

# PROPOSED RULEMAKING

## DEPARTMENT OF AGRICULTURE

[ 7 PA. CODE CH. 107 ]

### Pennsylvania Preferred Trademark Licensure Program

The Department of Agriculture (Department) proposes to add Chapter 107 (relating to Pennsylvania Preferred Trademark Licensure Program) to read as set forth in Annex A.

The proposed rulemaking would establish the standards under which the Department would license qualified entities to make use of the Pennsylvania Preferred® trademark to promote or market Pennsylvania-produced fluid milk, that is, fluid milk that is entirely produced within this Commonwealth. Proposed Chapter 107 will replace interim guidelines for the Pennsylvania Preferred Trademark Licensure Program (Program) published at 42 Pa.B. 2752 (May 19, 2012), which expire no later than December 31, 2013.

“Fluid milk” consists of milk, skimmed milk, cream, sour milk, buttermilk and other fluid derivatives of milk. The entities that will qualify for the referenced licenses are persons who produce or process Pennsylvania-produced fluid milk or that promote or market Pennsylvania-produced fluid milk from this type of processor.

#### *Authority*

This proposed rulemaking is authorized under 3 Pa.C.S. §§ 4601—4611 (relating to Pennsylvania Preferred Act) (act). Section 4611 of the act (relating to rules and regulations) requires the Department to promulgate rules and regulations necessary to promote the efficient, uniform and Statewide administration of the act. Section 4611 of the act authorizes the use of interim guidelines through December 31, 2013.

#### *Need for the Proposed Rulemaking*

The Department proposes to add Chapter 107 to replace the interim guidelines for the Program, which expire no later than December 31, 2013.

Section 4606(a)(4) of the act (relating to trademark license agreement, application and licensure process) provides the Department the discretion to determine whether a person is a qualified entity eligible to be licensed to make use of the Pennsylvania Preferred® trademark. Section 4604(2)(iii) of the act (relating to licensee qualification) requires the Department to consider the extent to which the agricultural commodity with respect to which the Pennsylvania Preferred® trademark would be used is “to the maximum extent possible given production season restrictions or market availability . . . a Pennsylvania-produced agricultural commodity.”

Dairy producers in this Commonwealth produce fluid milk in quantities that exceed the year-round needs of milk processors and milk consumers in this Commonwealth. Surplus Pennsylvania-produced fluid milk supply generally remains available on the Pennsylvania market throughout the year. Against this backdrop, proposed Chapter 107 prohibits (with several exceptions) the use of the Pennsylvania Preferred® trademark with respect to fluid milk that is not entirely Pennsylvania-produced fluid milk.

Proposed Chapter 107 acknowledges that there may be exceptions to this prohibition, such as when there is a Statewide shortage of fluid milk or when a processor commingles Pennsylvania-produced fluid milk with other fluid milk on an incidental, emergency or short-term-basis.

To date, four dairy operations or dairy processors that produce or process Pennsylvania-produced fluid milk are licensed by the Department to use the Pennsylvania Preferred® trademark in connection with that milk. The Pennsylvania Preferred® trademark is a recognizable standard of Pennsylvania origin and product quality, making products that bear that trademark more attractive in the marketplace.

#### *Summary of the Proposed Rulemaking*

The proposed rulemaking replaces and restates the Department’s current interim guidelines for the Program, which took effect on May 19, 2012, and expire no later than December 31, 2013.

Dairy producers in this Commonwealth produce fluid milk in quantities that exceed the year-round needs of milk processors and milk consumers in this Commonwealth. This surplus of Pennsylvania-produced fluid milk supply generally remains available on the Pennsylvania market throughout the year. Against this backdrop, proposed Chapter 107 prohibits, with several exceptions, the use of the Pennsylvania Preferred® trademark with respect to fluid milk that is not entirely Pennsylvania-produced fluid milk.

Proposed Chapter 107 acknowledges that there may be exceptions to the previously-described prohibition, such as when there is a Statewide shortage of fluid milk or when a processor commingles Pennsylvania-produced fluid milk with other fluid milk on an incidental, emergency or short-term-basis.

Proposed § 107.2 (relating to definitions) repeats several defined terms from the act and defines “fluid milk” and “Pennsylvania-produced fluid milk.”

Proposed § 107.3 (relating to licensure of the Pennsylvania Preferred trademark with respect to fluid milk) states the Department’s determination that there is an adequate supply of Pennsylvania-produced fluid milk and establishes the standards under which the Department will license the use of the Pennsylvania Preferred® trademark for use in marketing Pennsylvania-produced fluid milk.

#### *Persons Likely to be Affected*

The proposed rulemaking is not expected to have an adverse impact on any group or entity.

Any impact of the proposed rulemaking will be positive and be upon those producers or processors of Pennsylvania-produced fluid milk that elect to be licensed by the Department to make use the Pennsylvania Preferred® trademark. The fluid milk marketed under this trademark is expected to be more attractive in the marketplace. The trademark is an increasingly well-known identifier of Pennsylvania origin and product quality. Although the use of the trademark should make the fluid milk more attractive in the marketplace, if a licensee feels it is not benefitting from the use of the trademark it may discontinue the use of that trademark at any time.

*Fiscal Impact  
Commonwealth*

The proposed rulemaking will not have appreciable fiscal impact upon the Commonwealth.

*Political subdivisions*

The proposed rulemaking will not have appreciable fiscal impact on political subdivisions.

*Private sector*

The proposed rulemaking will not have appreciable fiscal impact upon the private sector. Eligible producers or processors of Pennsylvania-produced fluid milk who wish to obtain a license from the Department allowing the use of the Pennsylvania Preferred® trademark in marketing Pennsylvania-produced fluid milk are free to apply for that license and are free to discontinue use of that trademark at any time.

*General public*

The proposed rulemaking will not have appreciable fiscal impact on the general public.

*Paperwork Requirements*

The proposed rulemaking will not result in an appreciable increase in the paperwork handled by the Department. The Department has current license agreements with four producers or processors of Pennsylvania-produced fluid milk, authorizing each to make commercial use of the Pennsylvania Preferred® trademark. Since the proposed rulemaking does not require the Department to revise or redo these current trademark license agreements, the impact of the proposed rulemaking on paperwork will be minimal or nonexistent.

