11 (relating to formal complaints generally) to cancel the dispatching certificate.

(c) Upon notice of planned enforcement proceedings as provided in subsection (b), the dispatcher will be permitted to initiate a certificate transfer as provided in Chapter 1027 (relating to sale of rights) or come into compliance with subsection (a).

(d) If a dispatcher and proposed buyer of the certificate initiate a certificate transfer within 30 days of the notice provided under subsection (b), the enforcement proceedings may be stayed unless the Enforcement Department or trial counsel determine that a transfer of the certificate is not likely to occur within 6 months of the date the transfer application was filed.

(e) If a dispatcher comes into compliance with subsection (a) within 30 days of the notice provided under subsection (b), the dispatcher shall provide notice of that status to the Enforcement Department or trial counsel, and if proven the matter will be closed.

**§ 1019.14. Dispatcher records.**

A dispatcher shall maintain records related to its affiliated certificate holders, its customers, the calls or scheduling for service it receives and the dispatches it makes as provided in § 1011.11 (relating to record retention).

**CHAPTER 1021. TAXICAB DRIVERS**

**§ 1021.1. Purpose and scope.**

(a) This chapter establishes minimum qualifications for taxicab drivers.

(b) A certificate holder may impose more stringent standards in the selection of its taxicab drivers.

**§ 1021.2. Certification required.**

- (a) Only a taxicab driver may provide taxicab service.
- (b) A taxicab driver shall carry and display an original taxicab driver's certificate on the protective shield of the taxicab on the driver's side with the front of the certificate (picture) facing the rear seat at all times.
- (c) A taxicab driver may not drive a taxicab with a mutilated, damaged or illegible taxicab driver's certificate.
- (d) Only one taxicab driver's certificate at a time may be displayed in a taxicab.
- (e) A taxicab driver's certificate is not transferable.

**§ 1021.3. Designation of taxicab driver's certificates.**

(a) *Driver designation.*

- (1) Beginning on December 3, 2011, driver certification rights previously issued by the Authority under section 5706 of the act (relating to driver certification program) shall be designated by the driver as either a taxicab driver's certificate or limousine driver's certificate at the time those rights are scheduled for renewal as provided in § 1011.3 (relating to annual rights renewal process).
- (2) Provided that all other terms of renewal are met, the TLD will renew the driver's certificate only for the rights selected by the renewing driver as provided in paragraph (1).
- (3) New driver's certificates will identify each driver as either a taxicab driver or a limousine driver.

(b) *Dual driver authority.*

- (1) This section does not prohibit a taxicab driver from obtaining a limousine driver certificate as provided in Subpart C (relating to limousines).
- (2) This section does not prohibit a limousine driver from obtaining a taxicab driver certificate as provided in this chapter.

**§ 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:

- (1) The applicant does not hold a current driver's license.
- (2) The applicant does not speak the English language sufficiently to communicate with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries and to make verifiable entries on reports and records.
- (3) The applicant has failed to satisfactorily complete taxicab driver training and testing as prescribed by this chapter.
- (4) The applicant is unable to provide information required by this subpart.

- (5) The applicant is 20 years of age or younger.
- (6) Unless otherwise permitted by the Authority, the applicant does not have a driving history in the United States of at least 1 continuous year prior to the date of application.

**§ 1021.5. Standards for obtaining a taxicab driver's certificate.**

(a) *General.* To obtain a taxicab driver's certificate an individual shall complete and file with the Director a Form DR-1 "Driver Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The DR-1 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld) and be completed in person before TLD staff.

(b) *DR-1 application.* The completed DR-1 must be verified as provided in § 1001.36 (relating to verification and affidavit) and include the information required by the Authority, including the following:

- (1) The full and legal name of the individual applicant.
- (2) The applicant's residential address and telephone number. Applicants may submit an email address to become eligible for service of notice as provided in § 1001.51 (relating to service by the Authority).
- (3) The applicant's driver's license.
- (4) The applicant's Social Security card or documents confirming a legal permanent resident status or an alien authorized to work status, if applicable.
- (5) Authorization for release of the applicant's criminal history report from the State Police to the Authority.
- (6) A certified copy of the applicant's criminal history report for each jurisdiction other than the Commonwealth in which the applicant resided during the 5 years immediately preceding the filing of the application. Each criminal history report shall be certified within 30 days of the filing of the application. In the event an applicant has been present in the United States for less than 5 years, the applicant shall meet the requirements in this subsection by consenting to the release to the Authority of any similar criminal history report maintained by another country, International Criminal Police Organization and the government of United States of America for the 5-year period immediately preceding the filing of the application.
- (7) Authorization for the release of the applicant's driver history report from the Department of Transportation to the Authority.
- (8) A certified copy of the driver history report from each jurisdiction, other than the Commonwealth, in which the applicant was licensed during the 5 years immediately preceding the filing of the application. Each driver history report shall be certified within 30 days of the filing of the application. In the event an applicant has been present in the United States for less than 5 years, the applicant shall meet the requirements in this subsection by consenting to the release to the Authority of any similar driver history report maintained by another country for the 5-year period immediately preceding the filing of the application.
- (9) Submit a Form DR-2 "Driver Medical History," which is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld). The requirement to complete the DR-2 will be waived for applicants who possess

a current physical exam card issued under the requirements of a commercial driver's license in Pennsylvania. See 49 CFR 391.41—391.49 (relating to physical qualifications and examinations).

(10) A list of all Authority or PUC certificates in which the applicant has any controlling interest, including taxicab medallions.

(11) A written statement verified as provided in § 1001.36, which provides that:

(i) The applicant has not been subject to a conviction as provided in § 1001.10 (relating to definitions).

(ii) The applicant is in compliance with § 1011.7 (relating to payment of outstanding fines, fees and penalties).

(iii) The applicant can comply with the requirements in this chapter.

#### **§ 1021.6. Application changes.**

(a) An applicant for a taxicab driver's certificate shall immediately notify the Authority in writing of any changes that affect the accuracy of the information in the application while the application is under review by the Authority.

(b) False information provided by an applicant for a taxicab driver's certificate will result in the denial of the application or cancellation of the driver's certificate if issued prior to discovery of the false information.

#### **§ 1021.7. Taxicab driver training scheduled.**

(a) Upon submission of a DR-1 application as provided in this chapter, the applicant will be scheduled by the Authority to attend an in-class training program.

(b) An applicant will not be scheduled for training as provided in subsection (a) if the application documents present information that clearly renders the applicant ineligible to be a taxicab driver. For example, an applicant who does not possess a valid driver's license will not be scheduled for training.

(c) The Authority, or its authorized agent, will conduct the training.

#### **§ 1021.8. Certain training subjects.**

(a) *Continued training subjects.* The Authority will continually monitor issues related to taxicab drivers, including safety and customer service, and maintain a current list of taxicab driver training subjects on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) *Basic training issues.* Taxicab driver training will consist of a minimum of 18 hours of in-class instruction and will be developed to address all areas of the act, this part and orders of the Authority. The dress code applicable to taxicab drivers applies to applicants during training. Training will address issues provided for in subsection (a), including the following subjects:

(1) Authority regulations governing taxicab drivers, including differences between the services medallion taxicabs and partial-rights taxicabs provide.

(2) Authority regulations governing taxicab certificate holders.

- (3) Authority regulations governing equipment.
- (4) Penalties for violation of Authority regulations.
- (5) An overview of the administrative process related to violations.
- (6) The identification and address of the Authority offices responsible for administering the act.
- (7) Customer service issues, including the following:
  - (i) Personal appearance of drivers.
  - (ii) Driver courtesy and hygiene.
  - (iii) Assistance to elderly and people with disabilities.
- (8) Driving and customer safety issues, including the following:
  - (i) Defensive driving techniques.
  - (ii) Emergency aid.
  - (iii) Vehicle and equipment inspections.
  - (iv) Crime prevention.
  - (v) Accident reporting procedures.
- (9) Issues related to the geography of Philadelphia, including the following:
  - (i) Map reading.
  - (ii) Overview of major street and traffic patterns.
  - (iii) Identification and location of popular landmarks and locations.
- (c) *Testing*. The applicant will be tested under § 1021.9 (relating to taxicab driver test) on the final day of training.

**§ 1021.9. Taxicab driver test.**

- (a) The Authority will develop a test to assure that applicants for taxicab driver's certificates understand the information presented during training as provided in § 1021.8 (relating to certain training subjects).
- (b) The test will be administered in the English language. The assistance of interpreters will not be permitted. An applicant's responses to all test questions shall be in the English language.
- (c) Except as limited by this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:

- (1) Questions requiring a written response.
- (2) Multiple choice questions.
- (3) Oral questions.
- (4) The demonstration of an ability to operate a motor vehicle and use taxicab related equipment.
- (d) Failure to pass the test required by this section after three attempts will render the application void.
- (e) Failure to pass the test required by this section within 90 days of filing the DR-1 application as provided in § 1021.5 (relating to standards for obtaining a taxicab driver's certificate) will render the application void.
- (f) Upon the denial or voiding of a DR-1 as provided in this chapter an applicant may not reapply for a driver's certificate for 6 months.

**§ 1021.10. Expiration and renewal of certificate.**

An individual with a taxicab driver's certificate that has been expired for more than 1 year shall attend taxicab driver training and pass the taxicab driver test provided in this chapter before providing service.

**§ 1021.11. Driver requirements.**

(a) *Preservice inspection.* Prior to driving a taxicab before each shift, a taxicab driver shall perform a vehicle inspection to confirm that the taxicab complies with this subpart. The inspection must include the following:

- (1) At least one full walk around the taxicab to assure the exterior of the vehicle is in compliance with this subpart, including the following:
  - (i) The exterior of the taxicab is not damaged, no sharp edges are present and no parts of the vehicle have been removed. For example, the hood and doors of the taxicab are present and in the proper location.
  - (ii) The appropriate name, colors and markings scheme are affixed to the taxicab.
  - (iii) The taxicab's tires are full size and the treads are not worn below the level permitted under § 1017.5(b)(9) (relating to basic vehicle standards).
- (2) The opening and closing of all doors, the hood and the trunk to assure proper functionality and the absence of any sharp edges that may injure a passenger or damage clothing, luggage or other property.
- (3) An inspection of the interior of the taxicab to make certain that the vehicle is clean and otherwise in compliance with this subpart.
- (4) Operation of the heater and air conditioner to confirm the taxicab's ability to maintain the air temperature required under § 1017.5(b)(19).
- (5) An inspection of the taxicab meter to assure it has been approved for use by the Authority, is sealed as provided in § 1017.21(b)(3) (relating to taxicab meters) and is in proper working order at all times.

Unsealed or improperly sealed meters and malfunctioning meters shall be reported to the Enforcement Department immediately.

(b) *Presentation and appearance.* A taxicab driver is responsible for providing clean, safe and courteous taxicab service, including the following:

- (1) Presenting a neat and clean appearance while providing taxicab service.
- (2) Dressing in clean clothing which will be composed of a shirt with collar, ankle-length trousers, slacks/dress, skirts (if gender appropriate), socks or stockings, and shoes or clean sneakers. For example, shorts, bathing trunks or bathing suits, undershirts, "muscle shirts" or tank-tops are prohibited unless concealed as undergarments beneath the attire described in this paragraph.
- (3) Wearing open toed shoes, sandals or bare feet are prohibited while operating a taxicab.
- (4) Ceasing operation of a vehicle known by the driver to be in an unsafe condition.
- (5) Being courteous toward passengers, the public, law enforcement officials and representatives of the Authority. A driver may not use obscene, vulgar or offensive language while providing taxicab service.
- (6) Maintaining the volume of a radio at a low level and upon the request of a passenger, lowering the volume or switching off any music or electronic noise such as a radio, except that the communications radio required under § 1017.5(b)(3) must remain on and at a reasonable volume at all times.
- (7) Ceasing use of a mobile telephone and remove ear phones or Bluetooth devices from ears when a passenger is in the vehicle.
- (8) Making certain that the taxicab complies with the temperature requirements in § 1017.5(b)(19).
- (9) Assisting the elderly or persons with disabilities in entering and exiting the taxicab.
- (10) Maintaining cash capable of providing change for a \$20 bill.
- (11) Immediately reporting any possessions of passengers left behind in a taxicab after service to the Manager of Enforcement and the taxicab's dispatcher and then deliver the possessions to TLD Headquarters.

(c) *Permitted fares.* A taxicab driver may not charge fares other than those approved by the Authority as provided in section 5703 or 5720 of the act, or both (relating to rates; and wages).

(d) *Gratuities or payment method.*

- (1) A taxicab driver may not request the payment of a gratuity by a passenger.
- (2) A taxicab driver may not insist upon or express a preference for fare payment method. For example, a taxicab driver may not demand payment in cash as opposed to credit card, nor may a taxicab driver suggest that the passenger be driven to a bank or automatic teller machine to secure cash to pay the fare as opposed to use of a credit card or other cashless payment option.
- (3) A taxicab driver may not ask a potential customer for fare payment method information in advance of providing taxicab service.

(4) A taxicab driver shall accept payment by credit card and debit card and other cashless payment options identified by the Authority.

(e) *Lease or employment documents.* A taxicab driver is responsible for maintaining a copy of the lease agreement, employment contract and employee identification card in the taxicab at all times.

(f) *Direct route.* Unless directed otherwise by a fare-paying customer, a taxicab driver shall select and use the most direct route consistent with prevailing road and traffic conditions from the point of pick-up to the passenger's point of destination.

(g) *Rules of the road.* A taxicab driver shall continually provide taxicab service in a manner consistent with 75 Pa.C.S. (relating to Vehicle Code) and the Philadelphia Traffic Code (12 Phila. Code §§ 100—3012).

(h) *Driver history report.* A driver history report that evidences a violation or series of violations which relate to dangerous driving activities may form the basis for a denial of a taxicab driver's certificate application, a denial of the annual renewal as provided by § 1011.3 (relating to annual rights renewal process) or a formal complaint to suspend or cancel the taxicab driver's certificate.

(i) *Meter operation.* The meter must be in operation during the entire time the taxicab is engaged by a passenger, and the passenger shall be required to pay only the amount recorded by the meter, except that, when back-mileage or surcharge provisions of the tariff of the certificate holder apply, the back-mileage charge or surcharge shall be added to the amount recorded by the meter. Each meter charge shall be collected only once regardless of whether the taxicab is being used in exclusive service or in nonexclusive service.

#### **§ 1021.12. Additional requirements.**

(a) Each taxicab driver shall know the rights and limitations of any taxicab used to provide taxicab service, including the geographical limitation of partial-rights taxicabs, if applicable.

(b) A taxicab driver may not provide taxicab service beyond the 14th consecutive hour after coming on duty. Time spent on any break from taxicab service does not extend the 14-hour period. A taxicab driver may operate for another 14-hour period only after 8 consecutive hours off duty.

