

RULES AND REGULATIONS

Title 31—INSURANCE

INSURANCE DEPARTMENT

[31 PA. CODE CH. 105]

Advances Made to Companies (Other than Mutual Life)

The Insurance Department (Department) rescinds Chapter 105 to read as set forth in Annex A. This final-omitted rulemaking is adopted under sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 422 and 412) and sections 320 and 322.2 of The Insurance Company Law of 1921 (act) (40 P. S. §§ 443 and 445.2).

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL). Under section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

Purpose

The purpose of this final-omitted rulemaking is to rescind Chapter 105 to eliminate obsolete, unnecessary regulations. Chapter 105 was adopted November 25, 1968, under section 809 of the act (40 P. S. § 919). The chapter established form, content and reporting requirements for cash advances made to mutual insurance companies (other than mutual life companies). Section 809 of the act was repealed by the act of November 30, 2004 (P. L. 1690, No. 216) (Act 216). Act 216 added section 322.2 of the act, regarding the issuance of surplus notes by all types of domestic insurers. A surplus note is issued by an insurer in exchange for cash or other liquid assets that have been loaned or advanced to strengthen the insurer's surplus. The new statute is consistent with current National statutory accounting standards for surplus notes and requires insurers to report the issuance and holding of surplus notes in compliance with statutory accounting practices prescribed or otherwise permitted by the Insurance Commissioner (Commissioner) under section 320 of the act. Therefore, Chapter 105 is outdated and no longer needed.

Affected Parties

The rescission of Chapter 105 affects domestic mutual insurance companies (other than mutual life companies).

Fiscal Impact

There is no fiscal impact as a result of this final-omitted rulemaking.

Paperwork

The rescission of Chapter 105 imposes no additional paperwork requirements on the Department or insurers.

Effectiveness/Sunset Date

This final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

Contact Person

Questions regarding this final-omitted rulemaking should be addressed to Peter J. Salvatore, Regulatory

Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429, fax (717) 772-1969, psalvatore@state.pa.us.

Regulatory Review

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on June 15, 2006, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on July 19, 2006, the final-omitted rulemaking was deemed approved by the House and Senate Committees. The Attorney General approved the rescission of the regulations on June 23, 2006. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 20, 2006, and approved the final-omitted rulemaking.

Findings

The Commissioner finds that:

(1) There is good cause to rescind Chapter 105 effective upon publication of this final-omitted rulemaking. Deferral of the effective date of this final-omitted rulemaking would be impractical and not serve the public interest. Under section 204(3) of the CDL there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to rescind Chapter 105 because notice of the amendment under the circumstances is unnecessary and impractical under section 204(3) of the CDL because the underlying statutory authority no longer exists.

Order

The Commissioner, acting under sections 206, 506, 1501 and 1502 of The Administrative Code of 1929, orders that:

(1) The regulations of the Department, 31 Pa. Code Chapter 105, are amended by deleting §§ 105.1—105.5 and 105.11—105.20 to read as set forth in Annex A.

(2) The Department shall submit this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval as to form and legality as required by law.

(3) The Department shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect upon its publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 4441 (August 5, 2006).)

Fiscal Note: 11-233. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 31. INSURANCE
PART VI. MUTUAL INSURANCE
CHAPTER 105. (Reserved)

§§ 105.1—105.5. (Reserved).

§§ 105.11—105.20. (Reserved).

[Pa.B. Doc. No. 06-1492. Filed for public inspection August 4, 2006, 9:00 a.m.]

Title 52—PUBLIC UTILITIES

PENNSYLVANIA PUBLIC UTILITY COMMISSION [52 PA. CODE CHS. 29 AND 31]

[L-00020157]

Passenger Service and Property and Household Goods Carriers

The Pennsylvania Public Utility Commission, on August 11, 2005, adopted a final rulemaking order setting forth changes to regulations governing passenger service and property and household good carriers.

Executive Summary

The Commission is vested with jurisdiction over common carriers operating within this Commonwealth. 66 Pa.C.S. §§ 102, 501 and 1101—1103. In furtherance of this statutory charge, the Commission has promulgated regulations governing common carriers of passengers and property, including household goods, in Chapters 29 and 31. Due to changes in the appropriate levels of Commission oversight of these industries mandated by Federal preemption as well as the changing dynamics within the transportation market, the Commission has adopted modifications and additions to its current regulations.

Changes to regulations governing passenger service include implementation of procedural safeguards in the event of the death or incapacitation of a certificateholder, deletion of unduly burdensome accounting requirements, modification of accident reporting requirements, deletion of obsolete regulations governing smoking and passenger/driver conversation, modification of leasing regulations, implementation of a consumer information requirement for most carrier classes and the addition of driver regulations for vehicles with seating capacities of 15 passengers or less.

Changes to regulations governing property and household goods carriers include implementation of procedural safeguards in the event of the death or incapacitation of a certificateholder, modification of accident reporting requirements, modification of leasing regulations, modification of the "Information for Shippers" form provided by household goods carriers, implementation of a requirement that household goods carriers must prepare an Inventory and a Bill of Lading and implementation of a requirement that household carriers obtain criminal history records for all persons providing moving services within a dwelling.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 16, 2004, the Commission submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 3258 (June 26, 2005), to the

Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Committee on Consumer Affairs and the Senate Committee on Consumer Protection and Professional Licensure for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on July 5, 2006, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 6, 2006, and approved the final-form rulemaking.

Public Meeting held
August 11, 2005

Commissioners Present: Wendell F. Holland, Chairperson; James H. Cawley, Vice Chairperson; William R. Shane; Kim Pizzingrilli, statement follows; Terrance J. Fitzpatrick

*Final Rulemaking Amending 52 Pa. Code
 Chapters 29 and 31; Doc. No. L-00020157*

Final Rulemaking Order

By the Commission:

On September 25, 2002, we issued an Advance Notice of Proposed Rulemaking Order, soliciting comments concerning changes to the Commission's regulations governing motor carriers of passengers, property, and household goods. Chapters 29 and 31. The impetus for the Advance Notice was changes in the Commission's oversight of these industries mandated by federal preemption, (Federal Aviation Authorization Act of 1994 and the Transportation Equity Act for the 21st Century, P. L. 105—178), as well as changing dynamics within the transportation market. Following receipt of comments, we issued a Proposed Rulemaking Order on March 25, 2004. On June 1, 2004, the Attorney General approved the Proposed Regulations as to form and legality. Following approval, the Proposed Order was published in the *Pennsylvania Bulletin* on June 26, 2004. 34 Pa.B. 3258. Comments to the Proposed Order were filed by numerous passenger and household goods carriers,¹ as well as the Independent Regulatory Review Commission (IRRC). Having reviewed the comments, we now offer the following changes to our regulations at Chapters 29 and 31.

Chapter 29

§ 29.11. Applicability.

We proposed adding contract carriers of passengers to this section. This change is consistent with the scope and content of the chapter. See § 29.111. There were no comments to the proposal. However, upon further review, we will delineate the reference in this provision as subchapter.

§ 29.31. Sale or transfer of certificates.

We proposed redrafting this section to make it more readily understandable. There were no comments to the proposal. Therefore, we will change this provision as proposed.

¹A complete list of commentators is available from the Commission's Secretary Bureau.

§ 29.32. Death or incapacitation of a certificateholder.

We proposed modifying this provision to delete the self-executing termination language. Before canceling or allowing the abandonment of a certificate of public convenience, the Commission must consider whether cancellation or abandonment is in the public interest. See 66 Pa.C.S. §§ 501, 1102, 1103. The rights and obligations conferred by a certificate can be terminated only upon application for abandonment or complaint to cancel the certificate. We proposed modifying this section so that it is consistent with our statutory charge.

IRRC filed two comments on this proposal. First, IRRC questioned whether the terminology referencing a certificateholder being “legally declared insane” was proper. In response to this comment, we will revise the regulation to refer to an “incapacitated” person. See 20 Pa.C.S. § 5501.

IRRC also questions where the “appropriate proceedings” referenced in this section, and section 29.61, can be found. In response, we direct IRRC to §§ 5.21 to 5.31. The “appropriate proceedings” will be a complaint proceeding. However, critical to both changes is the notion that cancellation of a certificate may only occur if in the public interest, with notice and opportunity to be heard.

§ 29.33. Transfer of certificate without a hearing.

We proposed deleting this section. This section addresses the hearing requirement for certificate transfers. However, it is our position that this issue is adequately addressed at § 29.31. Further, § 29.33 is not accurate to the extent that it does not contain a complete recitation of circumstances under which a certificate may be transferred without hearing. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.41. Accounts and records.

We proposed deleting the requirement that motor carriers of passengers maintain books in conformity with the Uniform System of Accounts found at 99 CFR 1206.2. Interstate carriers are no longer required to comply with the Uniform System of Accounts. We see no benefit in requiring intrastate carriers to comply with this accounting system. Rather, we will simply direct that intrastate passenger carriers follow generally accepted accounting principles for all accounting and reporting matters. We note that we will leave language contained in original subsection (c) intact. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.44. Accident reports.

We proposed amending this provision to provide for telephonic notification to our Bureau of Transportation and Safety within 24 hours of an accident that results in the death of a person.² Our Order also noted that carriers must provide a written report of the accident to the Commission within 30 days of the accident. This was an error. No written notification is required. Also, carriers must maintain copies of police reports for any reportable accidents for one year from the date of the accident. We believe that these modifications adequately protect the public while not overburdening the industry or our staff.

There were no comments opposing the proposal. Therefore, we will change this provision as proposed.

²We limit applicability to carriers operating vehicles with seating capacities of 15 passengers or less, including the driver, since larger vehicles are governed by 52 Pa. Code § 37.204.

§ 29.61. Commencement of service.

We proposed revising this provision to eliminate the automatic termination of the certificate of public convenience in the event a carrier fails to commence service within 30 days of authorization. See § 29.32. IRRC filed comments to this proposal questioning where the “appropriate proceeding” referenced in the proposal could be found. We refer to our discussion of § 29.32. Having reviewed the comments, we will change this section as proposed.

§ 29.62. Interruptions of service.

We proposed amending this provision to change the reference from “rule to show cause” to “complaint.” This change is consistent with current practice. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.73. Posting notice prohibiting conversation.

We proposed deleting this section. This change is consistent with current Federal regulations. See 49 CFR Part 392, subpart G. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.81. Smoking limitations.

We proposed deleting this section since we do not believe that it is necessary. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.101. Operation of leased equipment.

We proposed modifying the current regulation by requiring drivers be qualified under the new driver regulations (subchapter F, as follows), prohibiting carriers (with the exception of call or demand carriers) from leasing vehicles to drivers, updating some cross references, and eliminating the formal inspection reports and annual reports. The prohibition against leasing vehicles to drivers is consistent with the intent of this section to ensure that the certificated carrier maintains control over the service provided under its authority. The elimination of the inspection report does not relieve the carrier’s obligation to inspect leased vehicles and to maintain a certificate of inspection. We believe that the inspection report does not enhance safety enforcement and is simply cumbersome. Further, elimination of the annual report is consistent with current Commission practice.