*Effective Date*

The proposed rulemaking will be effective upon final form publication in the *Pennsylvania Bulletin*.

*Sunset Date*

There is not a sunset date for the proposed rulemaking. The Department will review the efficacy of the regulations on an ongoing basis.

*Public Comment Period/Contact Person*

Interested persons are invited to submit written comments regarding the proposed rulemaking within 30 days following publication in the *Pennsylvania Bulletin*. Comments are to be submitted to the Department of Agriculture, Bureau of Market Development, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Lela Reichart, Director.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 11, 2013, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department,

the General Assembly and the Governor of comments, recommendations or objections raised.

GEORGE D. GREIG,  
*Secretary*

**Fiscal Note:** 2-177. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 7. AGRICULTURE**

**PART IV. BUREAU OF MARKET DEVELOPMENT**

**CHAPTER 107. PENNSYLVANIA PREFERRED TRADEMARK LICENSURE PROGRAM**

Sec.	
107.1.	Purpose.
107.2.	Definitions.
107.3.	Licensure of the Pennsylvania Preferred trademark with respect to fluid milk.

**§ 107.1. Purpose.**

This chapter describes the circumstances under which the Department will license third parties to use the Pennsylvania Preferred trademark with respect to fluid milk; establishes standards and procedures to promote the efficient, uniform and Statewide administration of the act; and clarifies the conditions under which a person who produces or markets milk is a qualified entity for purposes of the act.

**§ 107.2. Definitions.**

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

*Act*—3 Pa.C.S. §§ 4601—4611 (relating to Pennsylvania Preferred Act).

*Department*—The Department of Agriculture of the Commonwealth.

*Fluid milk*—Milk, skimmed milk, cream, sour milk, buttermilk and other fluid derivatives of milk. The term includes milk from hooved mammal species.

*Licensee*—A qualified entity that is subject to a current Pennsylvania Preferred trademark license agreement with the Department.

*Pennsylvania Preferred trademark*—One or more trademarks that consist of the phrase “Pennsylvania Preferred” or “PA Preferred” that may include specific graphic designs or artwork as part of the trademark registration.

*Pennsylvania-produced fluid milk*—Fluid milk that is entirely produced within this Commonwealth.

*Person*—An individual, partnership, corporation, association or other legal entity.

*Qualified entity*—A person that produces, processes, prepares, sells, offers for sale, markets, promotes or is involved with any aspect of production, processing, preparation, promotion, marketing, sale or offering for sale of Pennsylvania-produced agricultural commodities.

**§ 107.3. Licensure of the Pennsylvania Preferred trademark with respect to fluid milk.**

(a) *General availability of Pennsylvania-produced fluid milk.* Fluid milk is an agricultural commodity that is, in general, produced by dairy producers in this Commonwealth in quantities that exceed the year-round needs of milk processors and milk consumers in this Commonwealth. Surplus Pennsylvania-produced fluid milk supply generally remains available on the market in this Commonwealth throughout the year.

(b) *Eligibility.*

(1) A person that processes Pennsylvania-produced fluid milk or that promotes or markets Pennsylvania-produced fluid milk from this type of processor is a qualified entity that is eligible to apply to be licensed by the Department to use the Pennsylvania Preferred trademark with respect to that Pennsylvania-produced fluid milk. Examples of fluid milk with respect to which this license may be granted include the following Pennsylvania-processed or Pennsylvania-produced items:

- (i) Whole milk.
- (ii) Reduced fat milk.
- (iii) Skim milk.
- (iv) Flavored milk.
- (v) Cream.
- (vi) Buttermilk.
- (vii) Half-and-half.
- (viii) Other beverages comprised in whole or in part of fluid milk.
- (ix) Other fluid derivatives of milk.

(2) A person that processes fluid milk that is not Pennsylvania-produced fluid milk, or that promotes or markets fluid milk from this type of processor, is not a qualified entity and is not eligible to apply to be licensed by the Department to use the Pennsylvania Preferred trademark with respect to this milk.

(3) Except as provided in subsection (c) or (d), fluid milk marketed under the Pennsylvania Preferred trademark may not be commingled with fluid milk produced outside this Commonwealth.

(c) *Short Statewide supply exception.* Subsections (a) and (b) notwithstanding, if the Department determines that the available supply of Pennsylvania-produced fluid milk is not generally available as described in subsection (a), the Department will publish a notice in the *Pennsylvania Bulletin* to designate a time period, not to exceed 1 year, within which the Department may license the Pennsylvania Preferred trademark with respect to fluid milk that is not entirely Pennsylvania-produced fluid milk.

(d) *Incidental, emergency or short-term commingling exception.*

(1) Subsections (a) and (b) notwithstanding, a person that is licensed by the Department to use the Pennsylvania Preferred trademark with respect to Pennsylvania-produced fluid milk may, on an incidental, emergency or short-term basis, commingle Pennsylvania-produced fluid milk with other fluid milk provided that the licensee maintains a record of the commingling, including the dates and the quantities of Pennsylvania-produced fluid milk other fluid milk commingled. The records shall be retained by the licensee for the current month and each of the preceding 12 months and be made available for inspection by the Department upon written or verbal request of the Department.

(2) The Department may review the referenced records and determine whether the commingling is acceptable under paragraph (1). If the commingling was not acceptable, the Department will provide the licensee a written warning to refrain from commingling again. The Department may terminate the license if unacceptable commingling occurs a second time.

(3) If a person that is licensed by the Department to use the Pennsylvania Preferred trademark with respect to Pennsylvania-produced fluid milk seeks to commingle Pennsylvania-produced fluid milk with other fluid milk, he may, before the commingling occurs, contact the Department as described in paragraph (1) for confirmation as to whether the proposed commingling is acceptable to the Department.

[Pa.B. Doc. No. 13-1985. Filed for public inspection October 25, 2013, 9:00 a.m.]

## PENNSYLVANIA HIGHER EDUCATION ASSISTANCE AGENCY

[ 22 PA. CODE CH. 121 ]  
Student Financial Aid

The Pennsylvania Higher Education Assistance Agency (PHEAA), State Grant and Special Programs (SGSP), proposes amended Chapter 121 (relating to student financial aid) to read as set forth in Annex A.