(c) A taxicab driver may not provide taxicab service with an expired taxicab driver's certificate.

(d) A taxicab driver may not provide taxicab service without a valid driver's license.

(e) Whenever a taxicab is occupied by a fare-paying passenger or by members of a party of fare-paying passengers who have engaged the taxicab on an exclusive basis, the taxicab driver may not permit another person to occupy or ride in the taxicab.

(f) No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States.

#### **§ 1021.13. Taxicab driver's certificate upon cancellation.**

(a) A cancelled taxicab driver's certificate may not be reinstated.



(b) An individual subject to cancellation of a taxicab driver's certificate may not apply to the Authority for a new driver's certificate, including a limousine driver's certificate as provided in § 1057.13 (relating to limousine driver's certificate upon cancellation), for 2 years from the date the cancellation was entered. If the individual subject to cancellation also holds a limousine driver's certificate, that driver's certificate will be cancelled with the taxicab driver's certificate.

(c) The circumstances related to the cancellation of a taxicab driver's certificate will be considered by the Authority when reviewing any subsequent application submitted by that individual.

#### **§ 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:

- (1) Invalidation of a driver's license for any reason must be reported within 48 hours.
- (2) A change of address shall be reported within 15 days.
- (3) A change of name shall be reported to the Authority within 15 days of occurrence or if a court proceeding is required, within 15 days of the court filing.

#### **§ 1021.15. Taxicab driver reports after accident.**

A taxicab driver who is involved in an accident while driving a taxicab that results in property damage, personal injury or death shall do the following:

- (1) Stop immediately.
- (2) Provide driver's license, registration, insurance, and other information required by law of the Commonwealth, and the name of the taxicab's certificate holder.
- (3) Report the details of the accident as soon as practicable as follows to:
  - (i) The police if required under 75 Pa.C.S. § 3746 (relating to immediate notice of accident to police department).
  - (ii) The certificate holder.
  - (iii) The Manager of Enforcement if required under § 1017.37 (relating to inspection subsequent to vehicular accident or damage).

#### **§ 1021.16. Service issues regarding people with disabilities.**

(a) If on-duty and not already transporting a passenger, a taxicab driver shall stop the taxicab when hailed by a person with a disability. The driver shall determine if the services requested by the person can be reasonably accommodated by the vehicle and adhere to the following procedure:

- (1) If the service request can be reasonably accommodated, the driver shall provide the service.

(2) If the service request cannot be reasonably accommodated, the driver shall call a dispatcher immediately to arrange for service by the closest taxicab available that can accommodate the person's request.

(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 hailer outside of its defined geographical area.

**§ 1021.17. Partial-rights taxicab driver log.**

(a) A taxicab driver providing service in a partial-rights taxicab shall maintain a service log identifying all taxicab service provided during each shift.

(b) The partial-rights taxicab service log must identify the following information:

(1) The date of service.

(2) The taxicab driver's name and driver's certificate number.

(3) The taxicab number, the certificate holder and the dispatcher.

(4) The times and places of origin and destination of each trip including the odometer or meter mileage at the origin and destination of each passenger trip. Origin and destination places shall contain a street name and address or, if unavailable, an identifiable landmark.

(5) A designation indicating whether a trip resulted from a hail or through the dispatcher.

(6) The fare paid for the trip.

(7) The amount of any gratuity paid to the taxicab driver.

(8) The number of passengers on each trip, indicating separately each fare collected from each passenger or party of passengers sharing the ride.

(9) Each trip on which packages were delivered and the charge for the trip.

(10) The signature of the driver attesting to the accuracy of the data recorded.

(c) A partial-rights taxicab driver shall completely enter the information required by the log immediately upon the conclusion of each taxicab service trip.

(d) The taxicab log required under this section shall be maintained in the taxicab until the driver's shift has ended and be presented to an inspector at any time upon demand.

(e) Upon the conclusion of a partial-rights taxicab driver's shift, the taxicab log shall be delivered to the certificate holder and maintained by the certificate holder as provided in § 1011.11 (relating to record retention).

(f) The Authority may require the use of a specific taxicab service log form and will make the required form available on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

## CHAPTER 1025. INSURANCE REQUIRED

### § 1025.1. Definitions.

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

*Form E*—The standard form filed by a regulated party's insurer evidencing the existence of a current and valid insurance policy or surety bond in the name of the insured and for lines of coverage and with limits required by the Authority.

*Form K*—The standard form filed by a regulated party's insurer providing notice of cancellation of an insurance policy or surety bond previously maintained to be in compliance with the act, this part or an order of the Authority.

*Self-insurer*—A certificate holder that adjusts and is ultimately liable for payment of all or part of its bodily injury, property or cargo damage claims resulting from the operation, maintenance or use of a motor vehicle as a taxicab.

### § 1025.2. Insurance forms and procedures.

#### (a) *Forms of notice.*

(1) Endorsements for policies of insurance and surety bonds, certificates of insurance or for approval of other securities or agreements shall be made through Form E.

(2) Notices of cancellation for policies of insurance, surety bonds, certificates of insurance and self-insurer status shall be made through Form K.

(3) Each provider of insurance and surety bonds shall complete and file the Authority's Form INS-1 "Contact Information" upon the first filing of a Form E in each calendar year and at any time during the year when the contact information provided will change. A copy of the Form INS-1 is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) *Surety bonds and certificates in effect continuously.* Surety bonds and certificates of insurance must specify that coverage will remain in effect continuously until terminated, except under one of the following conditions:

(1) When filed expressly to fill prior gaps or lapses in coverage or to cover grants of emergency temporary authority of unusually short duration and the filing clearly so indicates.

(2) Urgent circumstances, when special permission is obtained from the Authority.

#### (c) *Filing and copies.*

(1) Certificates of insurance, surety bonds and notices of cancellation required by subsection (a) must be filed with the Director by email at [eksubmission@philapark.org](mailto:eksubmission@philapark.org).

(2) The Authority will provide prompt notice of acceptance of filings required by this section by return email message.

(d) *Name of insured.* Certificates of insurance and surety bonds shall be issued in the full and correct name of the regulated party to whom the certificate, registration, or license or other right is, or is to be issued. In the case of a partnership, all partners shall be named.

(e) *Cancellation notice.* Except as provided in subsection (f), surety bonds, certificates of insurance and other securities or agreements may not be cancelled or withdrawn until after 30 days notice in writing has been issued by the insurance company, surety, motor carrier, broker or other party, to the Director. The period of 30 days begins from the date the Director provides notice of acceptance as provided in subsection (c)(2).

(f) *Termination by replacement.* Certificates of insurance and surety bonds which have been accepted by the Authority under this chapter may be replaced by other certificates of insurance, surety bonds or other security, and the liability of the retiring insurer or surety under the certificates of insurance or surety bonds shall be considered as having terminated as of the effective date of the replacement certificate of insurance, surety bond or other security, if the replacement certificate, bond or other security is acceptable to the Authority under this chapter.

(g) *Refusal to accept or revocation by the Authority of surety bonds.* The Authority may refuse to accept or may revoke its acceptance of a surety bond, certificate of insurance or other securities or agreements if, in its judgment, the security does not comply with this subchapter or fails to provide satisfactory or adequate protection for the public. Revocation of acceptance of a certificate of insurance, surety bond or other security does not relieve the regulated party from compliance with this subchapter.

(h) *Compliance.* Failure to maintain evidence of insurance on file with the Authority in accordance with this chapter may cause the rights and privileges issued to the regulated party to be placed out of service immediately as provided in § 1003.32 (relating to out of service designation). The Authority may establish rules under which suspended rights and privileges may be temporarily reinstated pending compliance with this subpart.

### **§ 1025.3. Insurance required.**

(a) A regulated party may not engage in taxicab service and the certificate of public convenience will not be issued or remain in force, except as provided in § 1025.4 (relating to applications to self-insure) until there has been filed with and approved by the Authority a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a taxicab in the insured authorized service.

(b) The liability insurance maintained by a taxicab certificate holder must conform to 75 Pa.C.S. Chapter 17 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the taxicab driver of taxicabs must meet the requirements in 75 Pa.C.S. § 1711 (relating to required benefits).

(c) The certificate holder's loss history with a current or former insurer shall be released to the Authority within 3 business days of a request by the Authority. The certificate holder shall authorize any release required by the insurer to facilitate the timely delivery of the loss history to the Authority.

(d) The Authority may direct insurers to file proof of insurance both electronically and in hard copy.

(e) The limits in subsection (b) do not include the insurance of cargo.

### **§ 1025.4. Applications to self-insure.**

(a) A taxicab or limousine certificate holder may file an application with the Authority to act as self-insurer of all or part of its bodily injury, property damage or cargo damage claims. In support of its application, the applicant shall submit a true and accurate statement of its financial condition which establishes its capability to satisfy its insurance obligations as they become due, a self-insurance plan which includes adequate security to protect the public and a description of its safety program including its past accident record. A self-insurance applicant shall agree in the application to grant the Authority power to rescind approval of self-insurer status, without hearing, if the Authority determines that the public interest demands it.

(b) In reviewing self-insurance applications, the Authority will examine the following factors in determining whether approval will be granted:

(1) The net worth of the certificate holder in relationship to the size of its operation and the nature and extent of its request for self-insurer status. The evidence must demonstrate the certificate holder's financial capability to adjust and pay insurance obligations as they become due before approval will be granted.

(2) The organization of the certificate holder's proposed self-insurance program including the adequacy of security to protect the public. Security may be in the form, but is not limited to, one or more of the following:

(i) Reserves.

(ii) Sinking funds.

(iii) Third party financial guarantees.

(iv) Parent company or affiliate sureties.

(v) Excess insurance coverage.

(vi) Other similar arrangements.

(3) The effectiveness of the certificate holder's safety program. The Authority will look closely at the average number and average cost of accident losses over the past three years in determining whether self-insurance is feasible.

(c) Authority approval of a self-insurance application may be made conditional on revisions in the applicant's proposed self-insurance plan, safety program or standards for adjustment and payment of claims, as well as requirements of periodic financial filings with the Authority.

(d) Authority approval of self-insurance status is subject to the issuance of a self-insurance certificate to the motor carrier by the Department of Transportation as required under 67 Pa. Code § 223.5 (relating to certificate) for vehicles registered in this Commonwealth.

### **§ 1025.5. Standards for adjustment and payment of claims.**

Common carriers by motor vehicle, who are responsible to the public for adjustment or payment of bodily injury, property damage or cargo damage claims, or both, are prohibited from:

- (1) Misrepresenting pertinent facts relating to claims at issue.
- (2) Failing to acknowledge and act promptly upon written or oral communications with respect to insurance claims.
- (3) Failing to adopt and implement reasonable standards for the prompt investigation of claims.
- (4) Refusing to pay claims without conducting a reasonable investigation based upon available information.
- (5) Failing to affirm or deny responsibility for claims within a reasonable time after proof of loss statements have been completed and communicated to the carrier or its representative.
- (6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which the carrier's liability has become reasonably clear.
- (7) Compelling persons to institute litigation to recover amounts due by offering substantially less than the amounts due and ultimately recovered in actions brought by those persons.
- (8) Making claim payments to claimants not accompanied by a statement defining which payments are being made.
- (9) Making known to claimants a policy of appealing from arbitration awards in favor of claimants to induce or compel them to accept settlements or compromises less than the amount awarded in arbitration.
- (10) Delaying the investigation or payment of claims by requiring a physician to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.
- (11) Failing to promptly provide a reasonable explanation in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

**§ 1025.6. Additional requirements.**

- (a) Providers of policies of insurance and surety bonds shall summarize as a separate attachment from its policy any and all deviations of the policy from the standard ISO form. The insurer shall have the insured sign the attachment to the policy.
- (b) If a provider of a policy of insurance or surety bond is a surplus lines carrier, a Form 1609-PR of the Insurance Department shall be submitted along with the Form E. The Authority reserves the right to have surplus line carriers demonstrate denial of coverage from insurance carriers that the Authority may be aware is providing admitted coverage, if any.

**CHAPTER 1027. SALE OF RIGHTS**

**§ 1027.1. Purpose.**

This chapter establishes and prescribes Authority regulations and procedures for the sale of certain rights issued by the Authority.

**§ 1027.2. Transferable rights.**

Only the following rights may be subject to sale:

- (1) A certificate of public convenience to provide partial-rights taxicab service.
- (2) A certificate of public convenience to provide dispatching services.
- (3) A medallion.
- (4) A certificate of public convenience to provide limousine service as provided in Subpart C (relating to limousines).

**§ 1027.3. Authority approval of sale of rights.**

(a) *Sale of transferable rights.* The sale of transferable rights without advance approval of the Authority is void by operation of law.

(b) *Sale of securities in transferable rights.* The sale of securities in an entity that owns transferable rights will be considered a sale under this chapter in either of the following circumstances:

(1) The securities to be transferred equal or exceed 2% of the issued securities in the entity that holds an ownership interest in a transferrable right.

(2) Upon completion of the transfer the buyer will own 2% or more of the issued securities in the entity that holds an ownership interest in a transferrable right.

(c) *New certificate number.* The Authority may assign a new certificate number to the rights sold to an approved buyer.

**§ 1027.4. Certificate required for medallion sales.**

(a) The proposed buyer of a medallion shall own a medallion taxicab certificate on or before the date of transfer.

(b) A proposed buyer that does not own a medallion taxicab certificate on the date the sale application is filed shall request a new medallion taxicab certificate through the sale application as provided in § 1027.6 (relating to application for sale transferable rights).

**§ 1027.5. Agreement of sale.**

(a) The parties to a proposed sale of transferable rights shall complete an agreement of sale detailing the terms of the transaction, including provisions required by this chapter, and file the agreement with the Director.

(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.

**§ 1027.6. Application for sale of transferable rights.**

(a) *Application documents.*

(1) To initiate a sale, the owner and proposed buyer shall file an original and one copy of Form No. SA-1 "Sale Application," the agreement of sale or transfer and other documents required by this chapter. The proposed buyer will be considered the applicant. The SA-1 is available at [www.philapark.org/tld](http://www.philapark.org/tld).

(2) The SA-1 shall be filed in person with the Director.

(3) The Director will refuse to accept an application which is incomplete for any reason.

(4) Upon acceptance, the Director will submit a copy of the application documents to the Clerk and an application docket number will be assigned.

(b) *Application signatures.*

(1) Both parties to the sale shall execute the SA-1 in the presence of the Director or a designee.

(2) Except for individuals, an original executed and notarized resolution from the buyer and seller authorizing the execution of the sale documents must be included with the filing of the SA-1.

(3) The Authority may permit an SA-1 to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney), in which case the owner will be required to attend the closing on the sale.