We have also eliminated various sections that no longer serve a useful purpose. Specifically, we have eliminated the section concerning receipts, since we believe that the lease itself suffices as adequate documentation for our purposes. Further, we have eliminated original subsection (g), concerning scheduled route and group and party service. These provisions are not relevant in the current regulatory environment. We note that these carriers must continue to comply with the remainder of our leasing requirements.

Several commentators suggested in filing preliminary comments to the Advance Notice of proposed Rulemaking, that we amend this section to include a provision insulating carriers from prosecution if they utilize lease drivers who have a suspended or inactive driver’s license. We declined to adopt this suggestion, noting that it is a carrier’s responsibility to ensure that all drivers operating under its authority are properly licensed. *Pa. PUC v. Yellow Cab Company of Pittsburgh*, Docket No. A-00049926C9803-C9812 (Order entered November 17, 1999). Commentators have again raised objection to re-

quiring a carrier ensure all its drivers are properly licensed. We reject this comment, since we believe that it is ultimately the carrier's responsibility to ensure its drivers are licensed. This requirement is consistent with current Commission practice.

Subchapter C. Contract carriers and brokers.

We proposed deleting reference to "brokers" due to inapplicability. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.111. Accounts, records and memoranda.

We proposed deleting references to §§ 29.43, 29.73, and 29.81 to be consistent with current and proposed regulations. Further, we are deleting the annual report filing requirement for contract carriers. There were no comments to the proposal. Therefore, we will change this provision as proposed.

Scheduled Route Service

§ 29.301. Conditions.

We proposed revising this section to include reference to subchapters E (Vehicle Equipment and Inspection) and F (Driver Requirements, to be discussed as follows). There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.303. Service standards and requirements.

This provision, concerning scheduled route carriers, is revised to ensure that particular schedule changes are provided to the Commission. One commentator suggested that the regulation be revised to allow more flexibility for the carrier. However, no suggested changes were provided. We decline to adopt the comment.

§ 29.306. Consumer information.

This provision was added in order to advise the public of the appropriate forum in which to address complaints over service. We believe that this requirement will have minimal cost to the carrier yet be a significant benefit to the public. IRRC's comments suggested it was the Commission's intent to provide various compliance options to all carrier groups. However, this was not the intent of the Commission. No changes were made to the language of the subsection from the proposed version of the regulation.

Call or Demand Service

§ 29.311. Conditions.

We proposed revising this section to include reference to subchapters E (Vehicle Equipment and Inspection) and F (Driver Requirements, to be discussed as follows). There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.313. Service standards and requirements.

We proposed amending this provision to include a requirement that log sheets be completed contemporaneously with a trip. This requirement ensures reporting accuracy. Further, we proposed that origin and destination points provided in log sheets include a street name with address, if available, or some identifiable landmark.

Comments to our proposals indicated that the Commission should provide a log sheet format. We decline to adopt this suggestion. Log sheet requirements are adequately delineated in our regulations. Carriers are free to develop their own forms, according to their business needs, that contain the required information.

Commentators also suggest that electronic tracking of required log sheet data should be permitted by regulation. This proposal does not conflict with our requirements, so long as all required information is retained electronically. Therefore, we will modify the proposed regulation to permit electronic record keeping.

Finally, commentators object to the contemporaneous maintenance of log sheets. We disagree with this comment. Drivers cannot be relied on to recreate, with accuracy, all charges, locations, and mileages at the end of a shift. The contemporaneous completion of log sheet requirement ensures accuracy.

§ 29.314. Vehicle and equipment requirements.

We proposed making meters mandatory for all call or demand carriers. We proposed this as a more efficient and accurate means of charging the public for service. Meters are available at a cost of approximately \$225. Currently, approximately fifty per cent (50%) of call or demand carriers charge non-metered rates. We believed that the cost of installing the meters is not enormous and is certainly outweighed by the benefits associated therewith; i.e., charges that more accurately reflect the cost of transportation. Further, we proposed continuing to require all meters to be sealed for security and accuracy purposes. We proposed requiring carriers to provide an annual vehicle list to the Commission. This requirement will aid the Commission in its enforcement efforts. Further, we proposed requiring all taxicabs to have dome lights, which will aid the public in identifying taxicabs available for service. Finally, we proposed that no vehicles older than eight years be permitted to be utilized in taxi service. We believed this vehicle age limitation will ensure a current, reliable fleet. This requirement would be phased in over a one year period.

Commentators provided extensive feedback on these proposals. First, one commentator suggests that requiring meters for taxicabs, while affordable, is not economically viable for rural areas. Another commentator supported our meter proposal. We believe that our proposal is sound. No support was provided for the claim that meters are not economically viable for rural carriers. Certainly, a meter can be calibrated to reflect current zone rate charges. Therefore, we reject the comments regarding meters.

Further, we have modified the meter seal requirement to include a waiver provision for carriers utilizing tamper-proof meters.

One commentator also objected to the dome light requirement. In support of its objection, the commentator suggests that some customers do not like their employers or other persons to know they are taking a taxi. Additionally, a dome light may compromise security of the patron's home, since it would alert thieves that the patron is not home. While we are mindful of these concerns, we do not believe that they are sufficient to outweigh the purpose of the dome light requirement; i.e., to aid the public in identifying taxicabs available for service. However, in an effort to accommodate the particular needs of a given locale, we will permit a possible exemption from this requirement, upon Commission approval.

Finally, much commentary was provided on the vehicle age requirement. Generally, the commentary suggested that this requirement would unnecessarily increase costs, including insurance costs. Further, commentators suggested that a vehicle's age is not an accurate barometer of the vehicle's condition.

While we understand that age is not synonymous with condition, we are also cognizant that age is one of the most important factors to ensure a vehicle is fit for service. We have the difficult task of ensuring a safe and reliable taxi fleet for the public, with only limited tools available to meet this challenge. Age of fleet is a viable, efficient tool for this job.

However, we recognize that this requirement may cause undue hardship on select carriers. Therefore, we will allow a compromise. We will continue to impose an 8 year limit, subject to specific exemption. A carrier may request our enforcement personnel to inspect any vehicle more than 8 years old to determine if that vehicle is fit for service. While this necessitates a certain amount of discretion be exercised by our enforcement personnel, this is the necessary result when the clear cut 8 year litmus test is rejected.

§ 29.315. Alternative forms of compensation.

We proposed technical amendments to this section updating cross references. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.316. Tariff requirements.

We proposed amending this section by phasing out zone-based fares in three years. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.317. Accounting requirements for alternative forms of compensation for drivers.

We proposed technical amendments to this section as well as phasing out references to zone-based fares. Further, the report required by subsection (c) will only be provided to drivers upon request. We believe that this proposal minimizes unnecessary paperwork for the carrier while retaining necessary protections for the driver.

One commentator argued that our current accounting requirements are burdensome to the certificateholder and that this burden should be transferred to the lease driver. We disagree. It is ultimately the certificateholder's responsibility to maintain log sheets and ensure their accuracy. A public utility cannot shift this responsibility as a matter of convenience.

§ 29.318. Complaint decals.

We proposed that all taxicabs be required to post a complaint decal inside their vehicles. The decal will advise a customer of relevant complaint information. The decals shall be provided by the Commission. Only decals provided by the Commission may be posted.

One commentator suggested that the Commission ensure that the decal remains permanently affixed to the vehicle. We disagree. The Commission will provide the decals. It is the certificateholder's responsibility to inspect its vehicles regularly for compliance. If a decal needs to be replaced, the certificateholder can get another one from the Commission.

Limousine Service

§ 29.331. Conditions.

We proposed amending this provision to include references to Subchapters E and F. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.332. Method of operation.

We proposed amending this provision to prohibit the direct solicitation of passengers by a limousine driver.

Commentators suggest that this prohibition is ambiguous and does not go far enough to prevent limousine carriers from encroaching on call or demand service. We are cognizant of the necessity to clearly delineate the boundaries of the taxicab and limousine industries. Complaints are common, primarily limited to Pittsburgh and Philadelphia, that limousine carriers are unfairly and illegally siphoning business from the taxicab industry. Given the different regulatory standards each industry must meet, it is imperative that limousines not be permitted to operate as defacto taxicabs. It is our intent and desire to ensure the health of each industry in order to serve the public's transportation needs.

While we cannot guarantee that on any particular trip, a limousine carrier will not breach its regulatory boundaries, we believe that the proposed language helps to ensure a separation of the industries. However, we also recognize that there may be some ambiguity attached to the proposed language. Therefore, we have modified the proposed language to further delineate our intent.

§ 29.333. Vehicle and equipment requirements.

We proposed amending this provision to include a requirement that limousines be no more than eight years old. Further, we proposed requiring limousine operators to provide the Commission with a vehicle list annually.

Commentators opposed the 8 year limitation, citing similar reasons to comments at § 29.314. We agree that there is a need for some flexibility and have modified the final regulations accordingly.

§ 29.334. Tariff requirements.

We proposed amending this section to prohibit the use of meters. We believe that meters are unique to taxi service and should not be utilized in luxury limousine service. Further, we propose restricting limousines from basing tariffs on mileage. We believe that a mileage based rate is more akin to taxicab service. Limousine service is a luxury service, and should not be viewed as a substitute for taxicab service. The industries serve different transportation needs. A time based tariff is more consistent with the nature of limousine service.

Commentators generally agreed with our proposals. However, they argue that the regulations should also include a minimum initial time period. Further, commentators suggest that carriers be permitted to charge flat rates for select destinations.

We agree that setting a minimum initial time period is consistent with our intent. A limousine charging by the minute would be more akin to taxi service. Therefore, we adopt this comment and incorporate a 30 minute minimum initial charge. Additionally, we will also require minimum 30 minute increments for the same reasons justifying the minimum initial charge. Finally, we will not permit flat rate pricing. While we recognize the need for exact quotes in certain circumstances, we believe that a carrier will be able to provide that certainty within the tariff structure adopted. We note that this modifies our prior Order permitting flexible ratemaking. *Investigation into Flexible Ratemaking for the Bus and Limousine Industries*, Docket No. I-00960063 (Order entered October 16, 1997.).

§ 29.335. Trip sheet requirements.

We proposed amending this provision to include a requirement that the origin point be included on trip sheets. Further, we proposed deleting odometer recording requirements, as irrelevant under our proposed tariff changes. There were no comments to the proposal. There-

fore, we will change this provision as proposed. We note that we have included a requirement that the trip sheet contain the certificate number of the carrier.

§ 29.336. Consumer information.

The Commission proposed mandating a consumer information initiative that would provide the consumer with relevant information regarding service complaints. We proposed offering limousine carriers three choices to comply with this initiative: (1) posting a Commission supplied complaint decal, (2) providing information on the service contract, or (3) providing information on the receipt for service. Having received no comments opposing the proposal, we will adopt it.

Airport Transfer Service

§ 29.341. Conditions.

We proposed amending this section to include reference to subchapters E and F. There were no comments to the proposal. Therefore, we will change this provision as proposed.

§ 29.344. Consumer information.

The Commission proposed mandating a consumer information initiative that would provide the consumer with relevant information regarding service complaints. We proposed offering airport transfer carriers two choices to comply with this initiative: (1) posting a Commission supplied complaint decal, or (2) providing information on the receipt for service. We believe this initiative will aid the public and enhance transportation service. While we received no comments opposing the proposal, upon further review, we have modified the initial proposal to afford the carrier greater latitude for compliance.