### A. *Statutory Authority*

This proposed rulemaking is authorized by section 6(e) of the act of January 25, 1966 (P. L. 1546, No. 541) (24 P. S. § 5156).

### B. *Background and Description of Proposed Rulemaking*

The purpose of this proposed rulemaking is to update the regulations to conform to current practice. PHEAA is proposing to amend provisions that are obsolete, inconsistent or superseded by current higher education practice. References to obsolete subdivisions are proposed to be deleted or replaced with current references. References to specific forms, some of which are outdated, are proposed to be deleted whenever possible.

#### *Description of the Proposed Amendments*

##### § 121.1. *Definitions*

The proposed amendments to this section update the definition of “academic year” so that the ending date coincides with the end of final examinations. The definition of “college entrance examination” is proposed to be added to recognize the alternative examinations used by higher education institutions. The definition of “SAT” is proposed to be deleted because it is no longer the only recognized entrance examination. The definition of “veteran” is proposed to be amended to comply with current Federal standards.

##### § 121.3. *Discrimination prohibited*

This section is proposed to be amended to update and make technical edits to delete the Federal student loan reference as it is no longer relevant to the SGSP.

##### § 121.4. *Denial of eligibility to loan defaulters*

This section is proposed to be amended to make clarifying amendments to be inclusive of Federal, State and private loans.

##### § 121.5. *Enrollment*

Outdated language is proposed to be deleted.

§ 121.7. *Notice of denial and preliminary review procedures*

This section is proposed to be amended to update and delete outdated language and references to outdated forms. The process is proposed to be simplified.

§ 121.8. *Applicant and recipient appeals and hearings*

This section is proposed to be amended to update and delete outdated language and references to outdated forms. The process is proposed to be simplified.

§ 121.21. *Requirements for higher education grant applicants*

This section is proposed to be amended to make clarifying amendments to reference the Pennsylvania Department of Education.

§ 121.22. *Early admission students*

This section is proposed to be amended to replace “senior high” school with more the current term “secondary” school.

§ 121.32. *Approved institution in higher education grant program*

This section is proposed to be amended to update language to reference current accrediting bodies. Clarifying amendments are proposed to reference the Pennsylvania Department of Education and to recognize the appropriate responsible persons in institutions of higher education.

§ 121.33. *Approved program of study in higher education grant program*

This section is proposed to be amended to make clarifying amendments referencing the Pennsylvania Department of Education and the Pennsylvania State Board of Private Licensed Schools.

§ 121.41. *Grouping of applicants*

This section is proposed to be amended to update the reference to Nationally-recognized college entrance examinations.

§ 121.44. *Required family financial data*

This section is proposed to be amended to update references to United States Department of Education criteria.

§ 121.47. *State Higher Education Grant Program Manual*

This section is proposed to be amended to increase transparency and update the reference to recognized accrediting bodies.

§ 121.48. *Limitation on payment of grants*

This section is proposed to be amended to make a clarifying amendment regarding deadlines for payments of grants.

§ 121.52. *Transferring an award*

This section is proposed to be amended to delete outdated language.

§ 121.55. *Recipients on probation*

This section is proposed to be amended to make a clarifying amendment to properly cross reference a related provision.

§ 121.58. *Academic progress*

This section is proposed to be amended to increase transparency regarding how progress is determined.

C. *Fiscal Impact and Paperwork Requirements*

The proposed rulemaking will not have adverse impact on the Commonwealth or its political subdivisions. The proposed rulemaking will not impose additional paper-

work requirements upon the Commonwealth, its political subdivisions or the private sector.

D. *Sunset Date*

The PHEAA Board of Directors continuously monitors the effectiveness of its regulations. Therefore, a sunset date has not been assigned.

E. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 22, 2013, PHEAA submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Education Committees. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by PHEAA, the General Assembly and the Governor of comments, recommendations or objections raised.

F. *Public Comment*

On June 1, 2011, PHEAA solicited comments from financial aid administrators at all State Grant eligible post-secondary institutions in this Commonwealth and the Pennsylvania State Grant Advisory Committee. Substantive comments were not received.

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Legal and Compliance Services, Pennsylvania Higher Education Assistance Agency, P.O. Box 8147, Harrisburg, PA 17102-8147, czuzack@pheaa.org within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Reference Pennsylvania Higher Education Grant Program when submitting comments.

G. *Effective Date*

This proposed rulemaking will be effective upon publication of the final-form rulemaking in the *Pennsylvania Bulletin*.

JAMES L. PRESTON,  
*President and Chief Executive Officer*

**Fiscal Note:** 58-24. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 22. EDUCATION**

**PART VIII. HIGHER EDUCATION ASSISTANCE AGENCY**

**CHAPTER 121. STUDENT FINANCIAL AID**

**Subchapter A. GENERAL PROVISIONS**

**MISCELLANEOUS**

§ 121.1. **Definitions.**

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

\* \* \* \* \*

*Academic year*—A period that begins on the first day of classes [ or ] and ends on the last scheduled day of final examinations and that is a minimum of 30 weeks of

instructional time during which, for an undergraduate educational program, a full-time student is expected to complete at least 24 semester or trimester hours or 36 quarter hours at a school which measures program length in credit hours or at least 900 clock hours at a school which measures program length in clock hours.

\* \* \* \* \*

*Borrower*—All endorsers on loans authorized by this chapter.

*College entrance examination*—A Nationally-recognized standardized test used to assess college readiness chosen at the Agency's sole discretion to rank students who demonstrate the greatest potential to perform at the highest level of academic achievement.

*Disposable pay*—That part of the borrower's compensation from an employer remaining after the deduction of any amounts required by law to be withheld.

\* \* \* \* \*

*Quarter*—A period of approximately 11 weeks normally comprising 1/3 of the academic year.

[ *SAT—The College Entrance Examination Board's Scholastic Assessment Test.* ]

*Semester*—A period of approximately 17 weeks normally comprising 1/2 of the academic year.