(c) *Verification and payment.* The SA-1 must be verified under § 1001.36 (relating to verification and affidavit) and be accompanied by payment of the transfer fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(d) *Multiple rights.* The SA-1 may be used to sell an unlimited number of transferable rights from one owner to one proposed buyer.

(e) *Broker.* Documents intended for submission to the Director as part of the sale process shall be prepared by a broker registered with the Authority as provided in Chapter 1029 (relating to brokers) or an attorney admitted to practice law by the Supreme Court of Pennsylvania.

#### **§ 1027.7. Required application information.**

(a) *SA-1 form.* The SA-1 is a multipurpose form intended for use in the sale of different transferable rights and shall be completed by the broker or attorney, or both, in a manner consistent with the intentions of the sale. For example, an SA-1 used only for the sale of a partial-rights certificate need not complete the portion of the application which seeks medallion numbers.

(b) *Required information.* Except as provided in subsection (a), the completed SA-1 must include the information required by the Authority, including the following:

(1) The medallion numbers.

(2) The certificate numbers.

(3) The name of the proposed buyer and contact information, including a telephone number, an email address and a facsimile number.



- (4) If the proposed buyer is a nonindividual person and is not already a certificate holder, a contemporaneous certificate of good standing for the proposed buyer issued by the Corporation Bureau within 30 days of filing the SA-1.
- (5) The name of any holding company as defined in § 1011.2 (relating to definitions) having an interest in the proposed buyer and a contemporaneous certificate of good standing for the holding company from the Corporation Bureau, or similarly authorized entity in another jurisdiction in the United States.
- (6) The trade name, if any, of the proposed buyer and a copy of the trade name registration certificate, if applicable.
- (7) The mailing address and physical address of the proposed buyer.
- (8) A statement of the proposed buyer's corporate purpose, if applicable.
- (9) A list, including name, home address and telephone numbers for current corporate officers, directors, stockholders, key employees and persons with controlling interests as defined in § 1011.2, if applicable.
- (10) A list of all Authority, PUC and Federal common carrier rights held by the proposed buyer and any of the persons listed in response to paragraph (9), including taxicab medallions.
- (11) The name, address, telephone number, facsimile number and email address of any attorney assisting the proposed buyer with the application process, together with an acknowledgement that § 1029.3 (relating to use of attorney) has been reviewed by the proposed buyer.
- (12) A certified criminal history report, issued within 30 days of the filing of the application, from any jurisdiction in which the following persons have lived in the preceding 5 years through the date of application:
  - (i) An individual proposed buyer.
  - (ii) An individual with a controlling interest in the proposed buyer.
  - (iii) An individual with a controlling interest in the holding company of a proposed buyer.
  - (iv) A key employee.
- (13) A verified statement indicating that the persons identified in paragraph (11) have not been subject to a conviction as defined in § 1001.10 (relating to definitions) and that the proposed buyer has read and understands the prohibitions of ownership as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).
- (14) Verified statements from the owner and proposed buyer confirming that each are in compliance with § 1011.7 (relating payment of outstanding fines, fees and penalties).
- (15) The Federal Tax Identification number for the following persons:
  - (i) The owner of the rights.
  - (ii) The proposed buyer.

(iii) Persons with a controlling interest in the owner or a proposed buyer.

(iv) Key employees of an owner or proposed buyer.

(c) *Proof of ownership.* The Authority may require the owner to prove ownership of the right or rights subject to sale.

**§ 1027.8. Additional application requirements.**

(a) *Agreement of sale.* The agreement of sale required under this chapter must include the information required by the Authority, including the following:

(1) The parties to the transaction.

(2) A description of the transaction.

(3) The identification number of each right subject to sale.

(4) The total consideration for the sale and for each right transferred if the sale involves multiple rights in United States dollars, and any payment terms required by the Authority, including the following:

(i) The assumption of any loan or debt.

(ii) Contingencies and nonmonetary consideration.

(iii) Monetary consideration.

(5) An acknowledgement initialed by all parties that the agreement is subject to the laws and jurisdiction of the Commonwealth, the act, this part and orders of the Authority.

(b) *Execution of agreement of sale.* The proposed agreement of sale must be signed at one time by all parties before the Director or a designee on or before the date the SA-1 is filed.

(c) *Removal of liens.* If a notice of lien relating to a medallion which is the subject of a proposed sale was filed under 13 Pa.C.S. (relating to Uniform Commercial Code), the Authority will not approve a medallion sale until evidence of a lien's removal is submitted, unless the Authority is notified by the lienholder that the lien will be satisfied from the proceeds of the sale.

(d) *Continuing service.* The owner of the rights subject to sale shall confirm that the rights will remain in active service pending review of the application, unless prohibited or authorized for suspension by a provision of this part or an order of the Authority.

(e) *Notice.*

(1) A notice of applications will be published in the *Pennsylvania Bulletin* as provided in § 1003.53 (relating to applications requiring notice).

(2) The parties to the sale will receive notices related to the SA-1 as provided in § 1001.51 (relating to service by the Authority).

(f) *Loan documents.*

(1) Any consideration identified in subsection (a)(4) that is provided to a proposed buyer must be evidenced in the form of written agreements. For example, the loaning of cash money to a proposed buyer by a bank must be confirmed through loan documents executed by the borrowing party.

(2) The documents required under paragraph (1) shall be submitted to the Director at the time the SA-1 is filed, except that specific financial information that cannot be known until on or about the closing date for the sale may be left blank. The final loan documents must be executed at the closing on the sale.

#### **§ 1027.9. Financial fitness generally.**

The Authority will review the financial fitness of the proposed buyer, including a review of the following:

(1) For proposed buyers of medallions or partial-rights certificates, bank statements of the proposed buyer or the bank statements of the holder of the stock or membership certificate evidencing ownership of a bank account holding not less than the greater of \$5,000 or 2% of the sale price in unencumbered and available funds.

(2) For proposed buyers of dispatcher certificates, bank statements of the proposed buyer or the bank statements of the holder of the stock or membership certificate evidencing ownership of a bank account holding not less than the greater of \$5,000 or 2% of the sale price in unencumbered and available funds.

(3) The credit report of each of the persons identified in § 1027.7(b)(12) (relating to required application information) evidencing a credit score of at least 600 for each person.

(4) The absence of any outstanding and unappealed civil judgments against each of the parties required to submit a criminal history report under § 1027.7(b)(12).

(5) The Authority may require the submission of additional financial information necessary to determine the financial fitness of a proposed buyer.

#### **§ 1027.10. Regulatory compliance review.**

(a) An SA-1 will be denied if the proposed buyer has a record of regulatory violations with the Authority or the PUC which evidences a disregard for the public interest.

(b) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer has been subject to the suspension, revocation or cancellation of rights issued by the Authority or common carrier rights issued by the PUC during the 1-year period immediately preceding the date the SA-1 was filed with the Authority.

#### **§ 1027.11. Authority review.**

(a) Notice of sale will be published in the *Pennsylvania Bulletin*.

(b) The SA-1 will be reviewed as provided in § 1003.51 (relating to applications generally).

(c) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer is in violation of any provision of this part or if the Authority determines that the sale is not in the public interest. The SA-1 may be denied if the owner is in violation of any provision of this part.

(d) The Authority will review the terms of any loan associated with an SA-1 and deny the application in the circumstances in this subsection. The terms of any loan associated with an SA-1 are likely to lead to a condition of default by the proposed buyer. The Authority will specifically review the following provisions of any loan agreement to assure it does not conflict with the public interest:

- (1) The term.
- (2) The interest rate or rates, including any adjustable rate or balloon provisions.
- (3) Late payment grace periods.
- (4) Conditions of default.
- (5) Periods in which defaults may be cured.
- (6) The qualifications, experience and history of the lender related to commercial loans and loans to public utilities.

**§ 1027.12. Approval process and closing on sale.**

(a) If the Director determines that a proposed buyer of rights is qualified as provided in the act, this part or an order of the Authority, a recommendation to approve the sale will be presented to the Authority for approval at its next regularly scheduled meeting. The Authority may require that proposals from the Director as provided in this section first be presented to a committee of the Board at a public meeting.

(b) Upon approval of the sale by the Authority, the Director will schedule the parties to meet at a time and location where an Authority staff member will witness the closing of the transaction.

(c) An Authority staff member shall witness the execution of each document by the owner and proposed buyer, or their designated agents. Any closing not witnessed by Authority staff is void as provided in sections 5711(c)(5) and 5718 of the act (relating to power of authority to issue certificates of public convenience; and restrictions).

(d) If the subject of the sale is a medallion that is the only medallion issued to the owner's medallion taxicab certificate, that certificate will be cancelled upon completion of the closing on the sale of the medallion. For example, if the owner of only one medallion seeks to sell the medallion through the process provided in this chapter, the owner's medallion taxicab certificate will be cancelled upon closing on the sale of the medallion.

(e) The Authority will issue a new medallion taxicab certificate to the new medallion owner as part of the closing process if requested by the proposed buyer as provided in § 1027.4(b) (relating to certificate required for medallion sales).

(f) A medallion subject to a completed closing may not be transferred or sold for 1 year from the date of closing.

**§ 1027.13. Settlement sheet.**

(a) The owner and proposed buyer shall use Form SA-2 "Standard Settlement Sheet" at any closing on the sale of rights. The SA-2 is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

- (b) The SA-2 must include the information required by the Authority, including the following:
- (1) The names and addresses of the owner and proposed buyer.
  - (2) The names and address of the brokers or attorneys used in the transaction.
  - (3) The name and address of the lender and a designated contact person employed by the lender, if any.
  - (4) A copy of all certificates or other documents authorizing the lender to make commercial loans in this Commonwealth.
  - (5) The amount, term and interest rate of any loan used to purchase the rights.
  - (6) The medallion numbers.
  - (7) The certificate numbers.
  - (8) The total consideration for the rights to be sold and any payment terms, including loan contingencies and nonmonetary consideration.
  - (9) An allocation of funds expended in the transaction.
  - (10) The fees and costs associated with the sale, including those payable to any broker or attorney, or both.
  - (11) Signatures of the owner and proposed buyer, or their designated agents, and the brokers.

**§ 1027.14. Attachment of medallion.**

Upon the completion of the closing on the sale of a medallion, the Enforcement Department will schedule a date and time to attach the medallion to the taxicab designated by the owner in a manner consistent with § 1013.2 (relating to attachment of a medallion).

**§ 1027.15. Commencement of service.**

A regulated party shall, within 30 days from the date of receipt of a certificate, begin operating and furnishing service. If it has not commenced operating and furnishing the authorized service within 30 days, appropriate proceedings shall be initiated to terminate the certificate unless, upon advanced written permission as provided in § 1011.14 (relating to voluntary suspension of certificate), the time for commencement of service is extended.

**CHAPTER 1029. BROKERS**

**§ 1029.1. Purpose.**

(a) This chapter establishes and prescribes Authority regulations and procedures for the registration of individuals as brokers for the sale and transfer of medallions and certificates. Unless the context indicates otherwise, the provisions of this chapter apply to the sale of certificates of public convenience or medallions as provided by this subpart and Subpart C (relating to limousines).

(b) An individual authorized to act as a broker by the Authority on December 3, 2011, shall immediately comply with this chapter before the first registration renewal required under § 1011.3 (relating to annual rights renewal process).

**§ 1029.2. Use of broker.**

(a) A broker shall be used by the parties to the sale of rights, except as provided in § 1029.3 (relating to use of attorney). A single broker may represent both parties in a transaction. The Authority will maintain a list of brokers, which may be obtained at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) A person may not act as a broker without having been registered by the Authority under this chapter.

**§ 1029.3. Use of attorney.**

A party may use an attorney admitted to practice law before the Supreme Court of Pennsylvania in lieu of a broker.

**§ 1029.4. Ineligible persons for broker certification.**

An applicant is ineligible to be a broker if in violation of the act, this part or an order of the Authority, including the following:

- (1) Upon conviction or arrest as provided in § 1011.5 (relating to ineligibility due to conviction or arrest).
- (2) The applicant does not speak, read and write the English language sufficiently to draft and review transactional documents as required by the act, this part or an order of the Authority.
- (3) The applicant provides false information in any document submitted to the Authority.
- (4) The applicant is in violation of § 1011.7 (relating to payment of outstanding fines, fees and penalties).
- (5) The applicant is 20 years of age or younger.
- (6) The applicant has failed to satisfactorily complete broker testing as provided in this chapter.

**§ 1029.5. Broker registration.**

(a) *General.* To obtain a broker registration, an individual shall complete and file a Form BR-1 "Broker Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The BR-1 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) *BR-1 application.* The completed BR-1 shall be verified as provided in § 1001.36 (relating to verification and affidavit) and be filed with the Director in person and include the information required by the Authority, including the following:

- (1) The name of the applicant and contact information, including a mailing address, a telephone number, an email address and a facsimile number.

(2) A list of all Authority rights, common carrier rights issued by the PUC, and other transportation rights issued by any jurisdiction outside of this Commonwealth in which the applicant has any controlling interest.

(3) The name, address, telephone number, facsimile number and email address of any attorney or broker, or both, assisting the applicant through the Authority's broker registration process.

(4) A certified criminal history report, issued within 30 days of the filing of the application from any jurisdiction in which the following individuals have lived during the last 5 years:

(i) The applicant.

(ii) Each key employee of the applicant.

(5) A written statement verified as provided in § 1001.36, which provides that:

(i) The applicant and each key employee have not been subject to a conviction as provided in § 1001.10 (relating to definitions).

(ii) The applicant and each key employee are in compliance with § 1011.7 (relating to payment of outstanding fines, fees and penalties).

(iii) The applicant and each key employee are current on all reports due in relation to other rights issued by the Authority.

(iv) The applicant can comply with the requirements in this chapter.

(6) A completed original of Form No. BR-5 "Business Experience Questionnaire." A copy of the BR-5 may be obtained on the Authority's web site at [www.phila.park.org/tld](http://www.phila.park.org/tld).

(7) The applicant's Social Security number.

(8) A copy of the applicant's Social Security card or documents confirming a legal permanent resident status or an alien authorized to work status, if applicable.

(9) The applicant's driver's license or other government issued photographic identification.

(10) A resume detailing the applicant's work history for the 5 years preceding the filing of the BR-1 and qualifications to be a broker.

#### **§ 1029.6. Broker training.**

(a) Upon submission of a BR-1 application under § 1029.5 (relating to broker registration), an applicant may be scheduled by the Authority to attend an in-class training program upon request of the applicant. The Authority, or its authorized agent, will conduct the training.

(b) Broker training will consist of a minimum of 2 hours of instruction developed to address all areas of the Authority's regulations with emphasis on the following subjects:

(1) Eligibility to be a certificate owner, dispatcher and medallion owner.