Other Services: Paratransit, Experimental

§ 29.351. Conditions.

We proposed amending this section to include reference to subchapters E and F. One commentator suggested that we delineate paratransit service as a stand-alone classification. We decline to adopt this suggestion. We believe that current regulations adequately define paratransit service.

§ 29.356. Consumer information.

The Commission proposed mandating a consumer information initiative that would provide the consumer with relevant information regarding service complaints. We proposed offering paratransit carriers two choices to comply with this initiative: (1) posting a Commission supplied complaint decal, or (2) providing information on the receipt for service. While we received no comments opposing the proposal, upon further review, we have modified the initial proposal to afford the carrier greater latitude for compliance.

Subchapter E. Vehicle Equipment and Inspection.

§ 29.401. Applicability

We proposed amending this provision to more clearly delineate its applicability to vehicles with seating capacities of 15 passengers or less, including the driver. Having received no comments opposing the proposal, we will adopt it.

§ 29.402. Vehicle equipment requirements.

We proposed amending this section to more clearly delineate applicability. See § 29.401.

We also proposed amending this section to include a requirement that advertising be limited to the roof of the

vehicle. We believe this requirement will ensure unobstructed views for driver and passenger. Further, it will aid in enforcement since vehicle identification markings will not be obscured by advertisements.

One commentator opposed our proposal, arguing that exterior and interior advertising should not be restricted so long as it does not obstruct a driver's view or relevant vehicle/driver information. We disagree for the reasons previously stated. However, to the extent a carrier wishes to deviate from this requirement, we will permit a waiver upon petition.

§ 29.403. Requirements for passenger service operation.

We proposed amending subsection (1) of this provision to include a reference to removable seats which are currently common in vehicles. Further, we proposed the following additional vehicle requirements: operative air conditioning, exterior free of dents or gouges more than four inches in diameter, vehicles must have four matching wheel covers or the equivalent, and seats shall be secure and undamaged with no protruding springs or cushioning. Having received no comments opposing the proposal, we will adopt it. We note that we have also included a prohibition against objects protruding from the exterior of the vehicle.

§ 29.404. Unsafe operations forbidden.

We proposed amending this section to include a prohibition against operating a vehicle in violation of § 29.403. Having received no comments opposing the proposal, we will adopt it.

§ 29.406. Inspection by enforcement officers.

We proposed amending this provision to clarify and simplify the out-of-service procedures employed by the Commission. Having received no comments opposing the proposal, we will adopt it.

Subchapter F. Driver Regulations

We proposed the addition of driver regulations for drivers of vehicles with seating capacities of 15 passengers or less, including the driver. We will require all drivers have a current license and be at least 21 years of age. Further, we shall require carriers to obtain a driver history for each driver and update that history every 12 months. We will require carriers to obtain a criminal history record for all drivers and update same every two years. Finally, we will prohibit operation of vehicles by anyone under the influence of alcohol or a controlled substance. We believe these requirements will help to ensure the quality and safety of public utility service in Pennsylvania.

We further proposed additional driver standards for carriers operating vehicles with seating capacities of 9 to 15 passengers, including the driver. Recent amendments to federal regulations applicable to interstate carriers of this vehicle type are found at 49 CFR Part 390. We proposed adopting similar standards. Specifically, we proposed physical qualification and hours of service standards. We believe that the heightened scrutiny accorded drivers of these vehicles is warranted and in the public interest.

One Commentator suggested that since proposed Section 504, requires, inter alia, carriers to obtain a driver history report for its drivers, the carrier should not be responsible to ensure the status of a driver between required reporting periods. We decline to adopt this comment. As previously noted, it is the carrier's responsibility to ensure its drivers are properly licensed. While

this may cause some difficulties, reasonable steps must be taken by carriers to ensure proper licensing.

Commentators also provided suggestions regarding the requirement that carriers obtain criminal history records for all drivers. There was no negative industry response to this proposal. In fact, the industry supported strengthening various portions of the proposal. However, IRRC commented that there is no statutory authority for a carrier to obtain criminal history records for its drivers. IRRC also commented that there is nothing in the Public Utility Code which authorizes the Commission to require that carriers or drivers obtain this information.

In response to IRRC's comments, we have reviewed the Criminal History Record Information Act (CHRIA) 18 Pa.C.S. §§ 9101—9183, and have determined that we are authorized to require carriers obtain criminal history records for their drivers. CHRIA specifically recognizes that prospective employers may require job applicants to submit a criminal history record, to be used for the purpose of deciding whether to hire the applicant. 18 Pa.C.S. § 9125. Felony and misdemeanor convictions may be considered by the employer only to the extent they relate to the applicant's suitability for employment. 18 Pa.C.S. § 9125. Therefore, a carrier could require a potential driver to submit a criminal history record as a condition of hire.

The Public Utility Commission is charged with overseeing common carrier service within Pennsylvania. It is the Commission's foremost responsibility to ensure that common carrier service is provided safely. 66 Pa.C.S. §§ 1103, 1501. In our judgment, the general statutory standard that a carrier be fit easily encompasses a regulatory requirement that a carrier obtain a criminal history record for its drivers in order to evaluate suitability for employment. The key way the Commission can provide the necessary security for the public is by requiring a criminal history record review for each driver.³ We will not compromise public safety by deleting this proposal. Therefore, we will require all passenger motor carriers obtain and review criminal history records for their drivers to ensure their suitability for employment.

IRRC also suggests that we define "crime of moral turpitude," since it is ambiguous. We agree with this comment and have deleted this language.

Chapter 31

Our proposed revisions to this chapter were primarily aimed at provisions governing household goods carriers, §§ 31.121—31.130. Those proposed changes attempted to strike a continuing balance between the shipper and the carrier. We also proposed some general revisions governing both property and household goods carriers.

§ 31.4. *Transfer of Certificates and Permits.*

We proposed modifying this provision to delete the self-executing termination language found in subsection (c). Having received no comments opposing the proposal, we will adopt it.

§ 31.11. *Reports of Accidents and Damages.*

We proposed amending this provision to provide for telephonic notification to our Bureau of Transportation and Safety within 24 hours of an accident that results in the death of a person. Further, carriers must maintain copies of police reports for any reportable accidents for

³The Commission required criminal history records for all Philadelphia medallion taxicab drivers. 52 Pa. Code § 30.72. There is no specific statutory authorization for this requirement, beyond the requirement that a driver be "fit." 66 Pa.C.S. § 2409.

one year from the date of the accident. Having received no comments opposing the proposal, we will adopt it.

§ 31.32. *Equipment.*

We proposed revising this section to simplify and clarify leasing requirements. Having received no comments opposing the proposal, we will adopt it.

§ 31.33. *Identification of equipment.*

The proposed changes included deleting excess language and replacing the requirement that identification markings be painted on the vehicle. Having received no comments opposing the proposal, we will adopt it.

§ 31.121. *Information for Shippers.*

Our proposed modifications to this section included requiring carriers to provide shippers with the "Information for Shippers" form at least 48 hours in advance of the move, to ensure that shippers receive meaningful notice. Further, we proposed requiring an Inventory be completed by the carrier and provided to the shipper, as well as a bill of lading. We proposed raising the minimum valuation limits to 60 cents per pound per article.⁴ We also proposed requiring carriers to use a Commission supplied form, which will be available on our web-site or upon request.

This form will include the Commission's contact information for complaints. We also proposed requiring carriers to retain an executed copy of the form for two years from the date of the move. We proposed replacing "money order" with "cashier's check," due to the relative security of these instruments.

We received numerous comments to our proposals. First, commentators suggest that requiring carriers to provide the Information for Shippers form 48 hours prior to the move is too cumbersome and would impede the ability to accommodate last-minute shipment requests. We agree, and have provided a waiver option for the shipper.

Commentators also suggest that increasing the loss coverage from 30 cents per pound per article to 60 cents per pound per article would unnecessarily increase costs. We disagree. The proposed 60 cents coverage limit is consistent with coverage required for interstate shipments. 49 CFR § 375.203. Our research indicates that this increase in valuation coverage will have minimal effect on the cost of the move. If a carrier requires a rate increase to cover this increased cost, it may properly petition the Commission.

Commentators also question the appropriateness of requiring an inventory for shorter time-based moves. Commentators suggest the inventory requirement will have little benefit, yet significantly increase costs due to the increased labor involved. Commentators indicate that for longer moves, inventories are routinely prepared. We agree with the comments and have modified the proposed regulation to provide for shipper waiver of an inventory for hourly based moves.

We also have modified the language regarding liability of the carrier to reflect that a carrier is only liable for damage to goods to the extent required by law.

Finally, we have modified the proposal to include the signature of the shipper.

§ 31.122. *Estimate of Charges.*

We proposed delineating all contents required on an estimate of charges form. Further, we proposed deleting

⁴We recognized that this proposal will necessitate a collateral proceeding to modify the existing rate structure.

current regulation § 31.130, which is a sample "Estimate of Charges" form, as unnecessary. We also proposed that carriers retain the form for two years from the date of the move. Finally, we proposed moving the "Notification of Charges" section, since that section is distinct from "Estimate of Charges."

Commentators to these proposals, including IRRC, questioned when the Estimate must be provided to the shipper. In the proposal, we had indicated that the estimate must be provided "prior to the move," which was consistent with past regulation. After review of the comments, we will require that the Estimate be provided 48 hours prior to the move, unless the shipper agrees, in writing, to a shorter period. Also, commentators requested that the Commission allow some variation on the lettering requirements, which we have done.

§ 31.123. Delivery when Charges Exceed Estimates.

We proposed replacing "money order" with "cashier's check," due to increased security. Given that this change was reflected in the new Information for Shippers form, we did not believe that it was necessary to repeat it at this point, and deleted the sentence in the proposal. Commentators did not oppose this change.

§ 31.124. Report of Underestimates.

We proposed deleting the sample report form attached to the regulations. Further, we proposed carriers retain these reports for two years from the date of the move. Having received no comments opposing the proposal, we will adopt it.

§ 31.125. Obtaining Weight Tickets.

We proposed amending this section to eliminate the requirement for separate gross and tare weight tickets, since gross and tare weights are commonly included on the same weight ticket. Further, we proposed eliminating the requirement that copies of bills of lading utilizing constructive weight be furnished to the Commission. Finally, we proposed that carriers retain the tickets for two years from the date of the move. Having received no comments opposing the proposal, we will adopt it. We note that our original proposed changes appearing in the Annex were inconsistent with our intent. We have modified the Annex accordingly.

§ 31.127. Failure to Comply with Provisions.

We proposed updating this section with appropriate statutory references. Having received no comments opposing the proposal, we will adopt it.

§ 31.130. Estimated Cost of Services.

We proposed deleting this provision since an example form is unnecessary in light of the specifications established for an estimated cost of services provided at § 31.122. Having received no comments opposing the proposal, we will adopt it.

§ 31.131. Notification to Shipper of Charges.

We proposed moving the notification requirement currently found at § 31.122(1) to this location. This will reduce confusion and clarify that "Notification of Charges" is distinct from "Estimate of Charges." Further, we proposed modifying the notification requirements by permitting notice by fax or e-mail. Having received no comments opposing the proposal, we will adopt it.