\* \* \* \* \*

*Veteran*—A person who engaged in active service in the United States Army, Navy, Air Force, Marines or Coast Guard or was a cadet or midshipman at one of the service academies and was released under a condition other than dishonorable, or will be by June 30 of the academic year for which the application is made, or who was a National Guard or Reserve [ *enlistee* ] *service member* who was activated for **Federal duty by Presidential order**. ROTC students, cadets or midshipmen currently attending the service academies, National Guard or Reserve enlistees who were not activated for **Federal duty**[ , ] by **Presidential order** or those currently serving in the United States Armed Forces and will continue to serve through June 30 of the academic year for which application is made are not considered veterans.

#### § 121.3. Discrimination prohibited.

The race, religious creed, color, sex, [ **National** ] **national** origin, ancestry, handicap, age or marital status of a student or parent applicant will not be factors of consideration for eligibility except to the extent that adjustments or allowances based on marital status may be necessary within the State Higher Education Grant [ **and the Federal Family Education Loan Programs** ] **Program** to properly reflect the ability of the family to finance costs of education.

#### § 121.4. Denial of eligibility to loan defaulters.

(a) [ **No award or disbursement of higher education grants will be made to any person who has allowed a loan to mature through purchase from the lender by the Agency under the Loan Guaranty Programs or who has a current loan default record with the Agency as a result of a claim on the loan having been submitted to the Agency by the lender** ] A higher education applicant who has defaulted on an educational loan guaranteed or reinsured by the Federal government, the government

of any state or institution is ineligible for an award or a disbursement of funds unless the applicant has repaid the loan in whole or in part and, in the judgment of the Agency, did not make such repayment merely to gain grant eligibility or unless the applicant otherwise shows good cause why grant eligibility should be reinstated. [ **Higher education grants may also be denied to any person who has defaulted on an educational loan guaranteed or reinsured by the Federal Government or by the government of any other state or who has defaulted on a loan made by any institution of higher education to finance the costs of education; eligibility in these cases will be determined in the same manner as in the case of Agency-guaranteed loans.** ] This includes programs administered by the United States Department of Education or PHEAA when awards have been converted to loans due to failure to meet eligibility or service requirements and the loan is in default status.

(b) [ **Eligibility for a loan guaranty will be denied to any person who has allowed a loan to mature through purchase from the lender by the Agency under the guaranty of a previous loan in the Loan Guaranty Programs or has a current loan default record with the Agency as a result of a claim on the loan having been submitted to the Agency by the lender unless the applicant has repaid the loan in whole or in part and, in the judgment of the Agency, did not make such repayment merely to gain loan eligibility or unless the applicant otherwise shows good cause why loan eligibility should be reinstated. Eligibility for a loan guaranty may also be denied to any person who has defaulted on an educational loan guaranteed or reinsured by the Federal Government or by the government of any other state or who has defaulted on a loan made by any institution of higher education to finance costs of education; eligibility in these cases will be determined in the same manner as in the case of Agency-guaranteed loans.**

(c) [ Applicants denied eligibility under this section shall be entitled to review of such denial in accordance with the procedure for review and appeals as provided in §§ 121.7 and 121.8 (relating to notice of denial and preliminary review procedures; and applicant and recipient appeals and hearings).

#### § 121.5. Enrollment.

[ (a) *Student and parent loans.* For a student or a parent of a student to be eligible for a loan guaranty, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis and be maintaining satisfactory progress as determined by the school.

(b) *Higher education grants.* ] To be eligible for a State higher education grant, a student shall be or be about to be enrolled in an approved institution of higher learning on at least a half-time basis. In addition, the President and Chief Executive Officer may treat students as full-time if unusual circumstances would not permit the student to comply with the exact full-time basis requirements as defined in § 121.1 (relating to definitions). In these instances, the President and Chief Executive Officer will thereafter notify the Board of [ **his** ] **this** action.

§ 121.7. Notice of denial and preliminary review procedures.

\* \* \* \* \*

(e) The appeal shall be filed in writing at the [ offices of the Agency at ] Agency offices in Harrisburg, and shall include the following information:

- (1) The name, address and [ Social Security number ] PHEAA Account Number of the applicant or recipient.
(2) The date of the decision being appealed.
(3) The reasons for appeal.
(4) The signature of the applicant or recipient.

[ (f) Use of the prescribed appeal form is not mandatory to initiate an appeal. Any written notice that may reasonably be construed as a request for an appeal, delivered or mailed to a authorized representative or to any office of the Agency within the prescribed 60-day appeal period, advising that the applicant or recipient is aggrieved and apparently desires a review of the determination denying him financial assistance, shall be deemed to initiate and constitute an appeal. Thereafter, the applicant or recipient shall perfect the appeal by filing a completed appeal form within a reasonable time after instructions for filing the appeal form have been delivered or mailed to him at his last known post office address. The date of initiation of an appeal delivered by mail, either on the prescribed appeal form or by any other form of written communication, will be determined from the postmark appearing upon the envelope in which the appeal form or written communication was mailed.

(g) Appeal forms may be obtained from any local field office of the Agency or at the offices of the Agency at Harrisburg. Assistance in completing and filing the appeal form can be obtained at any local field office of the Agency or at the offices of the Agency in Harrisburg. ]

§ 121.8. Applicant and recipient appeals and hearings.

(a) An applicant or recipient who is aggrieved by a determination of the Committee on Appeals denying him eligibility for financial assistance may file an appeal to the Board of Directors.

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(c) [ Use of the prescribed appeal form is not mandatory to initiate an appeal. ] Any written notice that may reasonably be construed as a request for an appeal, delivered or mailed to [ a duly authorized representative or to any office of the Agency ] PHEAA's Office of General Counsel within the prescribed 15-day appeal period, advising that the applicant or recipient is aggrieved and [ apparently desires ] requests a review of the determination denying him financial assistance, will be deemed to initiate and constitute an appeal. [ Thereafter, the applicant or recipient shall perfect the appeal by filing a completed appeal form within a reasonable time after instructions for filing the appeal form have been delivered or mailed to him at his last known post office address. ] The date of initiation of an appeal delivered by mail [ , either on the prescribed appeal form or

by any other form of written communication, ] will be determined from the postmark appearing upon the envelope in which the [ appeal form or ] written communication was mailed.

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SECONDARY SCHOOL GRADUATION

§ 121.21. Requirement for higher education grant applicants.

(a) A State higher education grant applicant shall be a graduate of or attending an approved secondary school, or be a recipient of a Commonwealth secondary school diploma or other State-issued general equivalency diplomas.