- (2) The forms and records required to complete a sale of rights.
- (3) An overview of frequently encountered subjects in the Authority's regulations, including the following:
  - (i) Authority regulations governing certificate owners.
  - (ii) Authority regulations governing equipment.
  - (iii) Penalties for violation of Authority regulations.
  - (iv) An overview of the administrative process related to the sale of rights.
  - (v) The identification and address of the Authority office responsible for administering the act.
- (c) It is within an applicant's discretion to discontinue training and request the scheduling of broker testing as provided in § 1029.7 (relating to broker testing) through written notice to the Manager of Administration.

**§ 1029.7. Broker testing.**

- (a) The applicant will be scheduled by the Authority for broker testing. Testing will be rescheduled upon the request of the applicant to permit completion of broker training as provided in § 1029.6 (relating to broker training) or to address an applicant's scheduling conflict.
- (b) The broker test will focus on the subjects identified in § 1029.6.
- (c) The Authority will develop a test to assure that applicants for broker registration understand the subjects identified in § 1029.6.
- (d) The test will be administered in the English language. The assistance of interpreters will not be permitted.
- (e) Except as limited under this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:
  - (1) Questions requiring a written response.
  - (2) Multiple choice questions.
  - (3) Oral questions.
  - (4) The demonstration of an ability to complete all of the documents necessary to sell transferable rights.
  - (5) The demonstration of an ability to read, write and speak the English language as required by this part.
  - (f) An applicant may take the test required by this chapter more than three times.
- (g) Failure to pass the test required by this section within 90 days of the filing of the BR-1 application as provided in § 1029.5 (relating to broker registration) will render the application void.



(h) Upon the denial or voiding of a BR-1 as provided in this chapter, an applicant may not reapply for registration for 6 months.

**§ 1029.8. Broker registration approval.**

(a) If the BR-1 and related broker application documents demonstrate that the applicant is in compliance with the Authority's regulations and the applicant has passed the broker testing under § 1029.7 (relating to broker testing), the Authority will issue a broker registration letter to the applicant and place the applicant's name on the list of brokers maintained by the Authority.

(b) The broker registration letter will confirm the individual's broker status with the Authority and list an expiration date, which will be 1 year from the date of issuance, and contain other information and guidance as the Authority deems appropriate.

(c) The broker registration letter shall be displayed prominently in the broker's office.

(d) The broker registration letter may be served upon the broker by email.

**§ 1029.9. Broker representation letter.**

A broker retained by a party to a sale of rights subject to the act shall file Form BR-2 "Broker Representation Letter" with the Authority on or before the date a sale application is filed with the Authority. The BR-2 may be obtained on the Authority's web site at [www.phila park.org/tld](http://www.phila park.org/tld).

**§ 1029.10. Broker agreements required.**

(a) A broker shall have a written agreement with each client that clearly identifies the broker's client or clients, the scope of services to be performed and the consideration to be paid by each client upon completion of the closing on the sale as provide § 1027.12 (relating to approval process and closing on sale).

(b) A broker shall confirm that a power of attorney signed by a client complies with § 1001.28 (relating to power of attorney).

(c) A broker may not offer an Authority issued right for sale unless authorized in advance and in writing by the owner of the right.

(d) A broker agreement that creates an exclusive listing relationship must include as a signed and notarized addendum Form BR-3 "Broker Exclusive Listing" to confirm the understanding of a broker's client or clients that an exclusive relationship exists and its term. The BR-3 may be obtained at [www.philapark.org/tld](http://www.philapark.org/tld). An exclusive listing may not be extended beyond the termination date in the BR-3 unless a new BR-3 is signed and dated by the client as provided in this section.

(e) If a broker intends on participating in a sale of rights as an insurance broker, automobile dealer or in some other capacity in addition to that of a broker, the exact nature of the nonbroker roll, and the consideration associated with that roll, shall be disclosed in writing to the broker's client and filed with the Authority along with the BR-2. If the nonbroker roll is developed after the filing of the BR-2, the disclosure shall be made to the client and filed with the Authority immediately.

**§ 1029.11. Professional liability insurance.**

(a) A broker shall continuously maintain professional liability insurance in the amount of \$50,000, including coverage for errors and omissions caused by the broker's negligence in the performance of duties from an insurer authorized to do business in this Commonwealth.

(b) A broker registration will not be issued or renewed unless confirmation of required insurance has been filed with the Authority as provided in § 1025.2 (relating to insurance forms and procedures).

**§ 1029.12. Broker duties.**

The following duties are owed by a broker to a client in the sale of rights subject to the act and may not be waived:

(1) Exercising reasonable professional skill and care.

(2) Dealing honestly and in good faith and maintain confidentiality.

(3) Presenting, in a reasonably practicable period of time, all offers, counteroffers, notices and communications to and from the parties in writing, unless the rights at issue are subject to an existing SA-1 and the seller has agreed in a written waiver.

(4) Providing advanced written disclosure in a reasonably practicable period of time of all conflicts of interest and financial interests required by this chapter.

(5) Advising the client to seek expert advice on matters about the sale that are beyond the broker's expertise.

(6) Ensuring that all services are provided in a reasonable, professional and competent manner.

(7) Keeping the client informed about offers to purchase rights, the sale and tasks to be completed.

(8) Providing assistance with document preparation.

(9) Advising the client about compliance with laws and regulations pertaining to the rights at issue without rendering legal advice.

(10) Providing a copy of all documents prepared or maintained by the broker on behalf of the client to the client at or before the date the sale closes or otherwise immediately upon request.

**§ 1029.13. Disclosure of interest.**

(a) A broker may only participate in a transaction involving rights subject to the act in which the broker has an interest after first disclosing that interest in writing to all parties concerned.

(b) A broker may not represent, or purport to represent, more than one party to a sale of rights subject to the act without the written consent of all parties concerned.

(c) A broker who provides financial services, insurance or mechanical repair services may not require a client to use any of these services.

(d) If the client chooses to use any of the services referenced in subsection (c), the broker shall provide the client with a written disclosure of any financial interest, including a referral fee or commission that the

broker may earn. The disclosure required under this paragraph shall be made at the time the broker first advises the client that an ancillary service is available or when the broker first learns that the client will be using the service.

(e) A broker has a continuing obligation to disclose to a client, any conflict of interest in a reasonably practicable period of time after the broker learns or should have learned of the conflict of interest.

**§ 1029.14. Broker conduct and obligations.**

(a) A broker may not give assurances or advice concerning an aspect of rights subject to sale that the broker knows, or reasonably should be expected to know, is incorrect, inaccurate or improbable.

(b) A broker is not required to independently verify the accuracy or completeness of any representation made by the clients to a sale which the broker reasonably believes to be accurate and reliable.

(c) A broker is not liable for the acts of a client unless the client is acting at the express direction of the broker or as a result of a representation by a broker reasonably relied on by the client.

(d) A broker shall keep and maintain records related to its clients and each sale in which it participates in any manner as provided in § 1011.11 (relating to record retention), including the following records:

(1) The names and addresses of buyers, sellers, lenders or lienholders, if any.

(2) The purchase price.

(3) The amount of deposit paid on the contract.

(4) The amount of commission paid to the broker.

(5) The expenses of procuring financing, if any.

(6) Closing statements.

(e) Upon suspension or cancellation of a broker's registration with the Authority, no other broker may use the services of the former broker, as an employee or otherwise, to perform broker related services.

(f) An advertisement placed by a broker related to the sale of rights subject to the act must indicate that the advertiser is a registered broker. A broker may not use deceptive or misleading advertising.

**§ 1029.15. Duty to deposit money belonging to another into escrow account.**

A broker shall deposit money that the broker receives belonging to another into an escrow account in a Federally- or State-insured bank or depository to be held pending consummation of the sale of rights subject to the act or a prior termination thereof that does not involve a dispute between the parties to the sale, at which time the broker shall pay over the full amount to the party entitled to receive it.

**§ 1029.16. Nonwaiver of escrow duty.**

A broker's escrow duty may not be waived or altered by an agreement between the parties to the sale, between the broker and the parties, or between the broker and other brokers who may be involved in the sale.

**§ 1029.17. Deadline for depositing money into escrow account.**

(a) Except as provided in subsection (b), a broker shall deposit money belonging to another into one escrow account by the end of the next business day following its receipt in the broker's office.

(b) If the money of another has been tendered to the broker in the form of a check under an offer to purchase or lease a right subject to the act, the broker may, with the written permission of both the buyer and the seller or the lessee and the lessor, refrain from depositing the money into an escrow account by the deadline in subsection (a) pending the seller's or lessor's acceptance of the offer. In those cases, the broker shall deposit the check into an escrow account within 1 business day of the seller's or lessor's acceptance of the offer.

(c) A broker shall notify each client of the bank's name, address and the account number of each account holding escrowed funds related to the sale.

(d) Upon request, a broker shall notify the owner of the escrowed funds of the name, address and account number of the account holding in escrow. For purposes of this subsection, the owner of the escrowed funds is the party that provided the funds to the broker for placement in escrow.

**§ 1029.18. Escrow account.**

(a) A broker escrow account must:

(1) Be maintained in a Federally- or State-insured bank or recognized depository.

(2) Designate the broker as trustee.

(3) Provide for the withdrawal of funds without prior notice.

(4) Be used exclusively for escrow purposes.

(b) If money is expected to be held in escrow for more than 6 months, the broker is encouraged to deposit the money into an interest-bearing escrow account. Interest earned on an escrow account shall be held and disbursed, pro rata, in the same manner as the principal amount, unless the parties to the transaction direct otherwise by agreement. A broker may not claim the interest earned on an escrow account.

(c) Upon request, a broker shall provide the Authority with its records related to any escrow accounts maintained during the past 5 years or authorize the release of the records by each bank or recognized depository.

**§ 1029.19. Prohibition against commingling or misappropriation.**

(a) Except as provided in subsection (b), a broker may not commingle money that is required to be held in escrow or interest earned on an escrow account, with business, personal or other funds.

(b) A broker may deposit business or personal funds into an escrow account to cover service charges assessed to the account by the bank or depository where the account is located or to maintain a minimum balance in the account as required by the regulations of the bank or depository.

(c) A broker may not misappropriate money that is required to be held in escrow or interest earned on an escrow account, for business, personal or other purposes.

**§ 1029.20. Procedure when entitlement to money held in escrow is disputed.**

If a dispute arises between the parties to a sale over entitlement to money that is being held in escrow by a broker, the broker shall retain the money in escrow until the dispute is resolved. If resolution of the dispute appears remote without legal action, the broker may, following 30 days' notice to the parties, petition the Philadelphia Court of Common Pleas to interplead the rival claimants.

**§ 1029.21. Escrow records.**

A broker shall keep records of moneys received by him that are required to be held in escrow and shall produce the records for examination by the Authority or its authorized representatives upon written request. The records must contain the following information:

- (1) The name of the party from whom the broker received the money.
- (2) The name of the party to whom the money belongs.
- (3) The name of the party for whose account the money is deposited.
- (4) The date the broker received the money.
- (5) The date the broker deposited the money into the escrow account.
- (6) The date the broker withdrew the money from the escrow account.

**§ 1029.22. Broker in possession of medallion.**

If a medallion has been deposited with a broker, the broker shall deliver the medallion to the Authority for placement into storage within 48 hours of receipt.

**Subpart C. LIMOUSINES**

**CHAPTER 1051. GENERAL PROVISIONS**

**§ 1051.1. Purpose.**

This subpart establishes and prescribes Authority regulations and procedures for limousine service in Philadelphia.

**§ 1051.2. Definitions.**

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

*Broker*—An individual authorized by the Authority as provided in § 1061.1 (relating to broker registration) to prepare application related documents, appear at settlement and otherwise act on behalf of a party as to matters related to the sale or transfer of transferable rights.

*Controlling interest*—

(i) A controlling interest is an interest in a legal entity, applicant or certificate holder if a person's voting rights under state law or corporate articles or bylaws entitle the person to elect or appoint one or more of the members of the board of directors or other governing board or the ownership or beneficial holding of 5% or more of the securities of the corporation, partnership, limited liability company or other form of legal entity, unless this presumption of control or ability to elect is rebutted by clear and convincing evidence. A member, partner, director or officer of a corporation, partnership, limited liability company or other form of legal entity is deemed to have a controlling interest.

(ii) A person who owns or beneficially holds less than 5% of the securities of a privately held domestic or foreign corporation, partnership, limited liability company or other form of privately held legal entity shall be deemed as having rebutted the presumption of control by clear and convincing evidence.

*Driver history report*—A driver's license report containing details about a driver's history including accidents and violations issued by a jurisdiction within the United States.

*Driver's license*—A license or permit to operate a motor vehicle issued by the Department of Transportation or similarly authorized government entity in another jurisdiction of the United States.

*Federal Tax Identification number*—The Social Security number of an individual or the Employer Identification number of a business entity, fiduciary or other person.

*Holding company*—A person, other than an individual, which, directly or indirectly, owns, has the power or right to control or to vote 20% or more of the outstanding voting securities of a corporation or other form of business organization. A holding company indirectly has, holds or owns any such power, right or security if it does so through an interest in a subsidiary or successive subsidiaries.

*Inspector*—Enforcement Department uniformed or non-uniformed staff assigned to investigate and enforce the act, this part and orders of the Authority who will be identifiable by an Authority issued badge number.

*Key employee*—An individual who is employed in a director or department head capacity and who is empowered to make discretionary decisions that affect the operations of an applicant or regulated person.

*Limousine certificate*—A certificate granting the owner the right to operate a class of limousine service under this subpart.

*Limousine driver's certificate*—The original photographic identification card issued by the Authority which confirms that an individual has complied with Chapter 1057 (relating to limousine drivers) and is authorized to provide limousine service under section 5706 of the act (relating to driver certification program).

*Moving violations*—Any debt owed the Commonwealth or one of its political subdivisions for violations of 75 Pa.C.S. (relating to Vehicle Code) that is not under appeal.

*Parking violations*—Any debt owed to the City of Philadelphia related to a violation of the Philadelphia Traffic Code (12 Phila. Code §§ 100—3012) that is not under appeal.

*Proposed buyer*—The party seeking to acquire an ownership interest in a certificate.

*Transfer fee*—The nonrefundable fee charged by the Authority to review an application to sell transferable rights.

**§ 1051.3. Annual rights renewal process.**

(a) *Expiration of certificate.* All rights will expire annually, including the following:

- (1) Except as provided in subsection (f), a certificate will expire on June 30 of each year.
- (2) A limousine driver's certificate will expire 1 year from its date of issuance or renewal.

(b) *Expired rights.*

- (1) Expired rights will be placed out of service by the Authority as provided in § 1003.32 (relating to out of service designation).
- (2) Limousine driver certificates that have been expired for 1 year or more will be deemed cancelled.

(c) *Renewal forms.*

(1) Rights issued by the Authority shall be renewed by completing and filing the required renewal form with the Manager of Administration. Renewal forms may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld) or from TLD Headquarters.