§ 31.132. Bill of Lading.

We proposed adding a new requirement that a household goods carrier prepare and provide to the shipper a bill of lading for the shipment. We believe that the bill of

lading is currently used by carriers and should not be omitted from our regulations. The requirement is straightforward, places no undue burden on the carrier, and serves as a valuable consumer protection tool.

The only comments received on the proposal centered on the release from liability for damage provision. We have modified this provision to be consistent with our prior discussion at § 31.121.

§ 31.133. Inventory.

We proposed requiring a household goods carrier to prepare an inventory of the shipment. Commentators opposed this provision for hourly based moves. As discussed previously, we will permit shipper waiver of the Inventory requirement for hourly based moves.

§ 31.134. Criminal History.

We proposed requiring carriers to obtain criminal history records for all persons providing moving services within a dwelling. We proposed prohibiting carriers from employing individuals who had been convicted of a felony or a crime of moral turpitude. Further, carriers may not permit an individual who has been convicted of a felony or misdemeanor to provide moving services in a shipper's dwelling, where the conviction relates adversely to the individual's suitability for employment. These requirements are reflective of fundamental shipper expectations when engaging a licensed carrier.

Commentators offered both support and opposition to this proposal. Several commentators indicated that due to the high turnover rate and the use of temporary help in the moving industry, requiring background checks would be unduly burdensome. Conversely, other commentators supported the proposal, with the caveat that it was too vague in draft form. We will adopt our original proposal, with modifications. We reject deleting the criminal background check, as suggested by some commentators, since, as noted earlier, we refuse to compromise public safety. We have removed the reference to crimes of moral turpitude as suggested by IRRC's comments.

The attached Annex A, is permitted by sections 501, 1102, 1103, 1501, 1502, 1504, 1506, 1508, and Chapters 23 and 25 of the Public Utility Code. Accordingly, under section 501 of the Public Utility Code, 66 Pa.C.S. § 501, sections 201—205 of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, and regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5, we amend the regulations in Chapters 29 and 31 to read as set forth in Annex A. *Therefore,*

It Is Ordered That:

1. The regulations of the Commission, 52 Pa. Code Chapters 29 and 31, are amended by:

- a) Amending §§ 29.11, 29.31, 29.32, 29.41, 29.44, 29.61, 29.62, 29.101, 29.111, 29.301, 29.303, 29.311, 29.313—29.317, 29.331—29.335, 29.341, 29.351, 29.401—29.404, 29.406, 31.4, 31.11, 31.32, 31.33, 31.121—31.125 and 31.127; by
- b) Adding §§ 29.306, 29.318, 29.344, 29.356, 29.501—29.509 and 31.131—31.134; and by
- c) Deleting §§ 29.33, 29.73, 29.81, 29.336 and 31.130 to read as set forth in Annex A.

2. The Secretary shall submit this order and Annex A to the Office of Attorney General for review as to form and legality.

3. The Secretary shall submit a copy of this order and Annex A to the Governor's Budget Office for review of fiscal impact.

4. The Secretary shall submit this order and Annex A for review and approval by the designated standing committees of both Houses of the General Assembly, and for review and approval by IRRRC.

5. The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

6. This final-form rulemaking shall become effective upon final publication in the *Pennsylvania Bulletin*.

7. The contact person is John Herzog, Assistant Counsel, Law Bureau, (717) 783-3714.

8. A copy of this order shall be served on commentators to the proposed rulemaking order.

JAMES J. MCNULTY,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 3919 (July 22, 2006).)

Fiscal Note: Fiscal Note 57-233 remains valid for the final adoption of the subject regulations.

Statement of Commissioner Kim Pizzigrilli

*Final Rulemaking Amending 52 Pa. Code
Chapters 29 and 31; AUG-2005-L-0068*;
Doc. No. L-00020157*

Before the Commission for consideration is the Final Rulemaking Order which amends 52 Pa. Code, Chapters 29 and 31, pertaining to Motor Carriers of Passengers and Common Carriers of Property and Household Goods in Use.

This rulemaking process began with an Advanced Notice of Proposed Rulemaking in 2002. Since that time, the Commission has received and reviewed comments filed by numerous passenger and household goods carriers as well as the Independent Regulatory Review Commission.

The final regulations are the result of the input received from all affected parties. Many of the revisions were long overdue. The regulations eliminate obsolete and unnecessary reporting requirements; provide carriers with flexibility regarding our regulations; allow for electronic recordkeeping as well as enhance our enforcement efforts to ensure protection of the public.

I want to commend the Commission staff for recognizing and taking action on the need to update Chapters 29 and 31, as well as their diligence in working with all of the stakeholders to produce regulations that best serve the needs of the Commonwealth.

I believe that this rulemaking allows the Commission to uphold its mission to ensure the quality and safety of public utility service, while enabling the transportation industry to continue to grow and thrive.

KIM PIZZINGRILLI,
Commissioner

Annex A

TITLE 52. PUBLIC UTILITIES

PART I. PUBLIC UTILITY COMMISSION

Subpart B. CARRIERS OF PASSENGERS OR PROPERTY

CHAPTER 29. MOTOR CARRIERS OF PASSENGERS

**Subchapter B. COMMON CARRIERS
PRELIMINARY PROVISIONS**

§ 29.11. Applicability.

This subchapter applies to common carriers and is subject to amendment, change, modification or exception as the Commission may deem advisable, just and proper.

TRANSFER OF RIGHTS

§ 29.31. Sale or transfer of certificates.

The approval of the Commission is required for the sale or transfer of a certificate, except as otherwise provided in this chapter. The approval may be granted with or without hearing and after such reasonable notice as the Commission may direct.

§ 29.32. Death or incapacitation of a certificate-holder.

Upon the death of a holder of a certificate, or upon an individual certificateholder being legally declared incapacitated, the rights conferred by the certificate shall continue with the legal representative of the deceased or incapacitated holder for 1 year. After the expiration of the 1 year period, appropriate proceedings shall be initiated to terminate the certificate, unless application has been made to transfer the rights to the heirs, guardian, trustees, legatees or others, in which case the rights shall continue with the legal representative until the application is granted or refused. If at least application is made by the legal representative 30 days prior to the end of a period of 1 year, the Commission may, at its discretion and for cause shown, permit the transfer of the rights to the executors, administrators, guardians, trustees or other legal representatives of the deceased or incapacitated holder for a period to be fixed by the Commission. Pertinent orders or decrees of the court having jurisdiction over the estate of the decedent or incapacitated person may be deemed cause for the granting of the petitions by the Commission.

§ 29.33. (Reserved).

ACCOUNTS, RECORDS AND REPORTS

§ 29.41. Accounts and records.

(a) Common carriers of passengers shall follow generally accepted accounting principles for all accounting and reporting matters.

(b) Amounts received as operating subsidies or payments for services rendered from a Federal, State or local governmental agency shall be included in the respective passenger revenue classifications corresponding to the operating authority under which the services were provided, and shall be included in the reporting company's assessment liability under 66 Pa.C.S. § 510 (relating to assessment for regulatory expenses upon public utilities).

§ 29.44. Accident reports.

(a) *Accidents involving death of a person.* Motor carriers of passengers, operating vehicles with seating capacities of 15 passengers or less, including the driver, shall telephonically notify the Bureau of Transportation and Safety of any accident resulting in the death of a person within 24 hours of the accident. Carriers shall maintain a copy of the police report for 1 year from the date of the accident.

(b) *Other accidents.* For all accidents resulting in the filing of a police report, a motor carrier shall maintain a copy of the police report for 1 year from the date of the accident.

CONTINUITY OF SERVICE

§ 29.61. Commencement of service.

A common carrier 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 granted by the Commission, the time for commencement of service is extended.

§ 29.62. Interruptions of service.

An interruption of service for more than 48 hours shall be reported to the Commission with a statement of the cause of interruption and its probable duration. Suspension of service for 5 consecutive days without notice to the Commission will be deemed sufficient cause for revocation or cancellation of the rights of the carrier, except if the suspension is caused by strike or labor difficulties, riot, insurrection, war, government decrees or an act of God. An order of revocation will not issue until the carrier is given opportunity for a public hearing on a complaint as to why the rights should not be revoked and cancelled.

MARKINGS AND POSTING NOTICE

§ 29.73. (Reserved).

§ 29.81. (Reserved).

MISCELLANEOUS PROVISIONS

§ 29.101. Operation of leased equipment.

(a) *General provisions.* General provisions include the following:

(1) *Common carriers.* Common carriers shall operate vehicles in compliance with this title and of the laws of the Commonwealth.

(2) *Drivers.* When used in the authorized service of the lessee, leased vehicles shall be operated by drivers qualified under Subchapter F (relating to driver regulations) when operating vehicles with seating capacities of 15 or less, including the driver, or Chapter 37 (relating to safety code for transportation of property and passengers), when operating vehicles with seating capacities of 16 or more, including the driver.

(3) *Insurance and registration.* Leased vehicles shall be covered by insurance as provided by § 32.11 (relating to passenger carrier insurance) and conform with the requirements for registration of vehicles as set forth in 75 Pa.C.S. §§ 101—9910 (relating to the Vehicle Code).

(4) *Capacity.* The operation of leased vehicles may in no event be assumed to permit an increase in the number of vehicles or in the seating capacity of vehicles where so limited by the terms of the certificate.

(5) *Control.* Vehicles shall be owned by or leased by the certificateholder. Operation and service shall be under the direct control and supervision of the certificateholder. A common carrier of passengers may not lease a vehicle to a driver, except as provided in subsection (f), relating to call or demand service.

(b) *Lease agreements.* Lease agreements must conform with the following:

(1) *Content.* Leases of vehicles must be in writing, specifically set forth the terms of the lease including obligations assumed such as maintenance and fuel, compensation, and the duration of the lease, and be executed by the parties or their authorized agents or officers.

(2) *Copies of lease and distribution.* The following applies to copies and distribution of the lease:

(i) *Preparation.* Lease agreements shall be prepared in triplicate, the original to be retained by the certificateholder in whose service the equipment is to be operated. The original shall be retained at the principal

office of the certificateholder, one copy to be retained by the owner of the equipment, and one copy to be carried on the leased vehicle for the duration of the contract. The certificateholder shall retain leases for 2 years following their expiration date.

(ii) *Certificates.* In lieu of a copy of the lease, a certificate or rental form identifying the leased vehicle shall be carried on the leased vehicle certifying that the equipment is to be operated exclusively in the service of the certificateholder named therein as lessee, the names and addresses of the owner and lessee, the date of the lease, the location of the original lease retained by the certificateholder, and the exact expiration date of the lease. This certificate or rental form shall be certified as true and correct by the certificateholder or an authorized representative.

(c) *Safety inspection.* It is the duty of the certificateholder, before taking possession of equipment, to inspect the equipment or to have the equipment inspected by a person who is competent and qualified to make an inspection as a representative of the carrier to insure that the equipment is in a safe condition to be operated on the highway. The person making the inspection shall certify the results thereof. The certification shall be retained by the certificateholder for at least 1 year. If the inspection discloses that the equipment is not in a safe condition to be operated on the highways, possession thereof may not be taken by the certificateholder.