(b) An approved secondary school shall be any public or private secondary school, located in this Commonwealth or elsewhere, including foreign institutions and United States schools overseas, which in the judgment of the Pennsylvania Department of Education provides a course of instruction at the secondary level and maintains standards of instruction substantially equivalent to the standards of instruction of the public high schools located in this Commonwealth.

(c) For purposes of the State Higher Education Grant Program, an approved secondary school shall also include any home education program that is accredited by any home schooling accreditation agency approved by the Pennsylvania Department of Education. If the home education program lacks the requisite accreditation, certification by the appropriate local school official attesting that the home education program is in compliance with section 1327.1 of the Public School Code of 1949 (24 P. S. § 13-1327.1) shall be submitted to the Agency by the appropriate local school official.

§ 121.22. Early admission students.

Student applicants who leave a State-approved [ senior high ] secondary school prior to their senior year and are admitted for the academic year or a portion thereof, immediately following their secondary school studies, to an approved institution of higher learning as early admission students shall be considered as first-year collegiate applicants and in compliance with the high school graduation requirement for purposes of State higher education grant eligibility if the school district of the school that the applicant had attended certifies that:

\* \* \* \* \*

EDUCATIONAL INSTITUTIONS

§ 121.32. Approved institution in higher education grant program.

\* \* \* \* \*

(b) To be approved, an institution shall be other than a school of theology or a theological seminary as determined by the Agency, shall be located in the United States [ , the Canal Zone, Puerto Rico, the Virgin Islands, American Samoa or Guam ] or any of its territories and shall comply with the following:

(1) If the institution is a college or university located within this Commonwealth, the institution shall be approved by the Pennsylvania Department of Education and shall be accredited or a recognized candidate for accreditation with an accrediting body recognized by the United States Department of Education or the Council for Higher Education Accreditation and its successors; if the college or university is located outside this

Commonwealth, the institution shall be degree-granting, shall be operated not-for-profit, shall be legally authorized to do business by the appropriate state licensing or approval authority in the state in which it is doing business and shall be fully accredited by an accrediting body recognized by the United States Department of Education or the regional institutional accrediting body recognized by the Council for Higher Education Accreditation and its successors responsible for accreditation in the state where the college or university is conducting its educational program.

(2) If the institution is a hospital school of nursing located within this Commonwealth, the institution shall be initially, provisionally or fully approved by the Pennsylvania State Board of Nursing and shall be accredited by the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education or other accrediting body recognized by the United States Department of Education for the accreditation of nursing schools; if located outside this Commonwealth, the institution shall be legally authorized to do business by the appropriate state licensing or approval authority in the state in which it is doing business and shall be accredited by the National League for Nursing Accrediting Commission, the Commission on Collegiate Nursing Education or other accrediting body recognized by the United States Department of Education for the accreditation of nursing schools.

(3) If the institution is a trade, technical or business school located within this Commonwealth, the institution shall be approved by the Pennsylvania Department of Education or shall currently be, and shall have been throughout the preceding 24 months, licensed by the Pennsylvania State Board of Private Licensed Schools and shall be accredited by an accrediting body recognized by the United States Department of Education or the Council for Higher Education Accreditation and its successors, except that this requirement for licensure and accreditation may be waived by the President and Chief Executive Officer for branch campuses of an institution that [ has ] have been operating satisfactorily in this Commonwealth for 2 years or more; if the institution is located outside this Commonwealth, it shall be degree-granting, shall be operated not-for-profit and shall be fully accredited by the United States Department of Education or the regional institutional accrediting body recognized by the Council for Higher Education Accreditation and its successors responsible for accreditation in the state where the institution is conducting its educational program.

\* \* \* \* \*

(5) The institution shall have executed and filed with the Agency an agreement on a form provided by the Agency to report or advise the Agency if the institution has knowledge of the name and address of Commonwealth resident students who are recipients of Agency-administered aid who have been convicted in a court of record of a criminal offense which under the laws of the United States or of the Commonwealth would constitute a felony committed after October 29, 1969. Institutional knowledge shall be facts contained in the academic, disciplinary or financial student records of the institution [ and ] or facts known to persons occupying positions of authority such as the dean of students, director of financial aid [ and ] or president of the institution [ or

persons occupying these positions by whatever titles designated by the institution ] .

\* \* \* \* \*

§ 121.33. Approved program of study in higher education grant program.

To be eligible for a State higher education grant, an applicant shall enroll in a program of study approved by the Agency and offered by an institution approved by the Agency under § 121.32 (relating to approved institutions in Higher Education Grant Program) for participation in the State Higher Education Grant Program. An approved program of study shall comply with the following:

\* \* \* \* \*

(3) If offered at a trade, technical or business school located within this Commonwealth, an approved program of study shall be approved by the Pennsylvania Department of Education or by the Pennsylvania State Board of Private Licensed Schools.

\* \* \* \* \*

Subchapter B. HIGHER EDUCATION GRANT PROGRAM

§ 121.41. Grouping of applicants.

Higher education grant applicants shall be grouped into the following categories:

(1) Group I. A roster of the top 5,000 prospective freshmen applicants—without breaking ties—listed in descending order by composite score on [ the SAT ] Nationally-recognized college entrance examinations.

\* \* \* \* \*

§ 121.44. Required family financial data.

\* \* \* \* \*

(b) Exceptions. The Agency may determine the eligibility of the applicant without regard to the parents' financial data, waiving its submission, in the following cases:

(1) If the applicant is a veteran as defined in § 121.1 (relating to definitions).

(2) [ If the applicant is at least 24 years of age by January 1 prior to the academic year for which application is made.

(3) If the applicant is an orphan or ward of the court.

(4) If the applicant is married or separated.

(5) If the applicant has legal dependents other than a spouse.

(6) ] If the applicant is in compliance with other criteria established by the Agency for the processing of applicants without regard to parental financial data which generally are the United States Department of Education criteria for financial independence for Title IV Federal student aid programs.

[ (7) ] (3) Other exceptions may be granted by the Administrative Review Committee or the Committee on Appeals in turn on an individual case basis.

\* \* \* \* \*

§ 121.47. State Higher Education Grant Program Manual.