(2) The renewal forms may require the submission of additional information or documents to confirm continuing eligibility under the act or this part, or both.

(3) The renewal forms must be verified as provided in § 1001.36 (relating to verification and affidavit) and filed as follows:

(i) For limousine certificates, Form LM-1 "Limousine Renewal" shall be filed on or before April 1 of each year.

(ii) For limousine drivers' certificates, Form DR-3 "Driver Renewal" shall be filed between 90 and 60 days before the expiration date printed on the limousine driver's certificate.

(d) *Renewal denial.* The Authority will deny renewal of rights in the following circumstances:

(1) If the owner of the rights subject to renewal fails to complete the renewal process.

(2) The renewal process reveals information about the renewing person or those with a controlling interest in the renewing person that would result in a denial of an initial application for the rights.

(3) The renewing person fails to comply with § 1051.4 (relating to annual assessments and renewal fees).

(e) *Suspended rights.* Rights subject to suspension for any reason shall be renewed on the dates and in the manner provided by this section regardless of the suspended status.

(f) *New certificates and registrations.* A certificate will not be subject to the renewal requirements in this section during the calendar year in which it is first issued.

**§ 1051.4. Annual assessments and renewal fees.**

(a) *Assessments and renewal fees.* The owners of rights issued by the Authority shall pay an annual assessment or renewal fee in an amount established each year under section 5707(b) of the act (relating to budget and fees) and as set forth in the Authority's annual fee schedule as provided in § 1001.43 (relating to Authority fee schedule).

(b) *Payment of assessments by certificate holders.* The annual assessment for certificate holders is due on or before June 30 of each year.

(c) *Payment of renewal fees by limousine drivers.* The annual renewal fee for limousine drivers is due with the filing of the DR-3 as provided in § 1051.3(c)(3)(ii) (relating to annual rights renewal process).

(d) *Late assessment or renewal fee payments.* Rights issued by the Authority may be placed out of service at the time an assessment or renewal fee payment becomes late, as provided in § 1003.32 (relating to out of service designation).

**§ 1051.5. Ineligibility due to conviction or arrest.**

(a) Except as provided in subsection (e), a person is ineligible to own any interest in any right issued by the Authority if the person, or a person having a controlling interest over the person or a key employee, has been subject to a conviction as defined in § 1001.10 (relating to definitions), in the past 5 years and for 6 months from the date the convicted person completes the sentence imposed, including incarceration, probation, parole and other forms of supervised release.

(b) If a regulated party owning a transferable right becomes ineligible to hold rights issued by the Authority due to a conviction, the regulated party shall immediately cease use of the rights and initiate the sale of the rights to an eligible person as provided in Chapter 1059 (relating to applications and sale of rights) within 180 days of the conviction.

(c) A regulated party or applicant shall inform the Director within 72 hours of being subject to an arrest or conviction as defined under § 1001.10.

(d) If a criminal prosecution is initiated against a regulated party for a crime that may lead to a conviction as defined in § 1001.10, the Enforcement Department or trial counsel may place the subject rights out of service as provided in § 1003.32 (relating to out of service designation).

(e) A person subject to an order of Accelerated Rehabilitative Disposition shall be ineligible to own any interest in any right issued by the Authority until the terms of the order have been completed.

(f) Upon consideration of a petition to seek a waiver related to this section, as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal or waiver of Authority regulations), the Authority will also consider:

- (1) The nature of the petitioner's duties subject to the act.
- (2) The nature and seriousness of the offense or conduct.
- (3) The circumstances under which the offense or conduct occurred.



- (4) The age of the petitioner when the offense or conduct was committed.
- (5) Whether the offense or conduct was an isolated or a repeated incident.
- (6) Evidence of rehabilitation, including good conduct in the community.
- (7) Counseling or psychiatric treatment received and the recommendation of persons who have substantial contact with the petitioner.

**§ 1051.6. Payment of outstanding fines, fees and penalties.**

- (a) Regulated persons and applicants for any right issued by the Authority shall pay all assessments, fees, penalties and other payments due to the Authority under the act, this part or an order of the Authority on schedule, unless the matter related to the payment is under appeal.
- (b) Regulated persons and applicants for any right issued by the Authority shall remain current on the payment of parking violations and moving violations, unless the violation is under appeal.
- (c) For purposes of this section, regulated persons and applicants include those with a controlling interest in the regulated person or applicant, or both.

**§ 1051.7. Facility inspections.**

- (a) Inspectors may enter upon the premises of limousine certificate holders where limousines are parked, stored or maintained during ordinary business hours to inspect vehicles or records, or both, associated, with the operation of limousines in Philadelphia, including inspection reports and lease agreements between the certificate holder and another regulated party.
- (b) Inspectors may enter upon the premises of brokers during ordinary business hours to review records related to either completed or pending transfers filed with the Authority as provided in § 1059.5 (relating to application for sale of transferable rights) to assure compliance with the act and Chapter 1061 (relating to brokers).

**§ 1051.8. Limousine service limitations.**

- (a) Except as provided in subsection (c), only the following individuals may provide limousine service:
  - (1) The owner, if the owner is a limousine driver.
  - (2) An employee of the certificate holder who is a limousine driver.
  - (3) A limousine driver who leases the limousine directly from the certificate holder.
- (b) A certificate holder shall supervise its limousine to make certain that only those limousine drivers authorized by this section provide limousine service.
- (c) This section does not apply to an individual hired by a funeral home to drive a limousine for funeral related services. The funeral service drivers may not be in violation of § 1051.5 (relating to ineligibility due to conviction or arrest), shall submit to a criminal background check by the TLD and evidence possession of a valid State-issued driver's license.

**§ 1051.9. Discrimination in service.**

A regulated person may not refuse service to a member of the public on the basis of gender, sexual orientation, race, religious preference, nationality, age, point of origin, point of destination or to a person with a disability.

**§ 1051.10. Record retention.**

(a) The following records shall be maintained in the English language for 2 years from the date of origin:

(1) *Limousine certificate holders.*

(i) All Philadelphia limousine service trip logs.

(ii) A list of limousine drivers and dates employed.

(iii) Each lease agreement for a limousine.

(iv) Records of payment by a driver under each lease agreement for a limousine.

(v) Records related to accidents involving vehicles used as limousines, including repair records.

(2) *Brokers.* Brokers shall retain all documents submitted to the Authority for review of each proposed sale of rights, including closing documents.

(b) Paper or electronic records, or both, shall be maintained in chronological order by date and time of day.

(c) A regulated party shall produce records maintained under subsection (a) to the Authority upon written request or upon inspection as provided in § 1051.7 (relating to facility inspections). If the records require a special form of software to search or interpret, a regulated party shall make that software available to the Authority.

**§ 1051.11. Aiding or abetting violations.**

A person may not aid, abet, encourage or require a regulated party to violate the act, this part or an order of the Authority.

**§ 1051.12. Interruptions of service.**

A discontinuance in the provision of limousine service for 5 or more consecutive days shall be reported by the certificate holder to the Manager of Enforcement in writing within 7 days of the beginning of the discontinuation of service. The written report must include the cause of interruption and its probable duration and may be forwarded by email.

**§ 1051.13. 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 § 1051.12 (relating to interruptions of service) as provided in subsection (c).

(b) A certificate may not be placed in voluntary suspended status for more than 1 year.

(c) To request approval from the Authority for the voluntary suspension of a certificate, the certificate holder shall file a completed a CPC-1 "Voluntary Suspension Application" with the Director and pay the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The CPC-1 may be obtained at [www.philapark.org/tld](http://www.philapark.org/tld).

(d) Before a CPC-1 is granted, a certificate holder shall be in compliance with § 1051.6 (relating to payment of outstanding fines, fees and penalties) and pay the entire Authority assessment that will come due during the proposed period of voluntary suspension.

**§ 1051.14. Death or incapacitation of a certificate holder or certain persons with controlling interest.**

(a) *Definition.* The following word, when used in this section, has the following meaning, unless the context indicates otherwise:

*Incapacitation*—A determination by a court that an individual is incapacitated as provided in 20 Pa.C.S. § 5511 (relating to petition and hearing; independent evaluation), or for non-Pennsylvania residents, a substantially similar order from a court of competent jurisdiction.

(b) *Death or incapacitation of an individual certificate holder.*

(1) Upon the death or incapacitation of an individual certificate holder, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for 6 months.

(2) The legal representative of the deceased or incapacitated certificate holder shall immediately begin the process of finding a qualified person to buy the certificate as provided in Chapter 1059 (relating to applications and sale of rights), including the use of a broker or attorney. Nothing in this section prohibits the legal representative from buying the certificate.

(3) If an SA-1 for the certificate is not correctly filed, as provided in Chapter 1059 within 90 days of the date the certificate holder died or was declared incapacitated, the certificate will be placed out of service as provided in § 1003.32 (relating to out of service designation) and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or trial counsel.

(4) If an SA-1 for the certificate is correctly filed within 90 days of the date the certificate holder died or was declared incapacitated, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated certificate holder for the duration of the SA-1 review period and through closing on the sale.

(c) *Death, incapacitation or dissolution of certain persons with controlling interest in a certificate.*

(1) Upon the death, incapacitation or dissolution of a person that owns 5% or more of the certificate holder's securities, the rights conferred by the certificate shall continue with the certificate holder for 3 months.

(2) The certificate holder shall immediately begin the process of finding a qualified person to buy the securities of the certificate holder referenced in paragraph (1) as provided in Chapter 1059 including the use of a broker or attorney. Nothing in this section prohibits the certificate holder from reacquiring the securities of the person referenced in paragraph (1).

(3) If an SA-1 for the sale of the securities referenced in paragraph (1) is not correctly filed as provided in Chapter 1059 within 90 days of the date of that person's or persons' death, incapacitation or dissolution, the certificate will be placed out of service as provided in § 1003.32 and may be cancelled upon determination of a formal complaint filed by the Enforcement Department or trial counsel.

(4) If an SA-1 for the sale of the securities referenced in paragraph (1) is correctly filed, as provided in Chapter 1059, within 90 days of the date of the person's death, incapacitation or dissolution, the rights conferred by the certificate shall continue for the duration of the SA-1 review period and through closing on the sale.

(d) *Ineligibility of successor or legal representative.* This section may not be interpreted to permit the operation or use of Authority rights by a person otherwise prohibited from the ability to receive Authority rights. For example, the executor of the estate on a deceased individual certificate holder who would be ineligible to own Authority rights as provided in § 1051.5 (relating to ineligibility due to conviction or arrest), may not operate or supervise the operation of the rights conferred by the certificate.

#### **§ 1051.15. Power of successors by law.**

(a) If a trustee, receiver, assignee, custodian or similar officer or officers is appointed by a court of competent jurisdiction, or is selected by creditors in accordance with provisions of law, with authority to take or retain possession and to operate the property and business of a certificate holder, the officer shall have authority to perform the service authorized in the certificate of the debtor certificate holder for 90 days from his appointment or selection.

(b) The appointed officer may petition the Authority for authorization to exercise the rights conferred by the certificate for an additional period of time, and the Authority may, for good cause shown, grant authority.

(c) If the petition is filed within 60 days of the appointment or selection of the petitioner, the appointed officer shall have authority to exercise the rights conferred by the certificate pending a decision by the Authority on the petition. Pertinent orders or decrees of the court having jurisdiction may be deemed cause for the granting of petitions by the Authority.

#### **§ 1051.16. Limitations.**

Operations covered under §§ 1011.15 and 1011.16 (relating to death or incapacitation of a certificate holder or certain persons with controlling interest; and power of successors by law) are subject to the terms and conditions of the certificate of public convenience and may not be conducted without full compliance with the act, this part or an order of the Authority, including insurance coverage.

#### **§ 1051.17. Application review generally.**

Applications for rights required under this subpart will be reviewed as provided in § 1003.51 (relating to applications generally).

### **CHAPTER 1053. STANDARD CLASSIFICATIONS OF LIMOUSINE SERVICE**

#### **Subchapter A. CLASSIFICATIONS**

#### **§ 1053.1. Standard classifications of limousine service.**

(a) The Authority will issue limousine certificates for the several standard classifications of service identified in this chapter. One limousine certificate will permit only one classification of limousine service.

(b) The following standard classification of types of limousine service is adopted, and the following are hereby recognized as standard classifications of limousine service:

(1) *Luxury limousine service.* The Authority will issue two separate certificates of public convenience for luxury limousine service, as follows:

(i) Local, nonscheduled common carrier by motor vehicle service for passengers rendered in luxury-type vehicles, as provided in § 1053.23 (relating to vehicle and equipment requirements), on an exclusive basis which is arranged for in advance. If the classification of limousine service does not strictly meet the classifications provided in paragraph (2) or (3), the service will be deemed luxury limousine service under this subparagraph.

(ii) Local, nonscheduled common carrier by motor vehicle service for passengers rendered in a vehicle capable of seating not less than 9 passengers including the driver and not more than 15 passengers, including the driver, on an exclusive basis which is arranged for in advance. The driver of a limousine providing service under this subparagraph shall maintain a trip sheet as provided in § 1057.16 (relating to trip sheet requirements).

(2) *Airport transfer service.* Common carrier service rendered on a nonexclusive, scheduled basis by the holder of a certificate of public convenience from the Authority which originates or terminates at an airport, railroad station or hotel located in whole or in part in Philadelphia.

(3) *Remote carrier.* A vehicle operated by the holder of a certificate of public convenience from the PUC that engages in limousine service, group and party service or airport transfer service from any airport, railroad station or hotel located in whole or in part in Philadelphia to a location outside Philadelphia through a certificate of public convenience issued by the Authority as provided in section 5741(a.3) of the act (relating to certificate of public convenience required) and under § 1053.43(c) and (f) (relating to certain limousine requirements).

## **Subchapter B. LUXURY LIMOUSINE SERVICE**

### **§ 1053.21. Purpose.**

This subchapter applies to luxury limousine service.

### **§ 1053.22. Method of operation.**

(a) A common carrier operating luxury limousine service shall have the following rights and be subject to the following conditions:

(1) To transport persons on an exclusive basis between points as authorized by the certificate, if the order for service is received in advance of the actual rendering of service and not by street hail.

(2) To charge for service based upon use of a limousine with payment made by a single person or organization and not by passengers as individuals.

(b) Direct, in-person solicitation of a passenger by the driver or a representative of the driver or certificate holder is prohibited.

**§ 1053.23. Vehicle and equipment requirements.**

(a) Luxury limousine service may be operated only in luxury type vehicles.