(d) *Registration of vehicles.* When the Department of Transportation, at the request of the owner, designates the lessee certificateholder as the registrant of the vehicle and the name and address of the lessee are substituted for the address of the lessor, the Commission will approve the registration when the certificate is in good standing, but the approval is effective only for the period during which the lease remains in effect.

(e) *Identification.* If a removable device is used to identify the operating carrier as lessee, the device must be made of durable material securely affixed to the vehicle operated, throughout the duration of the lease. Upon relinquishing possession of the equipment, the certificateholder operating the leased vehicle under this subsection shall remove the legend or removable device displayed on the vehicle.

(f) *Call or demand.* The following applies to call or demand carriers operating leased equipment:

(1) A certificateholder may not lease, contract with or make an arrangement with an employee-driver under which the certificateholder is given custody, possession or use of a vehicle owned or leased by the employee-driver or his nominee. For the purpose of this paragraph, a nominee shall include the employee-driver, his spouse, children, parents or a trust for their benefit or an affiliated corporation, partnership or association.

(2) The holder of a call or demand certificate may lease vehicles to drivers for operation in the service of the certificateholder only under the following conditions:

(i) The leased vehicle shall be operated under the direct control and supervision of the certificateholder.

(ii) The driver-lessee of the vehicle and the certificateholder shall be required to keep and retain daily log sheets as prescribed by § 29.313(c) (relating to service standards and requirements).

(iii) The certificateholder shall be required to furnish and maintain adequate service to the public which shall be reasonably continuous and without unreasonable interruptions or delays.

(iv) The leasing plan of the certificateholder must conform with § 29.315 (relating to alternative forms of compensation).

Subchapter C. CONTRACT CARRIERS

§ 29.111. Accounts, records and memoranda.

(a) A contract carrier shall keep complete and accurate accounts, records and memoranda of the movement of traffic, of the receipts and expenditures of money, of revenues and income earned, of expenses incurred, of the cost of property and other assets, of the amounts of debts and obligations, and of every other pertinent matter and thing; and shall preserve the accounts, records and memoranda until the destruction or other disposition of the same is authorized by the Commission.

(b) A contract carrier shall comply with §§ 29.41, 29.44 and 29.101—29.103.

Subchapter D. SUPPLEMENTAL REGULATIONS SCHEDULED ROUTE SERVICE

§ 29.301. Conditions.

This section and §§ 29.302—29.305 (relating to scheduled route service) apply to operations in the scheduled route class of common carriage. This section and §§ 29.302—29.305 apply in addition to relevant provisions of Subchapters A, B, E and F, as well as particular provisions contained in each certificate of a carrier.

§ 29.303. Service standards and requirements.

(a) *Time schedules.* Common carriers providing scheduled route service shall file with the Commission two copies of time schedules applicable to the service at least 10 days prior to the effective date thereof. Printed time schedules and information with respect thereto shall be made available to the public upon a reasonable request.

(b) *Notice of schedule changes.* Notice of proposed changes in routes or in time schedules involving retiming or withdrawal of a trip shall be conspicuously posted in vehicles engaged in services affected by the changes and at stations and stops where practicable, for at least 10 days prior to the effective date thereof. Notice of any changes shall be provided to the Commission, in writing, 10 days prior to implementation. This section relating to changes in time schedules does not apply to that portion of the service that is and will continue to be rendered on headways of 20 minutes or less.

(c) *Unexpected demands.* Changes in time schedules to meet unexpected changes in traffic demands such as might occur upon changes in shift periods of industrial establishments, changes in school periods, or similar conditions which prevent prior notice of digression will not be construed as being in violation of this section.

(d) *Supplementary service.* Nothing in this section may be construed to prevent the rendition of additional or supplementary service without prior notice, on any part of a scheduled route, to meet varying traffic demands.

§ 29.306. Consumer information.

To provide passengers with the necessary information to file a complaint, scheduled route carriers shall post a Commission-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and website to be used to lodge a complaint or provide the following notice on the receipt for service:

For complaints and information, contact the Pennsylvania Public Utility Commission at 1-800-782-1100 or at www.state.pa.us. Include the company name and A-# for all complaints.

CALL OR DEMAND SERVICE

§ 29.311. Conditions.

This section and §§ 29.312—29.316 (relating to call or demand service) apply only to operations in the “call or demand”—taxi—class of common carriage. These sections apply in addition to relevant provisions of Subchapters A, B, E and F, as well as particular provisions contained in each certificate of a carrier.

§ 29.313. Service standards and requirements.

(a) *Required to provide service.* A driver of a call or demand vehicle shall, at all times when on duty and not engaged, furnish trip service on demand to an orderly person for lawful purposes.

(b) *Shortest route to be followed.* A driver of a call or demand vehicle shall transport passengers to their destinations by the shortest practical route, unless directed by a passenger to take a different route.

(c) *Log sheets.* A driver of a vehicle in call or demand service shall keep a log sheet or manifest for each shift he operates unless some other method is, upon petition, specifically approved by the Commission. These log sheets shall be filled out contemporaneously with the trip, on a form supplied by the certificateholder. The log sheets shall be retained by the certificateholder for at least 2 years. Log sheets may be retained in electronic format. Log sheets, or comparable printouts from an electronic storage device, shall be turned over upon request to an authorized representative of the Commission upon the rendering of a receipt. Drivers shall fill out the log sheets with the following information:

- (1) The date.
- (2) The time he commenced the shift and the time he ended the shift and ceased driving.
- (3) The vehicle identification number.
- (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) The number of passengers and the fare collected on each trip, indicating separately each fare collected from each passenger or party of passengers sharing the ride.
- (6) Each trip on which packages were delivered and the charge for the trip.
- (7) The meter readings at the beginning and end of each shift, if applicable.
- (8) The name and number of the driver.
- (9) The signature of the driver attesting to the accuracy of the data recorded.
- (10) Other information as may be required by this title.

(d) *Baggage.* No charge may be made by a certificateholder or driver for a hand baggage or hand luggage carried by a fare-paying passenger.

(e) *Expressage.* The driver may carry packages or parcels when the merchandise is accompanied by a passenger but shall refuse to carry the packages or parcels when the contents cause the vehicle to become stained or evil smelling. Nothing contained in this subsection may be interpreted as permitting the hiring of vehicles for expressage purposes only unless the rights are specifically included in a certificate held by the carrier.

(f) *Fare receipts.* The driver of a call or demand vehicle shall, if requested, deliver to the person paying for hire of the same, at the time of payment, a correct receipt therefor. Upon this receipt shall be legibly printed or written the name of the carrier, a method of identifying the vehicle and its driver, items for which a charge is made, the total amount paid and the date of payment. A certificateholder shall supply each of its drivers with blank receipts assembled in book form.

§ 29.314. Vehicle and equipment requirements.

(a) *Seating capacity.* A call or demand service may be operated only in vehicles with seating capacities of eight passengers or less, excluding the driver.

(b) *Meters.* Meters must conform with the following requirements:

(1) A call or demand vehicle operated within this Commonwealth shall be equipped with a meter.

(2) The meter shall be installed in the front of the vehicle so that, at all times, it is plainly visible to and the fare is readily ascertainable by all occupants of the vehicle. The face of the meter must be properly illuminated at all times.

(3) No meter affixed to a vehicle may be operated from a drive other than the transmission of the vehicle unless some other method is, upon petition, specifically approved by the Commission.

(4) Unless otherwise permitted by the Commission, the meter and meter driving equipment must be sealed so that the meter case, meter driving equipment or additional gear boxes, if any, cannot be disconnected without breaking a seal.

(5) The responsibility for sealing the meter and appurtenant equipment and for maintaining the seals intact while the vehicle is in operation lies with the certificateholder.

(6) It is the responsibility of the certificateholder to cause the meters to be so regulated that the fare is be calculated and registered in accordance with the current tariff rates on file with and approved by the Commission.

(7) The meter must be in operation during the entire time the vehicle 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 carrier 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 vehicle is being used in exclusive service or in nonexclusive service.

(8) Paragraph (7) does not apply when the filed tariff provides for a flat rate in lieu of a metered charge for transportation beyond a certain mileage point or for a zone-based fare structure. This provision is invalid after January 1, 2007.

(c) *Vehicle list.* Between December 1 and December 31 of each year, carriers shall provide the Commission with a current list of all vehicles utilized under its call or demand authority. The list must contain the year, make, vehicle identification number and registration number for each vehicle. The list shall be mailed to Director, Bureau of Transportation and Safety, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

(d) *Vehicle age.* Unless otherwise permitted by the Commission, a vehicle may not be operated in call and demand service which is more than 8 model years old.

For example, the last day on which a 1996 model year vehicle may be operated in taxi service is December 31, 2004. This provision is effective after August 6, 2007.

(e) *Dome lights.* Unless otherwise permitted by the Commission, vehicles operated by call and demand carriers must have a dome light affixed to the roof of the vehicle. The dome light shall be visible from a distance of 100 feet from the front and rear of the vehicle. The dome light shall be illuminated only when a customer does not occupy the vehicle.

§ 29.315. Alternative forms of compensation.

(a) Certificateholders' plans for alternative forms of compensation for call or demand drivers, as permitted by § 29.101 (relating to operation of leased equipment), must conform with the following conditions:

(1) The certificateholder shall at all times own the vehicles or lease them from a nondriver owner pursuant to equipment leasing procedures authorized by this chapter.

(2) The certificateholder shall be responsible for providing and maintaining insurance as required by § 32.11 (relating to passenger carrier insurance).

(3) The certificateholder shall comply with Subchapters E and F (relating to vehicle equipment and inspection; and driver regulations).

(4) Vehicles shall be kept at specifically designated garages or parking locations when they are not being used in the public service.

(5) The certificateholder shall ensure that drivers adhere to regular shifts of operation and shall utilize disciplinary procedures for drivers who fail to adhere to these shifts.

(6) The certificateholder shall require a stated payment from drivers for use of the vehicles and shall permit drivers to keep all revenues and gratuities in excess of this stated payment.

(7) For those certificateholders utilizing radio dispatching, the vehicles they operate shall be radio-dispatched. The certificateholder shall ensure that drivers answer radio dispatches promptly and utilize disciplinary procedures for drivers who fail to answer radio dispatches.

(8) The certificateholder shall be responsible for daily supervision of drivers and utilize disciplinary procedures for drivers who fail to comply with applicable laws, including this title.

(b) Certificateholders whose plans for alternative forms of driver compensation do not conform with the conditions in subsection (a) shall submit plans to the Commission for review 30 days in advance of a proposed starting date. Review will include but will not necessarily be limited to the factors enumerated in subsection (a).

(c) In all alternative forms of compensation for drivers, whether authorized by this section or by order of the Commission, the certificateholder and driver shall comply with § 29.317 (relating to accounting requirements for alternative forms of compensation for drivers).

§ 29.316. Tariff requirements.

(a) *Charges.* Every call or demand carrier shall charge according to its tariffs filed, posted and published in accordance with law and this title:

(1) The amount as is calculated and registered on the meter.

(2) When authorized by the tariff, a fixed amount for the trip or the amount shown to be due on the meter plus a surcharge. This provision is invalid after January 1, 2007.