(a) [ The Agency will publish annually a State Higher Education Grant Program Manual contain-

ing: all current financial need analysis procedures established by the Agency; a list of approved colleges, universities, and hospital schools of nursing located in this Commonwealth; a list of approved programs of study offered by approved trade, technical, and business schools located in this Commonwealth; and a list of the Regional Accrediting Commissions of Higher Education and other agencies upon whose accreditation or approval depends the eligibility for the State Higher Education Grant Program, of institutions of higher learning located outside this Commonwealth, and, where applicable, of programs of study offered by institutions of higher learning located outside this Commonwealth. ] The Agency will publish annually a State Higher Education Grant Program Manual containing:

- (1) Current financial need analysis procedures established by the Agency.
- (2) A list of approved colleges, universities and hospital schools of nursing in this Commonwealth.
- (3) A list of approved programs of study offered by approved trade, technical and business schools in this Commonwealth.
- (4) A list of approved institutions of higher learning outside of this Commonwealth.
- (5) When applicable, a list of programs of study offered by institutions of higher learning outside of this Commonwealth.
- (6) A list of accrediting agencies (bodies) recognized by the Agency for the State Higher Education Grant Program.

(b) [ One copy of such manual will be available for public inspection in the principal office of the Agency and at each regional office. ] The State Higher Education Grant Program Manual will be available on the Agency's web site.

**§ 121.48. Limitation on payment of grants.**

The Agency will not make payment of, or further payment on, an existing State higher education grant on the basis of an inquiry or request received after August 1 of the calendar year [ next commencing ] immediately following the academic year for which the payment is sought unless the President and Chief Executive Officer specifically directs that payment be made to prevent grave hardship.

**§ 121.52. Transferring an award.**

[ (a) A recipient shall be limited to no more than two institutional transfers after the initial disbursement of his higher education grant funds. That is to say, a student who enrolls in institution A may transfer his award to institution B and thereafter to institution C, but will forfeit his award if thereafter he transfers to institution D.

(b) ] A recipient may not transfer his award to a nonapproved institution or course of study.

**§ 121.55. Recipients on probation.**

A recipient on academic or disciplinary probation shall remain eligible for a higher education grant if the institution of higher learning permits him to continue his studies on at least a half-time basis and he is making satisfactory academic progress as required under § 121.58 (relating to academic progress).

**§ 121.58. Academic progress.**

(a) A higher education grant recipient must make normal academic progress, as defined in the State Higher Education Grant Program Manual, from year to year [ in order ] to retain higher education grant eligibility.

\* \* \* \* \*

[Pa.B. Doc. No. 13-1986. Filed for public inspection October 25, 2013, 9:00 a.m.]

**PHILADELPHIA  
PARKING AUTHORITY**

[ 52 PA. CODE CHS. 1001, 1011,  
1017, 1019 AND 1021 ]

**Wheelchair Accessible Vehicle Taxicabs**

The Philadelphia Parking Authority, on July 23, 2013, adopted a proposed rulemaking order to provide for the regulation of wheelchair accessible taxicabs in Philadelphia.

*Proposed Rulemaking Order; Philadelphia Taxicab and Limousine Regulations; Doc. No. 126-5*

**Proposed Rulemaking Order**

*By the Authority:*

In accordance with of the act of July 16, 2004, (P. L. 758, No. 94), as amended, 53 Pa.C.S. §§ 5701 et seq., (the "act"),<sup>1</sup> the Authority formally commences its rulemaking process to promulgate regulations to provide regulations related to the provision of wheelchair accessible taxicab service in Philadelphia. The Authority seeks comments from all interested parties on these proposed regulations, which are found at Annex A to this Order.

*A. Background*

Pursuant to Section 23 of the Act, the Authority initiated regulatory oversight of taxicab and limousine service providers in Philadelphia on April 10, 2005. The Authority's regulations may be found at 52 Pa. Code Part II. The Authority has been authorized by the Legislature through the act of July 5, 2012, (P. L. 1022, No. 119) ("Act 119") to issue an additional 15 taxicab medallions in Philadelphia, provided those medallions be used for the purposes of providing wheelchair accessible taxicab service.<sup>2</sup> Act 119 also increased the number of authorized Philadelphia taxicab medallions by an additional 15 on June 1, 2013 and will continue to increase the aggregate statutory medallion cap by 15 each June 1 until 1,750 Philadelphia taxicab medallions are authorized for issuance by the Authority.<sup>3</sup>

*Discussion*

Currently, fewer than 10 taxicabs in Philadelphia of nearly 1,800 are wheelchair accessible. The Legislature has recognized the inequity associated with that disposition. To that end, the Authority has been authorized to begin to remedy that shortcoming through the issuance of 15 taxicab medallions that may only be attached to wheelchair accessible taxicabs. The Authority may then

<sup>1</sup> See 53 Pa.C.S. §§ 5722 and 5742.

<sup>2</sup> See 53 Pa.C.S. § 5711(c)(2)(i).

<sup>3</sup> See 53 Pa.C.S. § 5711(c)(2)(ii).



continue to issue additional medallions with identical or similar restrictions over the next nine years as identified above.

Many cities in the United States are striving to implement regulations to address this important issue. While market conditions and variations in taxicab service vary from city to city, there is little debate that people with disabilities must have broader access to these transportation services.

The purpose of this proposed regulation is to create mandatory requirements for the operation of taxicabs through medallions restricted to wheelchair accessible taxicab service. The proposed regulation will also provide guidelines related to the operation of wheelchair accessible taxicabs generally, because taxicab owners may opt to provide wheelchair accessible taxicab service, although not required to do so by conditions that run with their medallions or certifications. We understand that this is a complicated issue that encompasses fundamental transportation issues, as well as technological and funding challenges.

The Authority has received preliminary comments related to the expense of purpose built wheelchair accessible taxicabs, the costs to retrofit minivans to provide this service, the additional costs of insurance that may apply, the need to train drivers and coordinate dispatching operations and many other facets of wheelchair accessible taxicab service. We have drafted this proposed regulation with those comments in mind and with the anticipation that updated and more narrowly tailored comments will be forthcoming during the comment period. We will rely on those comments when drafting final-form regulations.

#### B. *The regulation.*

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

We propose amending this section to reflect the address of the Authority's new headquarters.