(b) Luxury type vehicles are vehicles manufactured or subsequently modified so that they have physical configurations and accessory features that are not considered as being ordinary, standard or commonplace in lower to moderately priced vehicles. Luxury type vehicles are intended to afford patrons a higher level of service and comfort than are ordinarily available in call or demand, paratransit and airport transfer services. To qualify as a luxury type vehicle, a vehicle must have at a minimum: air conditioning, AM/FM stereo radio, deluxe leather or deluxe fabric upholstery, deluxe wheels or wheel covers, four doors and a wheelbase of at least 109 inches. Other amenities which limousine service might afford are CD changer, Internet access, reading lights, work desk or table, cellular phone, refrigerator, television, VCR, DVD player, extended wheelbase and privacy dividers.

**§ 1053.24. Consumer information.**

Unless otherwise permitted by the Authority, luxury limousine certificate holders shall post an Authority-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and web site to be used to lodge a complaint or provide the following notice on the receipt for service:

For complaints and information, contact the Philadelphia Parking Authority's Taxicab and Limousine Division at (215) 683-9440 or [TLDEnforcement@philapark.org](mailto:TLDEnforcement@philapark.org). Include the company name and CPC# for all complaints.

**Subchapter C. AIRPORT TRANSFER SERVICE**

**§ 1053.31. Purpose.**

This subchapter applies to airport transfer service.

**§ 1053.32. Method of operation.**

A common carrier operating airport transfer service shall have the rights provided in section 5741(a.2) of the act (relating to certificate of public convenience required).

**§ 1053.33. Tariff and schedule requirements.**

An airport transfer carrier operating on a scheduled basis shall file with its tariff a copy of the schedule indicating the points served. Rates must be based on provisions contained in tariffs filed, posted and published under statute and this title.

**§ 1053.34. Consumer information.**

To provide passengers with the necessary information to file a complaint, airport transfer service certificate holders shall post an Authority-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and web site to be used to lodge a complaint or provide the following notice on the receipt for service:

For complaints and information, contact the Philadelphia Parking Authority's Taxicab and Limousine Division at (215) 683-9440 or TLDEnforcement@philapark.org. Include the company name and CPC# for all complaints.

#### **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).

##### **§ 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).

(b) A remote carrier may not provide service from any airport, railroad station and hotel located in whole or in part in Philadelphia without first registering with the Authority and otherwise complying with this chapter.

(c) A remote carrier may not provide service to points within Philadelphia or otherwise beyond the scope of its PUC certificate without first obtaining an Authority certificate of public convenience as provided in Chapter 1059 (relating to applications and sale of rights).

##### **§ 1053.43. Certain limousine requirements.**

(a) *Purpose.* This section is intended to address limousine service in Philadelphia that is within the jurisdiction of the Authority as provided by the act, but is not commonly considered either Philadelphia service or limousine service by the public or other regulating agencies as identified in subsection (b).

(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.*

(1) The person shall register each limousine subject to subsection (b) with the Authority by completing and filing with the Director a Form AR-1 "Alternative Registration" along with the registration fee as provided in § 1001.42 (relating to mode of payment to the Authority). The AR-1 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(2) The Authority registration process will require submission of copies of all relevant PUC certificates or registration documents.

(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).

(4) The registration of each remote carrier expires on June 30 of each year and may be renewed as provided in paragraph (1) on or before April 1 of each year.

(d) *Regulation.*

(1) Limousines subject to this section will be subject to regulation and enforcement by the Authority for violations of Department of Transportation equipment inspection standards in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection). For example, a limousine registered as provided in this section that is determined by the Authority to be in the course of providing service with a broken windshield will be subject to the standard enforcement procedures of this part.

(2) Limousines registered as provided in this section must comply with the instructions of an inspector and submit to field inspections as provided in § 1055.14 (relating to field inspections). Authority field inspections of limousines may include an investigation of compliance with PUC regulations and orders.

(3) Except as provided in this chapter, limousines subject to this section must adhere to the regulations and orders of the PUC and are not required to adhere to regulations of the Authority while providing limousine service in Philadelphia. The Authority may pursue enforcement of PUC regulations before the PUC, as appropriate.

(e) *Insurance.* A person that seeks registration of a limousine as provided in this section shall comply with § 1065.1 (relating to limousine insurance), except that the limits of insurance coverage need not exceed those required by the PUC.

(f) *Remote carrier sticker and certificate.*

(1) Upon compliance with this section, the Authority will issue the remote carrier registrant the following:

(i) A certificate of public convenience to provide remote carrier service as provided in this chapter. The remote carrier certificate of public convenience will be subject to revocation, under section 5741.1(c)(1) of the act (relating to certificate of public convenience required), if the remote carrier fails to complete the annual registration renewal requirements in subsection (c)(4).

(ii) A remote carrier sticker for each vehicle registered with the Authority under subsection (c).

(2) Each remote carrier sticker will display the year in which it is valid.

(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.

## **CHAPTER 1055. VEHICLES AND EQUIPMENT REQUIREMENTS**

### **Subchapter A. GENERAL PROVISIONS**



### **§ 1055.1. Definitions.**

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

*Antique vehicle*—A motor vehicle, but not a reproduction thereof, that is 25 years old or older as provided in § 1055.3(a) (relating to limousine age and mileage parameters), which has been maintained in or restored to a condition, which is substantially in conformance with manufacturer specifications.

*Compliance inspection*—The inspection of a limousine and limousine equipment by the Authority to assure compliance with the act, this part and orders of the Authority, which will include all of the components of a State inspection, except that emissions testing will not occur. Anytime the inspection of a limousine or limousine service related equipment is required by the act, this part or an order of the Authority it will be a compliance inspection.

*Field inspection*—The unscheduled inspection of a limousine by an inspector for compliance with the act, this part and all orders of the Authority.

*Limousine rights sticker*—An adhesive certification issued annually for each limousine by the TLD to a certificate holder upon the sale or issuance of a certificate of public convenience as provided in Chapter 1059 (relating to applications and sale of rights) or upon annual renewal as provided in § 1051.3 (relating to annual rights renewal process) and attached to the lower passenger side interior portion of the limousine's windshield.

*State inspection*—The annual inspection required under 75 Pa.C.S. Chapter 47 (relating to inspection of vehicles).

### **§ 1055.2. Limousine rights sticker.**

(a) A vehicle may not perform limousine service without a valid limousine rights sticker as provided in § 1055.1 (relating to definitions). Limousine rights stickers shall be attached using the adhesive backing supplied with the sticker and may not be taped to the windshield or transferred between vehicles.

(b) The Authority may design limousine rights stickers to identify the class of limousine service authorized under Chapter 1053 (relating to standard classifications of limousine service).

### **§ 1055.3. Limousine age and mileage parameters.**

(a) *Method of age computation.* The age of a limousine will be determined by comparing its model year to the current model year.

(b) *Age.* A vehicle which is more than 8 years old may continue in operation as a limousine, except that the Director may authorize the operation of antique vehicles as limousines upon review of a petition for waiver as provided in § 1005.23 (relating to petitions for issuance, amendment, repeal or waiver of Authority regulations) and completion of a compliance inspection. For example, the last day on which a 2006 model year vehicle may be operated in limousine service is December 31, 2014.

(c) *Mileage.*

(1) A vehicle may not be first introduced for limousine service with a cumulative mileage registered on the odometer of 51,000 miles or more, except that a limousine with a model year age of 5 or less and a cumulative mileage registered on the odometer of less than 75,000 miles may qualify for certification by the Authority contingent upon completion of a compliance inspection.

(2) Except as provided in paragraph (3), a vehicle shall be removed from limousine service prior to the date the cumulative mileage registered on the vehicle's odometer reaches 350,000 miles.

(3) The owner of a vehicle with a model year of 5 or less that is otherwise precluded from continued Philadelphia limousine service under paragraph (2) may continue in service for 1 year upon the successful completion of a compliance inspection.

(d) *Imputed mileage.*

(1) A vehicle with an odometer reading that differs from the number of miles the vehicle has actually traveled or that has had a prior history involving the disconnection or malfunctioning of an odometer or which appears to the Authority to have an inaccurate odometer reading based on prior inspection records, will be assigned an imputed mileage for each month from the last reliable odometer recording through the date of inspection, as provided in paragraph (2). A certificate holder may seek review of the determination to assign imputed mileage as provided in § 1005.24 (relating to appeals from actions of the staff).

(2) The imputed mileage will be calculated by adding the mileage of the vehicle recorded at the two most recent State inspections or two most recent compliance inspections, or a combination of any two, and dividing that sum by 24. The quotient is the imputed monthly mileage.

(3) Unless otherwise provided by the Authority, a vehicle may not be introduced for limousine service or continue in limousine service if a reliable baseline odometer reading cannot be ascertained.

(e) *Reporting of odometer malfunctions.* A certificate holder or limousine driver who knows or suspects that the odometer reading of a limousine differs from the number of miles the limousine has actually traveled shall disclose that status to the Enforcement Department immediately.

**§ 1055.4. Basic vehicle standards.**

(a) *State vehicle standards.* In addition to standards required under the act, this part and orders of the Authority, a limousine must continually satisfy the applicable Department of Transportation equipment inspection standards in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection) when providing limousine service.

(b) *Standard limousine vehicle requirements.* Each limousine is subject to the following requirements:

(1) A limousine must be registered with the Department of Transportation and obtain commercial registration plates identifying the limousine's class of service. Regular license plates cannot be used on vehicles operating under Authority jurisdiction.

(2) A limousine must be equipped with handgrips in the passenger compartment for use while entering or exiting the vehicle.

(3) A limousine must be equipped with working seatbelts for every passenger and the driver.

(4) A limousine must have at least four full sized tires which continuously meet or exceed the applicable standards of 67 Pa. Code § 175.80 (relating to inspection procedure) and otherwise comply with the Authority's tire requirements, which include the following:

(i) Snow tires or all-weather tires on the drive wheels between October 1 and April 1.

(ii) A full sized and usable spare tire that complies with the standards of this section properly stored in the limousine.

(iii) Properly affixed and matching hubcaps or wheel covers for all four tires.

(5) A limousine may not use retread tires.

(6) A limousine must have a trunk or storage area large enough to accommodate a folded manual wheelchair.

(7) A limousine may not be equipped with a push bumper.

(8) The interior, exterior and trunk compartment of a limousine must be clean so as to present a positive appearance and to prevent possible transfer of dirt, dust, grease, paint or other markings to a passenger's clothing or luggage.

(9) Spare tires in the trunk must be covered.

(10) A limousine's passenger seats may not be torn, have protruding springs or other material capable of tearing a passenger's skin or clothing. Passenger seat tears must be properly repaired and may not be mended with tape.

(11) A limousine's interior must consist of matching features, including door panels.

(12) Except upon a passenger's request to the contrary, the passenger area of a limousine must remain a constant temperature between 60° and 78° Fahrenheit.

(13) A limousine must be free of objectionable odors. For example, a limousine may not smell like urine, feces, animals, insects, decomposing organisms, poor human hygiene or garbage.

(14) A limousine's exterior paint must be in good repair and free of damage.

(15) Unless otherwise permitted by the Authority, in addition to other postings required by this subpart, a limousine must have posted in the passenger compartment in a place easily observed by passengers information on how to submit a limousine service related complaint to the Authority in both written English and Braille.

(c) *Smoking prohibited.* Persons may not smoke in a limousine.

(d) *Advertising prohibited.* Unless otherwise permitted by the Authority, the display of advertisements on the exterior or interior of a limousine is prohibited.

(e) *Inspection by certificate holder.* A certificate holder shall inspect each of its limousines on a daily basis to confirm that the limousine complies with this subpart. A certificate holder may select a person to conduct the inspections required by this subsection on the certificate holder's behalf.

**§ 1055.5. Required documents.**

A limousine must contain the following documents for review by an inspector upon request:

- (1) Proof of current and valid financial responsibility.
- (2) Proof of vehicle registration.
- (3) A current trip sheet as provided in § 1057.16 (relating to trip sheet requirements).

**§ 1055.6. Transportation of blind or deaf persons with dog guides.**

Limousines must transport dogs trained for the purpose of guiding blind or deaf persons when accompanying blind or deaf persons paying a regular fare. The guide dogs shall be properly leashed and may not occupy a seat.

**Subchapter B. LIMOUSINE INSPECTIONS**

**§ 1055.11. Scheduled compliance inspections.**

In addition to any other inspections required or permitted under the act, this part or an order of the Authority, up to 25% of each certificate holder's limousines registered with the Authority may be required to submit to a scheduled compliance inspection on an annual basis and at a time and location designated by the Authority. The Enforcement Department will designate each limousine for compliance inspection as provided in this section.

**§ 1055.12. Offsite inspections.**

With the consent of the certificate holder, inspections scheduled under this section may be conducted by the Enforcement Department at the certificate holder's facility provided the following conditions are met:

- (1) The certificate holder owns and operates at least 50 Authority-certified limousines.
- (2) The certificate holder's facility is a licensed Pennsylvania inspection station certified as provided in 75 Pa.C.S. § 4721 (relating to appointment of official inspection stations).
- (3) The facility is within 30 miles of the TLD's Headquarters.
- (4) The inspection fee for each limousine scheduled for inspection will be double the standard TLD inspection fee as provided in § 1001.43 (relating to Authority fee schedule).
- (5) Each vehicle that fails an inspection for a cause that cannot be fully remedied before the end of the Enforcement Department's offsite inspection shall be presented for reinspection at the Authority facility designated by the TLD.

**§ 1055.13. Failure to appear for scheduled inspection.**

If a limousine fails to appear for an inspection as provided in § 1055.11 (relating to scheduled compliance inspections) or another inspection scheduled by the Authority as provided in the act, this part

or an order of the Authority, the certificate holder may be subject to a penalty through issuance of a formal complaint.

**§ 1055.14. Field inspections.**

(a) Inspectors may stop and inspect limousines in operation, or appearing to be in operation, to ensure continued compliance with the act, this part or any order of the Authority.

(b) Upon field inspection, an inspector may instruct a limousine driver to drive the limousine directly to TLD Headquarters for a compliance inspection if the inspector believes that the limousine is not in compliance with this subpart and represents a public safety concern.

**§ 1055.15. Failure to submit to field inspection.**

(a) Upon instruction by an inspector, a limousine driver shall stop the limousine and permit the inspector to conduct a field inspection of the limousine as provided in § 1055.14 (relating to field inspections).

(b) If a limousine driver fails to permit a full field inspection, the limousine may be placed out of service, as provided in § 1003.32 (relating to out of service designation).

**§ 1055.16. Reinspection.**

In the event a limousine fails any Authority inspection or is removed from limousine service by the Authority for any reason, the limousine may not resume limousine service until a compliance inspection is successfully completed by the Authority.

**§ 1055.17. Removal of vehicle and change of license plate.**

(a) A certificate holder shall report the removal of a vehicle from Philadelphia limousine service to the Manager of Administration at TLDAdmin@philapark.org within 48 hours of removal.

(b) A certificate holder shall report the change of the Department of Transportation license plate issued to a limousine to the Manager of Administration at TLDAdmin@philapark.org within 48 hours of the license plate change.