(3) When authorized by the tariff, a charge tabulated according to the zones entered in the course of the trip. This provision is invalid after January 1, 2007.

(b) *Zone tariff requirements.* If the rates of fare specified in the tariff of the certificateholder are calculated according to the zones entered in the course of the trip: a map of the service territory on which each zone is delineated and in which the cost calculations for trips are described shall be available in the vehicle for the passenger to examine, and a representative of the certificateholder shall be available to quote to the passenger in advance the estimated cost of the particular trip of the passenger. This provision is invalid after January 1, 2007.

(c) *Posting of fare rate.* Every operator of a call or demand service with fares based on a meter or flat rate shall post the rates of fare in a conspicuous place in each of its vehicles.

(d) *Full fare information about alternative services.* When a customer requests call or demand service from a certificateholder who offers service under tariffs authorizing both exclusive and nonexclusive services: the dispatcher shall, if requested by the customer, quote to the customer the estimated fare for the trip of the customer as priced under both of these two alternative services, considering the number of people in the traveling group of the customer; and the dispatcher shall explain to the customer, if necessary, the difference in these two types of service.

§ 29.317. Accounting requirements for alternative forms of compensation for drivers.

(a) *Revenues.*

(1) *Metered rates.*

(i) Log sheets required to be prepared under § 29.313(c) (relating to service standards and requirements) shall be signed by the lease driver, independent contractor or another designation of a person not an employee-driver of a call or demand certificateholder—lease driver—and turned in to an authorized employee. The employee shall sign and retain a log sheet and attest to the signature of the driver who is responsible as to the accuracy of the revenues reported, which agrees with the information shown on the sealed meter at the end of a shift.

(ii) It is the responsibility of the certificateholder to ensure that appropriate information from the log sheets is properly and correctly recorded under §§ 29.41 and 29.43 (relating to accounts and records; and assessment reports).

(2) *Zoned rates and flat rates.* The requirements of paragraph (1) except for meter verification are applicable when the fare is based on zones entered in the course of the trip or on flat rates. This provision is invalid after January 1, 2007.

(b) *Expenses.*

(1) A copy of receipts relative to operating expenses incurred to keep the vehicle in operating condition shall be given to the certificateholder by a lease driver.

(2) It is the responsibility of the certificateholder to insure that reported expenses are properly and correctly recorded in the accounting records required by the Commission at § 29.41.

(c) *Reporting.* At the end of a calendar year, the certificateholder shall supply a lease driver, upon request, with a statement of operating revenues and operating expenses based on the information supplied as required by subsections (a) and (b). The statement may be provided during the calendar year when appropriate.

§ 29.318. Consumer information.

To provide passengers with the necessary information to file a complaint, taxicabs must display a Commission-issued complaint decal which lists the telephone number and web site to be used to lodge a complaint. The decal shall be posted on the inside of the right rear window of the vehicle, along the bottom edge.

LIMOUSINE SERVICE

§ 29.331. Conditions.

This section and §§ 29.332—29.335 (relating to limousine service) apply to operations in the limousine class of common carriage. These sections apply in addition to relevant provisions of Subchapters A, B, E and F, as well as a particular provision contained in a certificate of a carrier.

§ 29.332. Method of operation.

Unless otherwise specifically provided in the certificate of public convenience, a common carrier operating limousine service shall have the rights and be subject to the conditions as follows:

(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.

(3) Direct, in-person solicitation of a passenger by the driver or a representative of the driver or carrier, is prohibited.

§ 29.333. Vehicle and equipment requirements.

(a) Limousine service may be operated only in luxury type vehicles with seating capacities of ten passengers or less, excluding the driver.

(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.

(c) Section 29.71(a) (relating to marking of vehicles) does not apply to luxury type vehicles engaged in limousine service under this section and §§ 29.331, 29.332, 29.334 and 29.335 (relating to limousine service).

(d) *Vehicle list.* Between December 1 and December 31 of each year, carriers shall provide the Commission with a current list of all vehicles utilized under its limousine authority. The list must contain the year, make, vehicle

identification number and registration number for each vehicle. The list shall be mailed to Director, Bureau of Transportation and Safety, Pennsylvania Public Utility Commission, Post Office Box 3265, Harrisburg, Pennsylvania 17105-3265.

(e) *Vehicle age.* Unless otherwise permitted by the Commission, a vehicle may not be operated in limousine service which is more than 8 model years old. For example, the last day on which a 1996 model year vehicle may be operated in limousine service is December 31, 2004. This provision is effective August 6, 2007.

§ 29.334. Tariff requirements.

Limousine rates shall be based solely on time, and shall be contained in a tariff filed, posted and published under statute and this title. The use of meters is prohibited. The initial time period and each subsequent increment must be at least 30 minutes.

§ 29.335. 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 date of service.
 - (2) The name and certificate number of the carrier.
 - (3) The name of the engaging person or organization.
 - (4) The service being provided and corresponding rate charged.
 - (5) The origin and intended destination.
 - (6) The starting time and length of time for which the vehicle has been reserved.
- (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 for a minimum of 1 year. Copies of the documents may be required to be submitted in support of carrier proposed tariff rate increases in addition to other documentation required in § 23.64 (relating to data required in filing increases in operating revenues).

§ 29.336. Consumer information.

To provide passengers with the necessary information to file a complaint, limousine carriers shall post, a Commission-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and website to be used to lodge a complaint, or provide the following notice on the receipt for service or service contract:

For complaints and information, contact the Pennsylvania Public Utility Commission at 1-800-782-1100 or at www.state.pa.us. Include the company name and A-# for all complaints.

AIRPORT TRANSFER SERVICE

§ 29.341. Conditions.

This section and §§ 29.342—29.343 (relating to airport transfer service) apply to operation in the airport transfer, airport limousine, class of common carriage. These provisions apply in addition to relevant provisions of Subchapters A, B, E and F, as well as particular provisions contained in a certificate of a carrier.

§ 29.344. Consumer information.

To provide passengers with the necessary information to file a complaint, airport transfer carriers shall post a

Commission-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and website to be used to lodge a complaint or provide the following notice on the receipt for service:

For complaints and information, contact the Pennsylvania Public Utility Commission at 1-800-782-1100 or at www.state.pa.us. Include the company name and A-# for all complaints.

OTHER SERVICES: PARATRANSIT, EXPERIMENTAL

§ 29.351. Conditions.

This section and §§ 29.352—29.355 (relating to other services: paratransit, experimental) apply to operations conducted under certificates granting paratransit or experimental rights. These provisions apply in addition to relevant provisions of Subchapters A, B, E and F, as well as particular provisions contained in a certificate of a carrier.

§ 29.356. Consumer information.

To provide passengers with the necessary information to file a complaint, paratransit and experimental carriers shall post a Commission-issued complaint decal in a conspicuous location inside the vehicle which lists the telephone number and website to be used to lodge a complaint or provide the following notice on the receipt for service:

For complaints and information, contact the Pennsylvania Public Utility Commission at 1-800-782-1100 or at www.state.pa.us. Include the company name and A-# for all complaints.

Subchapter E. VEHICLE EQUIPMENT AND INSPECTION

§ 29.401. Applicability.

This subchapter applies to vehicles having a designed seating capacity of 15 passengers or less, including the driver, which are used by common carriers or contract carriers to transport passengers in scheduled route service, call or demand service, group and party service, limousine service, airport transfer service, or paratransit and experimental service defined in § 29.13(6) (relating to scheme of classification).

§ 29.402. Vehicle equipment requirements.

A common carrier or a contract carrier may not permit a vehicle having a seating capacity of 15 passengers or less, including the driver, to be operated unless it complies with the following requirements:

- (1) Vehicles must comply with applicable Department of Transportation equipment inspection standards as set forth in 67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection) at all times when the vehicle is being operated.
- (2) Vehicles must have door hinges and latches in working order, and doors must operate easily and close securely.
- (3) Unless otherwise permitted by the Commission, advertising on vehicles is limited to the exterior roof of the vehicle. Advertising displayed on a vehicle shall be securely fastened and may not obscure the driver's view in any direction.

§ 29.403. Requirements for passenger service operation.

A common carrier or a contract carrier may not permit a vehicle having a designed seating capacity of 15

passengers or less, including the driver, to be operated to transport passengers unless it complies with the following requirements, in addition to those in § 29.402 (relating to vehicle equipment requirements):

(1) Vehicles which are equipped with folding, temporary or removable seats must have hinges, latches, brackets or other hardware associated with the seats in working order.

(2) Vehicles must be in clean and sanitary condition.

(3) Vehicles must have a factory-type heater, capable of producing heat for the accommodation of passengers. The heater must be in working order.

(4) Trunk compartments shall be clean and suitable for carrying passengers' luggage.

(5) Vehicles must have snow tires or all-weather tires on the drive wheels between October 1 and April 1 of the following year.

(6) A vehicle's exterior may not have any dents or gouges larger than 4 inches in diameter or damage that protrudes from the vehicle.

(7) A vehicle must have 4 matching wheel covers, or the equivalent.

(8) A vehicle must have operative air conditioning.

(9) A vehicle's seats must be secure and not be damaged so as to allow springs or other cushioning or support devices to protrude through the seat.

§ 29.404. Unsafe operations forbidden.

A common carrier or contract carrier may not permit or require a driver to operate a vehicle revealed by inspection or operation not to comply with § 29.402 or § 29.403 (relating to vehicle equipment requirements; and requirements for passenger service operation). If a vehicle being operated on a highway is discovered not to comply with § 29.402 or § 29.403, it may be continued in operation to the carrier's nearest terminal, the carrier's place of business or other similar location where repairs can be effected safely; however, this operation may be conducted only if it is less hazardous to the public than permitting the vehicle to remain on the highway.

§ 29.406. Inspection by enforcement officers.

(a) An enforcement officer employed by the Commission is authorized to perform inspections of vehicles to determine compliance with this subchapter under 66 Pa.C.S. §§ 307 and 506 (relating to inspectors for enforcement; and inspection of facilities and records). To perform these inspections, Commission enforcement officers are authorized to stop vehicles in operation. Commission enforcement officers are also authorized to enter upon the premises of the agent or lessee of a common carrier or contract carrier at a reasonable time for the purpose of performing inspections upon vehicles used in regulated operations.

(b) A form designated by the Commission shall be used to record findings from vehicles selected for inspection.

(c) Vehicles in operation which are found upon inspection not to comply with §§ 29.402 and 29.403 (relating to vehicle equipment requirements; requirements for passenger service operations) shall be declared out-of-service by an enforcement officer employed by the Commission and shall be placed out-of-service utilizing the Commission's out-of-service sticker.

(d) A common carrier or contract carrier may not require or permit a person to operate nor may a person

operate a vehicle declared and placed out-of-service until repairs required by the Commission have been satisfactorily completed, except as provided in § 29.404 (relating to unsafe operations forbidden).

(e) A person may not remove an out-of-service sticker from a vehicle prior to completion of the repairs required by the Commission.

(f) The person completing the repairs required by the out-of-service notice shall sign the Certificate of Repairman in accordance with the terms prescribed by the Commission, entering the name of the person's shop or garage and the date and time the required repairs were completed. If the vehicle operator completes the required repairs, the operator shall sign and complete the Certification of Repairman.