##### § 1001.10. *Definitions.*

We propose amending the definition of "Dispatcher" to include the term "WAV taxicab dispatcher," unless the context of the term clearly indicates otherwise. The addition of the term "WAV taxicab dispatcher" is proposed in section 1011.2.

We propose amending the definition of "Taxicab driver" to include the term "WAV taxicab driver," unless the context of the term clearly indicates otherwise. The addition of the term "WAV taxicab driver" is proposed in section 1011.2.

##### § 1011.2. *Definitions.*

We propose adding the term "WAV medallion" to identify the medallions that will be issued with the condition that the medallion be attached only to a wheelchair accessible taxicab. WAV is an acronym that stands for "wheelchair accessible vehicle" and is used commonly in the taxicab and limousine industries throughout the United States.

We propose adding the term "WAV medallion taxicab" to identify taxicabs to which a WAV medallion is attached by the Authority as provided in this chapter.

We propose adding the term "WAV taxicab" to identify taxicabs that are capable of duly transporting persons in wheelchairs. The term will apply equally to both taxicabs that are required to be WAVs through conditions imposed upon their respective medallions, as well as taxicabs that operate as WAVs voluntarily.

We propose adding the term "WAV taxicab dispatcher" to identify dispatchers authorized by the Authority to dispatch WAV taxicabs. The "WAV taxicab dispatcher" authorization is addressed in § 1019.8.

We propose adding the term "WAV taxicab driver" to identify taxicab drivers specially authorized to provide taxicab service in a wheelchair accessible taxicab pursuant to § 1021.5a and section 5706(a.1) of the act.

We propose adding the term "WAV taxicab driver's certificate" to identify the special driver's certificate that will be issued by the Authority to WAV taxicab drivers required by section 5706(a.1)(1) of the act.

We propose adding the term "Wheelchair" to define the devices that wheelchair accessible taxicabs must be able to transport. We have largely adopted the term as employed by the United States Department of Transportation and provided at 49 C.F.R. 37.3 because we believe it includes the types of personal transportation devices most commonly used by people with disabilities. However, we have altered the width of a "common wheelchair" from 30 inches to 32 inches to accommodate for widening of wheelchairs that we have witnessed thus far during the implementation of the 7 wheelchair accessible taxicabs in service today. This definition provides a guideline to certificate holders in terms of developing vehicles, equipment and policies to best transport persons in wheelchairs.

##### § 1017.8. *WAV taxicab specifications.*

We propose adding this section to identify what it means to be a wheelchair accessible taxicab. The basic requirements of a taxicab will continue to apply to wheelchair accessible taxicabs, except as limited by the requirements of this section. The proposed regulation provides general standards for WAVs, and guidance on acceptable means of vehicle conversions. All WAVs in Philadelphia are currently minivans that have been retroactively altered to accommodate persons in wheelchairs. The means by which this retroactive fitting is accomplished is important to the overall operation and safety of the vehicle. Many of the standards used in the proposed regulation are in place in other jurisdictions and are adhered to by the wheelchair accessible taxicab owners currently employing this technology in Philadelphia.

This section will also reduce the acceptable age and mileage standards otherwise applicable to taxicabs in § 1017.4 for WAV medallion taxicabs. WAV medallion taxicabs are taxicabs operated through a WAV medallion. We propose reducing the entry level age and mileage for these WAV medallion taxicabs to new or nearly new and that the retirement age be lowered from 8 years to 5 years, although the maximum mileage is not adjusted from that applicable to all taxicabs.

The use of newer vehicles to provide taxicab service is a general goal of the Authority. This is because the public prefers newer, cleaner and more reliable vehicles to older, worn and less reliable vehicles. Implementing regulations to place better vehicles in taxicab service is crucial to the Authority's legislative directive to create a clean, safe, reliable, and well regulated taxicab and limousine industry . . ." 53 Pa.C.S. § 5701.1(2).

The Authority has not sold any WAV medallions and will not do so until WAV taxicab regulations are in place. This sequencing will permit those who opt to purchase a WAV medallion to understand the financial obligations associated with operating this class of taxicabs before buying the WAV medallion. Additional costs of operation

may; therefore, be ameliorated through a reduced initial WAV medallion acquisition auction bid price.<sup>4</sup>

The proposed regulation will also require WAV taxicabs to be dispatched only by WAV dispatchers and operated only by WAV taxicab drivers. An exemption from the vehicle standards and age and mileage limitations of this section is also granted to taxicabs in service and approved by the Authority that are equipped to provide taxicab service to persons in wheelchairs without the need of the passenger to exit the wheelchair on the day the final-form regulation becomes effective. The purpose of this limited exemption is to encourage the use of as many of these Authority approved vehicles as possible now and not to discourage the continued use of these existing, if not completely compliant, wheelchair accessible taxicabs.

§ 1017.24. *Meter activation and display.*

We propose amending subsection (d) of this section to include a new paragraph (9) and (10). Paragraph (9) will require every WAV taxicab meter to be equipped with a button that the driver will push when a person in a wheelchair begins taxicab service. This is a crucial tool to track the emerging use of this new service by persons in wheelchairs. It is necessary because a WAV taxicab may also provide standard taxicab service; therefore, some method of differentiating between the types of service provided is necessary. The meter systems in place in medallion taxicabs currently have the capability to designate an existing button for this purpose.

We also propose in new paragraph (10) that the meter systems in WAV taxicabs be capable of taking a picture of the person in a wheelchair as a passenger in the WAV. This information may be reviewed to assure that the appropriate procedures for fastening wheelchairs into WAV taxicabs are followed and to assure that the driver has not pushed the button required by paragraph (9) when the passenger is not a person in a wheelchair.

The latter reason for the meter camera system goes to the requirement that WAV taxicab drivers be committed to provide taxicab service to persons in wheelchairs. WAV taxicab drivers will be paid by the Authority to train for this classification of service and each WAV taxicab driver's annual registration fee will also be paid by the Authority. These benefits are extended with the intent of encouraging drivers to proactively seek (and not avoid) service to persons in wheelchairs. WAV taxicab drivers will be required to provide a minimum number of taxicab trips to persons in wheelchairs each year as provided in § 1021.5a(d), and may receive monetary rewards based on the number of such passengers serviced. The camera system is the best means of assuring the accuracy of this data.