**§ 1055.18. Attendance at scheduled inspection.**

(a) The certificate holder or its attorney-in-fact shall attend each limousine inspection conducted by the Authority, except field inspections as provided in § 1055.14 (relating to field inspections).

(b) The attorney-in-fact shall appear with the original power of attorney, which is in compliance with § 1001.28 (relating to power of attorney).

**§ 1055.19. Prerequisites to inspection.**

(a) The Authority will not initiate an inspection of a limousine, except as provided in § 1055.14 (relating to field inspections), if the limousine is out of compliance with the act, this part or an order of the Authority.

(b) The Authority will not initiate an inspection of a limousine, except as provided in § 1055.14, if the certificate holder is out of compliance with the act, this part or an order of the Authority, including the following sections:

- (1) Section 1051.3 (relating to annual rights renewal process).
- (2) Section 1051.5 (relating to ineligibility due to conviction or arrest).
- (3) Section 1051.6 (relating to payment of outstanding fines, fees and penalties).

(c) A limousine determined to be unfit for inspection due to a violation of this section shall be placed out of service as provided in § 1003.32 (relating to out of service designation).

#### **§ 1055.20. Approved models and conditions.**

The Authority will publish a list of approved makes and models of vehicles by classification permitted for use as limousines, which will be available at [www.philapark.org/tld](http://www.philapark.org/tld). The list of approved makes and models of vehicles is not exclusive and may be amended upon written request to the Manager of Administration.

#### **§ 1055.21. Reconstructed vehicles prohibited.**

Salvaged or reconstructed vehicles may not provide limousine service.

### **Subchapter C. IMPOUNDMENT OF VEHICLES AND EQUIPMENT**

#### **§ 1055.31. General.**

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

*Registered lienholder*—A person having a vehicle lien interest that is registered with the Department of Transportation, or the similarly authorized registering agency of the jurisdiction identified on the license plate of the vehicle, if any, on the date the vehicle was impounded.

*Registered owner*—The owner of the vehicle as registered with the Department of Transportation, or the similarly authorized registering agency of the jurisdiction identified on the license plate of the vehicle, if any, on the date the vehicle was impounded.

*Vehicle*—The vehicle and equipment used or capable of being used to provide limousine service.

#### **§ 1055.32. Impoundment of vehicles and equipment.**

(a) *Impoundments generally.* The Authority may impound vehicles and equipment used to provide limousine service as provided in section 5741(f) of the act (relating to certificate of public convenience required).

(b) *Enforcement proceedings.* The Enforcement Department or trial counsel will initiate an enforcement proceeding as provided in § 1005.11 (relating to formal complaints generally) against the regulated party or owner of the impounded property, if other than a regulated party, related to an impoundment made under this section and the act.

(c) *Notice of impoundment.* The Authority will issue a notice of impoundment to the registered owner of the vehicle and registered lienholder of the vehicle, or both, if any, as provided in section 5741(f)(2)(ii) of the act.

(d) *Recovery of impounded property.* Except as provided in subsection (g), the owner or lienholder of the property impounded as provided in this section may recover the impounded property by paying all penalties, fines and costs required under section 5741(f)(1) of the act.

(e) *Public auction.* Confiscated property may be sold at public auction as provided in section 5741(f)(2)(i) of the act.

(f) *Return of funds.* If the enforcement proceeding initiated as provided in subsection (b) results in a determination that the respondent was not liable for the violations referenced in the complaint and that the grounds for the impoundment were unsubstantiated, the costs of towing and impoundment paid by the respondent as provided in subsection (d) will be refunded.

(g) *Stay of auction.* Upon motion of the respondent or a registered owner or a registered lienholder as an intervening party as permitted under § 1005.31 (relating to initiation of intervention), the presiding officer may enter an order staying the public auction of the impounded property for a period as the presiding officer deems just. Costs of impoundment will continue to accrue during the period of a stay imposed through this subsection.

(h) *Emergency hold on impounded property.*

(1) Even if the requirements for recovery under subsection (d) have been met, to advance the interests of the act or to protect the public good, the Enforcement Department or trial counsel may motion the presiding officer to stay the return of property impounded as provided in this section through the conclusion of the enforcement proceeding.

(2) The presiding officer will issue a decision in support of the determination required under this section.

(3) The decision of the presiding officer issued as provided in paragraph (2) will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

(4) If the release of impounded property is stayed, the enforcement proceedings will be conducted on an expedited basis.

## **CHAPTER 1057. LIMOUSINE DRIVERS**

### **§ 1057.1. Purpose and scope.**

(a) This chapter establishes minimum qualifications for limousine drivers.

(b) A certificate holder may impose more stringent standards in the selection of its limousine drivers.

### **§ 1057.2. Certification required.**

(a) Only a limousine driver may provide limousine service.

(b) A limousine driver shall carry and display an original limousine driver's certificate on the sun visor of the limousine on the driver's side with the front of the certificate (picture) facing the rear seat at all times.

(c) A limousine driver may not drive a limousine with a mutilated, damaged or illegible limousine driver's certificate.

(d) Only one limousine driver's certificate at a time may be displayed in a limousine.

(e) A limousine driver's certificate is not transferable.

### **§ 1057.3. Continuing certificates.**

(a) Beginning on December 3, 2011, driver certification rights previously issued by the Authority under section 5706 of the act (relating to driver certification program) shall be designated by the certified driver as either a taxicab driver's certificate or limousine driver's certificate at the time those rights are scheduled for renewal as provided in § 1051.3 (relating to annual rights renewal process).

(b) If all other terms of renewal are met, the TLD will renew the driver's certificate only for the rights selected by the renewing driver as provided in subsection (a).

(c) This section will not prohibit a limousine driver from obtaining a separate taxicab driver certificate as provided in Subpart B (relating to taxicabs).

### **§ 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:

(1) The applicant does not hold a current driver's license.

(2) The applicant does not speak the English language sufficiently to communicate with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries and to make verifiable entries on reports and records.

(3) The applicant has failed to complete limousine driver testing as prescribed by this chapter.

(4) The applicant is unable to provide information required under this subpart.

(5) The applicant is 20 years of age or younger.

(6) The applicant does not have a driving history in the United States of at least one continuous year prior to the date of application.

### **§ 1057.5. Standards for obtaining a limousine driver's certificate.**

(a) *General.* Except as provided in § 1057.3 (relating to continuing certificates), to obtain a limousine driver's certificate an individual shall complete and file with the Director a Form DR-1 "Driver Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The DR-1 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).



(b) *DR-1 application.* The completed DR-1 must be verified as provided in § 1001.36 (relating to verification and affidavit) and include the information required by the Authority, including the following:

- (1) The full and legal name of the individual applicant.
- (2) The applicant's residential address and telephone number. Applicants may submit an email address to become eligible for service of notice as provided in § 1001.51 (relating to service by the Authority).
- (3) The applicant's driver's license.
- (4) The applicant's Social Security card or documents confirming a legal permanent resident status or an alien authorized to work status, if applicable.
- (5) An authorization to release the applicant's criminal history report from the State Police to the Authority.
- (6) A certified copy of the applicant's criminal history report for each jurisdiction other than the Commonwealth in which the applicant resided during the 5 years immediately preceding the filing of the application. Each criminal history report shall be certified within 30 days of the filing of the application. If an applicant has been present in the United States for less than 5 years, the applicant shall meet the requirements in this subsection by consenting to the release to the Authority of a similar driver history report maintained by another country, the International Criminal Police Organization or the United States government for the 5-year period immediately preceding the filing of the application.
- (7) An authorization to release the applicant's driver history report from the Department of Transportation to the Authority.
- (8) A certified copy of the driver history report from each jurisdiction, other than the Commonwealth, in which the applicant was licensed during the 5 years immediately preceding the filing of the application. Each driver history report shall be certified within 30 days of the filing of the application. If an applicant has been present in the United States for less than 5 years, the applicant shall meet the requirements in this subsection by consenting to the release to the Authority of a similar driver history report maintained by another country for the 5-year period immediately preceding the filing of the application.
- (9) Submit a Form DR-2 "Driver Medical History," which is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld). The requirement to complete the DR-2 will be waived for applicants who possess a current physical exam card issued under the requirements of a commercial driver's license in Pennsylvania. See 49 CFR 391.41—391.49 (relating to physical qualifications and examinations).
- (10) A list of all Authority or PUC certificates in which the applicant has any controlling interest.
- (11) A written statement verified as provided in § 1001.36, which provides that:
  - (i) The applicant has not been subject to a conviction as provided in § 1001.10 (relating to definitions).
  - (ii) The applicant is in compliance with § 1051.6 (relating to payment of outstanding fines, fees and penalties).
  - (iii) The applicant can comply with the requirements in this chapter.

**§ 1057.6. Application changes.**

(a) An applicant for a limousine driver's certificate shall immediately notify the Authority in writing of any changes that affect the accuracy of the information in the application while the application is under review by the Authority.

(b) False information provided by an applicant for a limousine driver's certificate will result in the denial of the application or cancellation of the driver's certificate if issued prior to discovery of the false information.

**§ 1057.7. Limousine driver training.**

Limousine driver applicants will be provided with training information for review.

**§ 1057.8. Certain training subjects.**

(a) *Continued training subjects.* The Authority will continually monitor issues related to limousine drivers, including safety and customer service, and maintain a current list of limousine driver training subjects on its web site at [www.philapark.org/tld](http://www.philapark.org/tld) including the following subjects:

- (1) Authority regulations governing limousine drivers.
- (2) Authority regulations governing limousine certificate holders.
- (3) Authority regulations governing equipment.
- (4) Penalties for violation of Authority regulations.
- (5) Overview of the administrative process related to violations.
- (6) Identification and address of the Authority offices responsible for administering the act.
- (7) Driving and customer safety issues, including the following:
  - (i) Defensive driving techniques.
  - (ii) Emergency aid.
  - (iii) Vehicle and equipment inspections.
  - (iv) Crime prevention.
  - (v) Accident reporting procedures.
- (8) Issues related to the geography of Philadelphia, including the following:
  - (i) Map reading.
  - (ii) Overview of major street and traffic patterns.
  - (iii) Identification and location of popular landmarks and locations.

(b) The applicant shall schedule a time and date for testing under § 1057.9 (relating to limousine driver test) with the Manager of Administration.

**§ 1057.9. Limousine driver test.**

(a) The Authority will develop a test to assure applicants for a limousine driver's certificate understand the information identified in § 1057.8 (relating to certain training subjects).

(b) The test will be administered in the English language. The assistance of interpreters will not be permitted. An applicant's responses to test questions shall be in the English language.

(c) Except as limited by this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:

(1) Questions requiring a written response.

(2) Multiple choice questions.

(3) Oral questions.

(4) Demonstration of an ability to operate a motor vehicle and use limousine related equipment.

(d) Failure to pass the test required by this section after three attempts will render the application void.

(e) Failure to pass the test required by this section within 90 days of the filing of the DR-1 application as provided in § 1057.5 (relating to standards for obtaining a limousine driver's certificate) will render the application void.

(f) Upon the denial or voiding of a DR-1 as provided in this chapter, an applicant may not reapply for registration for 6 months.

**§ 1057.10. Driver requirements.**

(a) *Preservice inspection.* Prior to driving a limousine before each shift, a limousine driver shall perform a vehicle inspection to confirm that the limousine complies with this subpart. The inspection must include the following:

(1) At least one full walk around the limousine to assure the exterior of the vehicle is in compliance with this subpart, including the following:

(i) The exterior of the limousine is not damaged and no parts of the vehicle have been removed. For example, the hood and doors of the limousine are present and in the proper location.

(ii) The limousine's tires are full size and the treads are not worn below the level permitted under § 1055.4(b)(4) (relating to basic vehicle standards).

(2) The opening and closing of all doors, the hood, and the trunk to assure proper functionality and the absence of any sharp edges that may injure a passenger or damage clothing, luggage or other property.

(3) An inspection of the interior of the limousine to make certain that the vehicle is clean and otherwise in compliance with this subpart.

(4) Use of the heater and air conditioner to confirm the limousine's ability to maintain the air temperature required under § 1055.4(b)(12).

(b) *Permitted fares.* A limousine driver may not charge fares or rates for service other than those provided in the certificate holder's tariff as provided in Chapter 1063 (relating to tariffs).

(c) *Rules of the road.* A limousine driver shall continually provide limousine service in a manner consistent with 75 Pa.C.S. (relating to Vehicle Code) and the Philadelphia Traffic Code (12 Phila. Code §§ 100—3012).

(d) *Driver history report.* A driver history report that evidences a violation or series of violations which relate to dangerous driving activities may form the basis of a denial of a limousine driver's certificate application, a denial of the annual renewal as provided § 1051.3 (relating to annual rights renewal process), or a formal complaint to suspend or cancel the limousine driver's certificate.

#### **§ 1057.11. Additional requirements.**

(a) Each limousine driver shall know the rights and limitations of any limousine used to provide limousine service, including applicable geographical limitations.

(b) A limousine driver may not provide limousine service with an expired limousine driver's certificate.

(c) A limousine driver may not provide limousine service without a valid driver's license.

#### **§ 1057.12. Interstate commerce regulation.**

No requirement of this subpart, or any Authority regulation, may be interpreted to disrupt or interfere with interstate commerce exclusively regulated by or preempted by the government of the United States.

#### **§ 1057.13. Limousine driver's certificate upon cancellation.**

(a) A cancelled limousine driver's certificate may not be reinstated.

(b) An individual subject to cancellation of a limousine driver's certificate may not apply to the Authority for a new driver's certificate, including a taxicab driver's certificate as provided under § 1021.5 (relating to standards for obtaining a taxicab driver's certificate), for 2 years from the date the cancellation was entered. If the individual subject to cancellation also holds a taxicab driver's certificate, that driver's certificate will be cancelled with the limousine driver's certificate.

(c) The circumstances related to the cancellation of a limousine driver's certificate will be considered by the Authority when reviewing any subsequent application submitted by that individual.

#### **§ 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:

(1) Invalidation of a driver's license for any reason shall be reported with 48 hours.

(2) A change of address shall be reported within 15 days.

(3) A change of name shall be reported to the Authority within 15 days of occurrence or if a court proceeding is required, within 15 days of the court filing.

**§ 1057.15. Limousine driver reports after accident.**

A limousine driver involved in an accident while driving a limousine that results in property damage, personal injury or death shall do the following:

- (1) Stop immediately.
- (2) Provide driver's license, registration, insurance, other information required by Pennsylvania law and the name of the limousine's certificate holder.
- (3) Report the details of the accident as soon as practicable as follows:
  - (i) To the police if required under 75 Pa.C.S. § 3746 (relating immediate notice of accident to police department).
  - (ii) To the certificate holder.