(g) The carrier's disposition of the form shall be as follows:

(1) The operator of a vehicle receiving the form placing the vehicle out-of-service shall deliver the form to the common carrier or contract carrier operating the vehicle.

(2) Violations or mechanical defects noted on a form shall be corrected. To the extent that vehicle operators are shown not to be in compliance with this chapter, appropriate corrective action shall be taken by the common carrier or contract carrier.

(3) Carriers shall retain a copy of the form at their principal place of business for 1 year from the date of inspection.

Subchapter F. DRIVER REGULATIONS

Sec.

29.501.	Applicability.
29.502.	Current driver's license required.
29.503.	Age restrictions.
29.504.	Driver history.
29.505.	Criminal history.
29.506.	Alcohol prohibition.
29.507.	Controlled substance prohibition.
29.508.	Common or contract carriers operating vehicles with seating capacities of 9 to 15 passengers, including the driver.
29.509.	Civil penalties for violations.

§ 29.501. Applicability.

This subchapter applies to drivers of vehicles having a designed seating capacity of 15 passengers or less, including the driver, which are used by common carriers or contract carriers to transport passengers in scheduled route service, call or demand service, group and party service, limousine service, airport transfer service, or paratransit service and experimental service, as defined in § 29.13 (relating to scheme of classification).

§ 29.502. Current driver's license required.

A common or contract carrier may not permit a person to operate a vehicle in its authorized service unless that person has a current, valid driver's license.

§ 29.503. Age restrictions.

A common or contract carrier may not permit a person to operate a vehicle in its authorized service unless that person is at least 21 years of age.

§ 29.504. Driver history.

(a) A common or contract carrier may not permit a person to operate a vehicle in its authorized service until it has obtained and reviewed a driver history from the appropriate agency of every state in which that person held a motor vehicle operator's license or permit during the preceding 3 years.

(b) Following receipt of the initial driver history report, a common or contract carrier shall, at least once every 12 months from the date of the last report, obtain a driver history for each driver operating under its authority from the appropriate agency of the state in which the driver held an operator's license during the time period. Compliance with this subsection does not relieve a common or contract carrier of the responsibility to ensure its drivers hold a current, valid driver's license.

(c) A copy of the driver history shall be maintained by the common or contract carrier for at least 2 years.

§ 29.505. Criminal history.

(a) *Criminal history record required.* A common or contract carrier may not permit a person to operate a vehicle in its authorized service until it has obtained and reviewed a criminal history record from the Pennsylvania State Police and every other state in which the person resided for the last 12 months. For current drivers, carriers shall obtain a criminal history record by November 9, 2006.

(b) *Frequency of record check.* Following receipt of the initial criminal history record, a common or contract carrier shall obtain and review a criminal history record for each driver operating under its authority from the Pennsylvania State Police every 2 years from the date of the last criminal history check.

(c) *Disqualification.* A common or contract carrier may not permit a person to operate a vehicle in its authorized service when the person was convicted of a felony or a misdemeanor under the laws of the Commonwealth or under the laws of another jurisdiction, to the extent the conviction relates adversely to that person's suitability to provide service safely and legally.

(d) *Record retention.* A copy of the criminal history shall be maintained by the common or contract carrier for at least 3 years.

§ 29.506. Alcohol prohibition.

A driver may not use alcohol, be under the influence of alcohol, or have any measured alcohol concentration or detected presence of alcohol, while operating a vehicle in passenger service.

§ 29.507. Controlled substance prohibition.

A driver may not use a controlled substance, be under the influence of a controlled substance, or have any measured concentration or detected presence of a controlled substance, while operating a vehicle in passenger service.

§ 29.508. Common or contract carriers operating vehicles with seating capacities of 9 to 15 passengers, including the driver.

(a) A common or contract carrier may not permit a person to drive a vehicle with a seating capacity of 9 to 15 passengers, including the driver, unless the driver complies with the following:

(1) The driver is physically qualified in accordance with 49 CFR 391.41—391.49 (relating to physical qualifications and examinations).

(2) The driver is in compliance with the hours of service provisions of 49 CFR 395.5 and 395.8 (relating to maximum driving time for passenger-carrying vehicles; and driver's record of duty status).

(3) Drivers are exempt from 49 CFR 395.8 if they fall within exemption in 49 CFR 395.1(e). In this circum-

stance, carriers shall keep time records in accordance with 49 CFR 395.1(e)(5) (relating to scope of rules in this part).

§ 29.509. Civil penalties for violations.

A complaint may be initiated against the carrier for violations of this subchapter.

CHAPTER 31. MOTOR CARRIER PROPERTY AND HOUSEHOLD GOODS TRANSPORTATION

GENERAL PROVISIONS

§ 31.4. Transfer of certificates and permits.

(a) A certificate or permit or the rights thereunder may not be sold or transferred by act, deed or operation of law, unless the approval of the Commission is first obtained. The approval may be granted with or without hearing and after reasonable notice in the *Pennsylvania Bulletin* as the Commission directs.

(b) Certificates issued to motor common carriers of property are nontransferable, except as provided in subsections (c)—(e).

(c) Upon the death of an individual holder of a certificate or permit or upon an individual certificateholder being legally declared incapacitated, the rights conferred by the certificate or permit shall continue with the legal representative of the deceased or incapacitated holder for 1 year. After the expiration of the 1 year period, appropriate proceedings shall be initiated to terminate the certificate unless application has been made to transfer the rights to the heirs, guardian, trustees, legatee or others, in which case the rights shall continue with the legal representative until the application is granted or refused. If application is made by the legal representative at least 30 days prior to the end of the period of 1 year, the Commission may, for cause shown, permit the transfer of rights to the executors, administrators, guardians, trustees or other legal representatives of the deceased or incompetent holder for a period to be fixed by the Commission. Pertinent orders or decrees of the court having jurisdiction over the estate of the decedent or incapacitated person may be deemed cause for the granting of the application by the Commission.

(d) If the individual holder of a certificate of permit dies or is legally declared incompetent and an application is made to transfer the rights granted under the certificate to his legal representative or if the certificateholder is a copartnership and the application for transfer is in effect to change one or more of the partners, the Commission may dispose of the application without a hearing.

(e) If a trustee, receiver, assignee, custodian or similar officer 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 certificateholder, the officer shall have authority to perform the service authorized in the certificates of the debtor carrier for 90 days from his appointment or selection. The officer may petition the Commission for authority to conduct the operations for an additional period of time, and the Commission may, for good cause shown, grant the authority. If the petition is filed within 90 days of the appointment or selection of the petitioner, the petitioner shall have the authority to continue operations pending decision by the Commission on the petition. Pertinent orders or decrees of the court having jurisdiction may be deemed a basis for action on the petitions by the Commission.

§ 31.11. Reports of accidents and damage.

(a) *Accidents involving death of a person.* Motor carriers of property and household goods shall telephonically notify the Bureau of Transportation and Safety of any accident resulting in the death of a person within 24 hours of the accident. Carriers shall maintain a copy of the police report for 1 year from the date of the accident.

(b) *Other accidents.* For accidents resulting in the filing of a police report, the carrier shall maintain a copy of that report for 1 year from the date of the accident.

COMMON CARRIERS OF PROPERTY AND HOUSEHOLD GOODS IN USE**§ 31.32. Equipment leasing.**

(a) *Applicability.* This section applies to the leasing of equipment by motor carriers engaged in transporting property and household goods by motor vehicle between points in this Commonwealth.

(b) *Definitions.* The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Authorized employee or agent—A person authorized to act for and on behalf of a motor carrier or owner of equipment and subject to the supervision, direction and control of the motor carrier in whose service he is acting.

Equipment—A motor vehicle, straight truck, tractor, semitrailer, full trailer, combination tractor-and-semi-trailer, combination straight truck and full trailer and other types of equipment used in the transportation of property for-hire.

Motor carrier—A person or corporation authorized to engage in the transportation of property or household goods as a common or contract carrier by motor vehicle under 66 Pa.C.S. § 1101—3315 (relating to Public Utility Code).

(c) *Leasing equipment.* Equipment leasing by a motor carrier must conform with the following:

(1) *General.* A motor vehicle may not be operated between points in this Commonwealth in intraState commerce by a motor carrier, unless the vehicle is either owned by the motor carrier or is leased to the motor carrier under the conditions in paragraphs (2)—(4).

(2) *Contract requirements.* A contract is subject to the following:

(i) *Parties.* The contract, lease or other arrangement for the use of equipment shall be between the motor carrier and the owner of equipment.

(ii) *Written.* The agreement must be in writing and signed by the parties thereto or their drivers, employees or agents authorized in writing.

(iii) *Exclusive possession, control and responsibility.*

(A) *Lease.* A lease shall provide for and be carried out so that the possession, control and use of the equipment is the complete and exclusive responsibility of the lessee for the full term of the lease, except during the period provided for in clauses (B).

(B) *Sublease.* The lease agreement may contain a provision permitting the lessee to sublease equipment to other motor carriers for a period not exceeding the duration thereof, if the sublessee assumes full responsibility in the manner set forth in clause (A).

(iv) *Compensation.* The lease agreement must specify the amount of compensation to be paid by the lessee for the rental of the leased equipment.

(v) *Duration.* The lease agreement must specify the time and date or the circumstances on which the contract, lease or other arrangement begins and the time or the circumstances on which it ends.

(vi) *Documentation.* A lease shall be executed in triplicate. The original shall be retained by the motor carrier in whose service the equipment is to be operated, one copy shall be retained by the owner of the equipment and one copy shall be carried on the equipment specified therein during the entire period of the contract, lease or other arrangement, unless a certificate is carried on the equipment in lieu thereof, certifying that the equipment is being operated by lessee, the name of the owner, the date of the lease, contract or other arrangement, the period thereof and the location where the original of the lease, contract or other arrangement is retained by the motor carrier. The certificateholder shall retain leases for 2 years following their expiration date.

(3) *Safety inspection of equipment.* It is the duty of the motor carrier, before taking possession of equipment, to ensure that the equipment has a valid State inspection decal or complies with the periodic inspection requirements in § 37.204(7) (relating to adoption of portions of 49 CFR by reference), or to inspect or to have the equipment inspected by a person who is competent and qualified to make an inspection and who has been authorized by the carrier to make the inspection as a representative of the carrier, to ensure that the equipment is in a safe condition to be operated on the highways. The person making the inspection shall certify the results thereof, which certification shall be retained by the motor carrier for at least 1 year. If the inspection discloses that the equipment is not in a safe condition to be operated on the highways, possession thereof may not be taken by the motor carrier.

(d) *Leasing equipment to shippers.* A motor carrier is prohibited from leasing equipment with or without drivers to shippers or private carriers.

§ 31.33. Identification of equipment.

(a) Every motor vehicle operated by a motor carrier shall be marked on each side, in letters at least 2 inches in height, and at least 1/2 inch in width, the name and address of the motor carrier and the number of the certificate of public convenience or permit as follows: "PA. P.U.C. NO. A ____." If the vehicle is owned by someone other than the motor carrier operating it, there shall be shown on each side of the vehicle, in letters at least 2 inches in height and at least 1/2 inch in width, the wording: "OPERATED BY (name and address of authorized motor carrier), PA. P.U.C. NO. A ____." If a removable device is used to identify the operating carrier as lessee, the device shall be of durable material and securely affixed, to the vehicle operated, throughout the duration of the lease.

(b) Upon relinquishing possession of the equipment, the motor carrier operating the leased vehicle under this section shall remove the legend or removable device displayed on the vehicle showing it to be the operating carrier.

(c) In the event that the certificate of a common carrier or permit of a contract carrier is canceled or revoked by the Commission or when a motor vehicle is permanently

removed from service, the carrier shall immediately cause the certificate or permit number to be removed from its vehicle.

TRANSPORTATION OF HOUSEHOLD GOODS IN USE

§ 31.121. Information for shippers.

(a) When a prospective shipper requests moving service and before an order for service is prepared, the household goods carrier shall furnish the prospective shipper with the following Commission supplied form entitled "Information for Shippers:"

INFORMATION FOR SHIPPERS

ESTIMATE

The carrier must give you a written estimate 48 hours prior to the move, unless the shipper agrees, in writing, to a shorter period. The estimate will approximate the amount he believes it will cost you to move your household furnishings. It is important that you inform the estimator of *everything* you intend to move. The *actual* charges may be more or less than the estimate.

RATES

If the move is 40 miles or less, the charge will be based on an hourly rate. If the move is over 40 miles, the charge will be based on weight and mileage. You will be required to pay any increase in charges resulting from changes to the carrier's rates between the time of the estimate and the actual move.

INVENTORY

The carrier must complete a detailed inventory listing all items to be moved and their condition. You may waive this requirement, in writing, for moves 40 miles or less. All items must be given an identification number. The inventory must be completed before loading. You should observe and verify the inventory, noting the condition of all items. The carrier must provide you with a copy of the completed inventory before loading and it must be signed by you and the carrier. Upon delivery, you should verify all items in the inventory were delivered and their condition. You should note on the inventory any missing or damaged items. Retain your copy of the inventory until all disputes are settled.

BILL/RECEIPT

The carrier must give you a bill/receipt for the move within 15 days after the delivery date. The bill/receipt must detail all charges for the move. It must also contain copies of the Inventory and the Estimated Cost of Services.

PAYMENT

You will be required to pay the mover's tariff charges. If the mover has not informed you *prior to delivery* that he will extend credit, the mover will expect you to make payment of the charges at time of delivery in cash, cashier's check or certified check.

If the actual charges *do not exceed* the estimate by more than 10 percent, you must pay *all of the actual charges* prior to the mover unloading your goods. If the total actual charges *exceed* the estimate by more than 10 percent, the mover is required to deliver the full and complete shipment upon payment of the estimated charges plus an additional \$25, or 10 percent of the estimate, whichever is greater. You may defer paying the balance for 15 days after delivery.

LOSS AND DAMAGE COVERAGE

If you sustain a loss or damage to your goods, you are protected only up to but not exceeding 60 cents per pound, per article. If you desire protection greater than 60 cents per pound, per article, you may secure increased coverage by paying a higher tariff rate applicable to the coverage you desire. You may also protect yourself to the full valuation of your goods by taking out a policy of transit insurance with an insurance agent.

PROOF OF DAMAGE/RECEIPT

Upon completion of the delivery, the driver will ask you to sign the delivery receipt. Do not sign any delivery papers until delivery is completed. Before signing, be sure all damage and any lost articles are noted on the receipt or inventory. If the driver will not make such notations, make them yourself before signing. Remember, telling the driver about these things is not enough. Do not sign the delivery receipt if it contains language purporting to release or discharge the carrier from liability otherwise required by agreement or law. Strike this language out before signing or refuse delivery if the mover refuses to provide a proper delivery receipt.

COMPLAINTS

For complaints and information, contact the PA Public Utility Commission at 1-800-782-1100 or at www.state.pa.us. Include the company name and A-# for all complaints.

I hereby certify that a copy of above Information for Shippers was furnished on

DATE _____ TIME _____ (THIS FORM, AND THE ESTIMATE, MUST BE PROVIDED TO THE SHIPPER, IN WRITING, AT LEAST 48 HOURS BEFORE THE MOVE, UNLESS THE SHIPPER AGREES, IN WRITING, TO A SHORTER NOTICE PERIOD.)

Name of Shipper _____

SIGNATURE OF SHIPPER

Signature of Carrier Representative

(b) The carrier shall retain an executed copy of this certification with shipping order for 2 years from the date of the move.

(c) The carrier shall provide the form to the shipper at least 48 hours prior to the move, unless the shipper agrees, in writing, to a shorter notice period.

§ 31.122. Estimated cost of services.

(a) A household goods carrier shall prepare an estimated cost of services for the proposed service, on a form. The form shall be supplied to the shipper at least 48 hours prior to the move, unless the shipper agrees, in writing, to a shorter notice period. The estimate must contain the following information:

(1) Unless otherwise permitted by the Commission, across the top of each form there shall be imprinted in letters at least 1/2 inch high the words "Estimated Cost of Services."

(2) The names and addresses of the carrier and shipper.

(3) The origin and destination of the shipment.

(4) The date of the estimate and the date of the proposed move.

(5) A certification that the shipper accepts or rejects the minimum coverage limits for loss or damage.

(6) The applicable rates for handling, packing, container use, vehicles, labor, weight and distance, and excess loss/damage coverage above the minimum.

(7) Notification to the shipper that the shipper will be required to pay any increase in charges resulting from changes to the carrier's tariff between the time of the estimate and the actual move.

(8) The signature of the carrier representative and the shipper, including the date and time the estimate was provided.

(b) The carrier shall maintain a copy of the estimated cost of services for 2 years from the date of the move.

§ 31.123. Delivery when charges exceed estimates.

If actual charges exceed the amount shown in the carrier's estimate, the carrier, upon request of the shipper or the shipper's representative, shall relinquish possession of the complete shipment at destination upon payment of the estimated amount plus 10% over the estimate or \$25, whichever is greater. The carrier shall defer demand for the remainder of the tariff charges for 15 days following delivery.

§ 31.124. Report of underestimates.

(a) A motor common carrier of household goods in use shall file with the Pennsylvania Public Utility Commission, Bureau of Transportation and Safety, Harrisburg, Pennsylvania, 17105-3265, a quarterly report containing instances during the period wherein charges exceeded the estimate by more than 10% with the explanation of the reasons for the variances. The report shall be filed within 30 days after the end of the quarter reported. The carrier shall retain the report for 2 years after the date of filing.

(b) *Content.* The report must contain the carrier's name, address and certificate number. The report must also contain the total number of shipments made for the quarter, the total number of reportable underestimates and the reasons for the underestimates.

§ 31.125. Obtaining weight tickets.

The carrier shall cause every shipment of household goods in use for distances over 40 miles to be weighed by a public weighmaster. Weight tickets evidencing gross and tare weights shall be obtained from the public weighmaster, which the driver shall identify by recording thereon the bill of lading number of the shipment. True copies of the weight tickets shall be attached to the receipt or bill of lading accompanying the shipment and retained in the carrier's file. True copies of the weight tickets shall also be furnished to the shipper upon request. Under circumstances when a public weighmaster is not available to the mover at origin or at a point within a radius of 10 miles thereof, a constructive weight based on 7 pounds per cubic foot of properly loaded van space may be used. When constructive weight is used, the mover shall designate same on the bill of lading. Weight tickets shall be maintained by the carrier for 2 years from the date of the move.

§ 31.127. Failure to comply with provisions.

A common carrier by motor vehicle engaged in transporting household goods shall comply with this chapter, and failure to comply may subject the carrier to the penalties provided under 66 Pa.C.S. §§ 3301—3316 (relating to violations and penalties). Whenever circumstances are present which in the opinion of the Commission indicate that a common carrier of household goods is

persistently in violation of this chapter or 66 Pa.C.S. (relating to public utility code), the Commission may institute appropriate enforcement action.

§ 31.130. (Reserved).

§ 31.131. Notification to shipper of charges.

Whenever the shipper specifically requests notification of the actual weight and charges on a shipment, and supplies the carrier with an address or telephone number, the carrier shall comply with the request immediately upon determining the actual weight and charges. The notification shall be made by telephone, first-class mail, fax, e-mail, or in person at the carrier's expense unless the carrier provides in its tariff that the actual cost of the notification shall be collected from the shipper.

§ 31.132. Bill of lading.

(a) A household goods carrier shall issue a bill of lading (receipt) for each shipment. The bill of lading must contain the following information:

- (1) The name, address and telephone number of the carrier.
- (2) The carrier's certificate number.
- (3) The name and address of the shipper.
- (4) The date of the shipment.
- (5) The origin and destination of the shipment.
- (6) A detailed account of the charges and applicable rates.
- (7) A total of the charges due and acceptable methods of payment.

(b) The carrier shall present the bill of lading to the shipper within 15 days of the delivery date.

(c) The carrier shall attach a copy of the estimated cost of services and inventory to the bill of lading.

(d) A copy of the bill of lading must accompany the shipment at all times.

(e) Carriers shall retain a copy of the bill of lading for 2 years from the date of the move.

(f) The bill of lading may not contain any language purporting to release or discharge the carrier from liability for damage otherwise required by agreement or law. The bill of lading may include a statement that the property was received in apparent good condition except as noted on the inventory.

§ 31.133. Inventory.

(a) A household goods carrier shall prepare a written, itemized inventory for each shipment. The inventory shall identify every carton and every uncartoned item shipped. An identification number corresponding to the inventory shall be placed on each article in the shipment.

(b) The inventory shall be prepared before the shipment is loaded for transportation.

(c) The shipper shall be provided the opportunity to observe and verify the accuracy of the inventory.

(d) The carrier shall provide a copy of the inventory, signed by both the shipper and carrier, to the shipper prior to loading.

(e) Upon delivery, a carrier shall provide the shipper with the opportunity to observe and verify that the same articles are being delivered and the condition of the articles. A carrier shall also provide the shipper the opportunity to note, in writing, any missing articles and

the condition of any damaged articles. The carrier shall provide the shipper with a copy of all notations.

(f) For moves of 40 miles or less, a shipper may waive the inventory requirement, in writing.

(G) The carrier shall retain an inventory, or waiver thereof, for 2 years from the date of the shipment.

§ 31.134. Criminal history.

(a) *Criminal history record required.* A household goods carrier may not permit a person to provide moving services in a shipper's dwelling until it has obtained and reviewed a criminal history record from the Pennsylvania State Police and from every other state in which the person resided for the last 12 months. For current employees, carriers must obtain a criminal history record by November 9, 2006.

(b) *Frequency of record check.* Following receipt of the initial criminal history record, a household goods carrier

shall obtain and review a criminal history record for each employee providing moving services from the Pennsylvania State Police every 2 years from the date of the last criminal history check.

(c) *Disqualification.* A household goods carrier may not permit a person to provide moving services in a shipper's dwelling when the person was convicted of a felony or a misdemeanor under the laws of the Commonwealth or under the laws of another jurisdiction, to the extent the conviction relates adversely to that person's suitability to provide service safely and legally.

(d) *Record retention.* A copy of the criminal history shall be maintained by the household goods carrier for at least 3 years.

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