**§ 1057.16. Trip sheet requirements.**

(a) A driver of a luxury type vehicle engaged in providing limousine service shall have a trip sheet in the vehicle evidencing that the vehicle is in service. The trip sheet must contain the following information:

- (1) The limousine driver's name, the limousine number, the certificate holder and the dispatcher.
  - (2) The starting location and time of each trip.
  - (3) The ending location and time of each trip.
  - (4) A designation indicating whether a trip resulted through the dispatcher or direct call from the passenger.
  - (5) The fare paid for the trip.
  - (6) The amount of any gratuity paid to the limousine driver.
- (b) At the conclusion of the trip, the driver shall record the ending time on the trip sheet.
- (c) The trip sheet shall be retained by the certificate holder as provided in § 1051.10 (relating to record retention).

**CHAPTER 1059. APPLICATIONS AND SALE OF RIGHTS**

**§ 1059.1. Purpose.**

This chapter establishes and prescribes Authority regulations and procedures for applications for limousine certificates and sale of certain rights issued by the Authority.

### **§ 1059.2. Applications for limousine rights.**

(a) Except as provided in subsection (c), to obtain a certificate to operate a class of limousine service as provided in Chapter 1053 (relating to standard classifications of limousine service), a person shall complete and file with the Director a Form LM-2 "Limousine Certificate Application," along with the application fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule). The LM-2 may be obtained on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(b) The standards of review applicable to LM-2 applications will be the same as those applicable to a proposed buyer of rights as provided in this chapter.

(c) To obtain a certificate to operate as a large vehicle or remote carrier as provided in Chapter 1053, a person shall complete the registration process provided for in § 1053.43(c) (relating to certain limousine requirements).

### **§ 1059.3. Authority approval of sale of rights.**

(a) *Sale of transferable rights.* The sale of transferable rights without advance approval of the Authority is void by operation of law.

(b) *Sale of securities in transferable rights.* The sale of securities in an entity that owns transferable rights will be considered a sale under this chapter in either of the following circumstances:

(1) The securities to be transferred equal or exceed 2% of the issued securities in the entity that holds an ownership interest in a transferrable right.

(2) Upon completion of the transfer the buyer will own 2% or more of the issued securities in the entity that holds an ownership interest in a transferrable right.

### **§ 1059.4. Agreement of sale.**

(a) The parties to a proposed sale of transferable rights shall complete an agreement of sale detailing the terms of the transaction, including provisions required by this chapter, and file the agreement with the Director.

(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.

### **§ 1059.5. Application for sale of transferable rights.**

(a) *Application documents.*

(1) To initiate a sale, the owner and proposed buyer shall file an original and one copy of Form No. SA-1 "Sale Application," the agreement of sale or transfer and other documents required by this chapter. The proposed buyer will be considered the applicant. The SA-1 is available at [www.philapark.org/tld](http://www.philapark.org/tld).

(2) The SA-1 shall be filed in person with the Director.

(3) The Director will refuse to accept an application which is incomplete for any reason.

(4) Upon acceptance, the Director will submit a copy of the application documents to the Clerk and an application docket number will be assigned.

(b) *Application signatures.*

(1) Both parties to the sale shall execute the SA-1 in the presence of the Director or a designee.

(2) Except for individuals, an original executed and notarized resolution from the buyer and seller authorizing the execution of the sale documents must be included with the filing of the SA-1.

(3) The Authority may permit an SA-1 to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney), in which case the owner will be required to attend the closing on the sale.

(c) *Verification and payment.* The SA-1 must be verified under § 1001.36 (relating to verification and affidavit) and be accompanied by payment of the transfer fee as provided in §§ 1001.42 and 1001.43 (relating to mode of payment to the Authority; and Authority fee schedule).

(d) *Multiple rights.* The SA-1 may be used to sell an unlimited number of transferable rights from one owner to one proposed buyer.

(e) *Broker.* Documents intended for submission to the Director as part of the sale process must be prepared by a broker registered with the Authority as provided in Chapter 1061 (relating to brokers) or an attorney admitted to practice law by the Supreme Court of Pennsylvania.

**§ 1059.6. Required application information.**

(a) *SA-1 form.* The SA-1 is a multipurpose form intended for use in the sale of different transferable rights and shall be completed by the broker or attorneys, or both, in a manner consistent with the intentions of the sale.

(b) *Required information.* The completed SA-1 must include the information required by the Authority, including the following:

(1) The certificate numbers.

(2) The name of the proposed buyer and contact information, including a telephone number, an email address and a facsimile number.

(3) If the proposed buyer is a nonindividual person and is not already a certificate holder, a contemporaneous certificate of good standing for the proposed buyer issued by the Corporation Bureau within 30 days of filing the SA-1.

(4) The name of any holding company as defined in § 1051.2 (relating to definitions) having an interest in the proposed buyer and a contemporaneous certificate of good standing for the holding company from the Corporation Bureau, or similarly authorized entity in another jurisdiction in the United States.

(5) The trade name, if any, of the proposed buyer and a copy of the trade name registration certificate, if applicable.

(6) The mailing address and physical address of the proposed buyer.

- (7) A statement of the proposed buyer's corporate purpose, if applicable.
- (8) A list of current corporate officers, directors, stockholders, key employees and persons with controlling interests as defined in § 1051.2, if applicable with an indication of each individual's title.
- (9) A list of all Authority, PUC and Federal common carrier rights held by the proposed buyer and any of the persons listed in response to paragraph (8), including taxicab medallions.
- (10) The name, address, telephone number, facsimile number and email address of any attorney assisting the proposed buyer with the application process, together with an acknowledgement that § 1061.1(b) (relating to broker registration) has been reviewed by the proposed buyer.
- (11) A certified criminal history report, issued within 30 days of the filing of the application, from any jurisdiction in which the following persons have lived in the preceding 5 years through the date of application:
  - (i) An individual proposed buyer.
  - (ii) Any individual with a controlling interest in the proposed buyer.
  - (iii) Any individual with a controlling interest in the holding company of a proposed buyer.
  - (iv) A key employee.
- (12) A verified statement indicating that the persons identified in paragraph (11) have not been subject to a conviction as defined in § 1001.10 (relating to definitions) and that the proposed buyer has read and understands the prohibitions of ownership as provided in § 1051.5 (relating to ineligibility due to conviction or arrest).
- (13) Verified statements from the owner and proposed buyer confirming that each are in compliance with section § 1051.6 (relating payment of outstanding fines, fees and penalties).
- (14) The Federal Tax Identification Number for the owner and proposed buyer.

**§ 1059.7. Additional application requirements.**

- (a) *Agreement of sale.* The agreement of sale required under this chapter must include the information required by the Authority, including the following:
  - (1) All parties to the transaction.
  - (2) A description of the transaction.
  - (3) The identification number of each right subject to sale.
  - (4) The total consideration for the sale and for each right transferred if the sale involves multiple rights in United States dollars, and any payment terms required by the Authority, including the following:
    - (i) The assumption of any loan or debt.



(ii) Contingencies and nonmonetary consideration.

(iii) Monetary consideration.

(5) An acknowledgement initialed by all parties that the agreement is subject to the laws and jurisdiction of the Commonwealth, the act, this part and orders of the Authority.

(b) *Execution of agreement of sale.*

(1) The proposed agreement of sale must be signed by all parties before the Director or a designee on or before the date the SA-1 is filed.

(2) The Authority may permit an agreement of sale to be executed by an attorney-in-fact if the owner or proposed buyer are unable to appear and as provided in § 1001.28 (relating to power of attorney).

(c) *Loan documents.*

(1) Any consideration identified in subsection (a)(4) that is provided to a proposed buyer must be evidenced in the form of written agreements. For example, the loaning of cash money to a proposed buyer by a bank must be confirmed through loan documents executed by the borrowing party.

(2) Documents required by paragraph (1) shall be submitted to the Director at the time the SA-1 is filed, except that specific financial information that cannot be known until on or about the closing date for the sale may be left blank. The final loan documents must be executed at the closing on the sale.

(d) *Continuing service.* The owner of the rights subject to sale shall confirm that the rights will remain in active service pending review of the application, unless prohibited or authorized for suspension by a provision of this part or an order of the Authority.

(e) *Notice.*

(1) Notice of applications will be published in the *Pennsylvania Bulletin* as provided in § 1003.53 (relating to applications requiring notice).

(2) The parties to the sale will receive notices related to the SA-1 as provided in § 1001.51 (relating to service by the Authority).

#### **§ 1059.8. Financial fitness generally.**

The Authority will review the financial fitness of the proposed buyer, including a review of the following:

(1) Bank statements of the proposed buyer evidencing ownership of a bank account holding not less than the greater of \$5,000 or 2% of the sale price of the transferable rights in unencumbered and available funds. The funds under review must have been in the bank account for at least 3 months.

(2) The credit report of each of the persons identified in § 1059.6(b)(8) (relating to required application information) evidencing a credit score of at least 600 for each person.

(3) The absence of any outstanding and unappealed civil judgments against each of the parties required to submit a criminal history report under § 1059.6(b)(8).

**§ 1059.9. Regulatory compliance review.**

- (a) An SA-1 will be denied if the proposed buyer has a record of regulatory violations with the Authority or the PUC which evidences a disregard for the public interest.
- (b) A proposed buyer that has been subject to the suspension, revocation or cancellation of common carrier rights by the Authority or the PUC during the 1-year period immediately preceding the date the SA-1 was filed with the Authority will be ineligible to purchase rights.

**§ 1059.10. Authority review.**

- (a) Notice of the granting of an application for a limousine certificate or approval of a sale will be published in the *Pennsylvania Bulletin*.
- (b) The SA-1 will be reviewed as provided in § 1003.51 (relating to applications generally).
- (c) The SA-1 will be denied if the proposed buyer or any person with a controlling interest in the proposed buyer or a key employee of the proposed buyer is in violation of any provision of this part or if the Authority determines that the sale is not in the public interest. The SA-1 may be denied if the owner is in violation of any provision of this part.

**§ 1059.11. Approval process and closing on sale.**

- (a) If the Director determines that an applicant for a limousine certificate or a proposed buyer of rights is qualified as provided in the act, this part or an order of the Authority, a recommendation to approve the application or sale will be presented to the Authority for approval at its next regularly scheduled meeting. The Authority may require that proposals from the Director as provided in this section first be presented to a committee of the Board at a public meeting.
- (b) Upon approval of the sale by the Authority, the Director will schedule the parties to meet at a time and location where an Authority staff member will witness the closing of the transaction.
- (c) An Authority staff member must witness the execution of each document by the owner and proposed buyer, or their designated agents. Any closing not witnessed by Authority staff is void.

**§ 1059.12. Settlement sheet.**

- (a) The owner and proposed buyer shall use the Form SA-2 "Standard Settlement Sheet" at any closing on the sale of rights. The SA-2 is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).
- (b) The SA-2 must include the information required by the Authority, including the following:
  - (1) The names and addresses of the owner and proposed buyer.
  - (2) The names and address of the brokers or attorneys used in the transaction.
  - (3) The name and address of the lender and a designated contact person employed by the lender, if any.
  - (4) A copy of all certificates or other documents authorizing the lender to make commercial loans in this Commonwealth.

- (5) The amount, term and interest rate of any loan used to purchase the rights.
- (6) The certificate numbers.
- (7) The total consideration for the rights to be sold and any payment terms, including loan contingencies and nonmonetary consideration.
- (8) An allocation of funds expended in the transaction.
- (9) Fees and costs associated with the sale, including those payable to any broker or attorney, or both.
- (10) Signatures of the owner and proposed buyer, or their designated agents, and the brokers.

**§ 1059.13. Commencement of service.**

A regulated party shall, within 30 days from the date of receipt of a certificate, begin operating and furnishing service. If it has not commenced operating and furnishing the authorized service within 30 days, appropriate proceedings shall be initiated to terminate the certificate unless, upon specific permission as provided in § 1051.13 (relating to voluntary suspension of certificate), the time for commencement of service is extended.

**CHAPTER 1061. BROKERS**

**§ 1061.1. Broker registration.**

- (a) An individual seeking registration as a broker shall apply to the Director as provided in Chapter 1029 (relating to brokers).
- (b) Any party may use an attorney admitted to practice law before the Supreme Court of Pennsylvania, in lieu of a broker.

**CHAPTER 1063. TARIFFS**

**§ 1063.1. Definition.**

The following word, when used in this chapter, has the following meaning, unless the context clearly indicates otherwise:

*Tariff*—Schedules of rates, rules, regulations, practices or contracts involving any rate and schedules showing the method of distribution of the facilities of the certificate.

**§ 1063.2. Limousine rates and tariffs.**

- (a) Certificate holders shall comply with section 5703 of the act (relating to rates) and this chapter as to rates and tariffs.
- (b) Limousine rates shall be based solely on time, and shall be contained in a tariff filed, posted and published as provided in the act and this part. The use of meters is prohibited. The initial time period and each subsequent increment must be at least 30 minutes.

(c) Except when inconsistent with the act, this part or an order of the Authority, limousine certificate holders shall charge rates and maintain and file tariffs with the Director in a manner consistent with relevant portions of 52 Pa. Code Chapter 23 (relating to tariffs for common carriers).

## CHAPTER 1065. INSURANCE REQUIRED

### § 1065.1. Limousine insurance.

(a) *Insurance requirements generally.* Except as provided in subsection (b), a limousine certificate holder shall comply with the relevant portions of Chapter 1025 (relating to insurance required), including the filing of Form E and Form K documents.

(b) *Limousine insurance required.*

(1) A regulated party may not engage in limousine service and the certificate of public convenience will not be issued, or remain in force, except as provided in § 1025.4 (relating to applications to self-insure) until there has been filed with and approved by the Authority a certificate of insurance by an insurer authorized to do business in this Commonwealth, to provide for the payment of valid accident claims against the insured for bodily injury to or the death of a person, or the loss of or damage to property of others resulting from the operation, maintenance or use of a limousine in the insured authorized service.

(2) The liability insurance maintained by a limousine certificate holder shall be in an amount at least \$1,500,000 to cover liability for bodily injury, death or property damage incurred in an accident arising from authorized service. Except as to the required amount of coverage, these benefits must conform to 75 Pa.C.S. Chapter 17 (relating to Motor Vehicle Financial Responsibility Law). First party coverage of the limousine driver of limousines must meet the requirements in 75 Pa.C.S. § 1711 (relating to required benefits).

(3) The certificate holder's loss history with a current or former insurer shall be released to the Authority within 2 business days of a request by the Authority. The certificate holder shall authorize any release required by the insurer to facilitate the timely delivery of the loss history to the Authority.

(4) The Authority may direct insurers to file proof of insurance both electronically and in hard copy.

(5) The limits in paragraph (2) do not include the insurance of cargo.

(6) The requirements in § 1025.3 (relating to insurance required) do not apply to limousines.