§ 1019.8. *Dispatcher requirements.*

We propose adding subsections (b) and (c) to this section and reidentifying the existing regulatory language as "(a) General requirements." The new subsection (a) applies to all dispatchers generally and will include the addition of a paragraph (16) that requires dispatchers to refer requests for a WAV taxicab to a WAV dispatcher. This is as opposed to terminating the request for service with instructions to "call another dispatcher." We have received comments emphasizing the need for a form of dispatching coordination to rapidly match a person in a wheelchair with an available wheelchair accessible taxicab by making only one phone call. This requirement is added in furtherance of that goal.

We propose that only WAV dispatchers be permitted to dispatch WAV taxicabs. Persons in wheelchairs will often require a unique form of interaction with a dispatcher, not the least of which will be the need for the dispatcher to have access to several WAV taxicabs. Dispatchers that understands the special requirements associated with WAV taxicab service will be of great assistance to the community of people with disabilities, as will the additional training that the proposed regulation will require of these WAV dispatchers as provided in the proposed language of subsection (c)(3).

Also, each WAV dispatcher must have at least ten percent of the WAV taxicabs then in service in Philadelphia associated with its dispatch service in order to maintain the WAV dispatcher status. The Authority's goal is to make it easy for persons in wheelchairs to obtain WAV taxicab service. A larger pool of WAV taxicabs increases the likelihood that a WAV dispatcher will have a WAV taxicab available for requested service.

We also propose that dispatchers apply for the WAV dispatcher authorization and that the authorization be temporary (for one year), but renewable. We believe that the improper or unenthusiastic dispatching of WAV taxicabs will cause the program to fail and that the process for changing WAV dispatchers must be efficient and uncomplicated. The potential for a non-renewal of this authorization will help assure that WAV dispatchers exercise their responsibilities properly. Dispatchers engaged in dispatching of wheelchair accessible taxicabs on the date these regulations become effective may continue to do so through July 1, 2015 (the beginning of fiscal year 2016), before formal WAV dispatcher authorization will be required. This will permit the existing dispatchers of these vehicles to continue to provide that service while they transition into the new regulatory framework. However, WAV medallion taxicabs may only be dispatched by authorized WAV dispatchers upon the effective date of the final-form regulation.

We propose that WAV dispatchers be required to maintain certain data about the service provided by the WAV taxicabs in their respective associations. The information includes each request to the dispatcher for a WAV taxicab and the dispatcher's response, each time a WAV taxicab in its association provides service to a person in a wheelchair and information related to the WAV taxicab drivers who have accepted or rejected dispatched WAV taxicab service. This information will need to be added to and included in the monthly filing that all dispatchers already provide to the Authority about the status of their dispatch services.

WAV dispatchers will be required to maintain a system of immediate communication to refer requests for WAV taxicab service to the other WAV dispatchers if the initially contacted dispatcher is unable to provide the requested service within 45 minutes. Again, we have received comments about the need to have coordination between WAV dispatchers to dispense with the need for a potential customer to call multiple dispatchers to find an available WAV taxicab. We believe that this inexpensive and immediate form of instant communication (such as instant or email messages) will address this concern.

§ 1021.5a. *Special WAV taxicab driver's certificate and requirements.*

We propose the development of a WAV taxicab certification program and certificate, as required by section 5706(a.1) of the act. To be approved, an applicant must have two years experience as an Authority certified driver

<sup>4</sup> See, 53 Pa.C.S. § 5717(b).

within the three years preceding the application for this special certificate, among other identified requirements. An applicant may apply for both a standard taxicab driver and a WAV taxicab driver certificate. A WAV taxicab driver certificate encompasses all of the service rights of a standard driver's certificate; therefore, when an applicant received a WAV driver's certificate the standard certificate will be unnecessary.

In order to prevent driver saturation of the WAV taxicab market, the number of these drivers will be capped at four times the number of then existing WAVs, not only WAV medallions. WAV taxicab drivers are expected to put their WAV training to use and gain additional experience in furtherance of improving this program. The number of drivers must be kept in proportion to the number of available vehicles in order to achieve this goal.

We propose that WAV taxicab drivers maintain a minimum amount of time in a WAV taxicab each year and that a minimum number of persons in wheelchairs be serviced by each driver in order for the driver to maintain the WAV driver certification. We also propose a graduated cash incentive program for drivers who provide a certain number of taxicab trips each year to persons in wheelchairs. We have received comment related to the need to incentivize drivers to actively service persons in wheelchairs in light of the fact that such service may be more physically challenging and time intensive, without a direct monetary benefit. We proposed both the negative incentive of potentially losing the certification in conjunction with the positive incentive of cash bonuses and the payment of the annual driver's certificate fee.

§ 1021.8. *Certain training subjects.*

We propose that WAV taxicab drivers attend WAV taxicab related training in addition to standard driver training. Again, this is required by section 5706(a.1) of the act. This training will evolve along with the technologies and challenges associated with the operation of this program; therefore, specific training indices are neither prudent nor necessary for purposes of the promulgation of this regulation. For certain, the actual operation of the WAV taxicab equipment, including the demonstrated ability to assist persons in wheelchairs with the safe entry, exit and secure seating within a WAV taxicab will be required of each applicant.

We propose that WAV taxicab drivers complete 4 hours of continuing training classes every 2 years in order to remain current on emerging technology, new or better understood needs of the community of people with disabilities and any changes to statutes, regulations or procedures.

§ 1021.9. *Taxicab driver test.*

We propose amending this section to clarify that WAV taxicab driver testing will also be required and that the applicant must pass the test within the existing time window required of all taxicab driver applicants.

§ 1021.11. *Driver requirements.*

We propose adding a new subsections (j) and (k) to this section. Subsection (j) will require all taxicabs to respond to hails of a person in a wheelchair, even if not in a WAV taxicab. A taxicab driver who responds to such a hail, but who is not operating a WAV taxicab must communicate the service request of the person in a wheelchair to the driver's dispatcher. If the dispatcher is a WAV dispatcher it can dispatch a WAV taxicab to the requestor as

provided in the proposed regulation or forward the request to a WAV dispatcher as provided in proposed § 1019.8(a)(16).

We also propose that WAV taxicab drivers be required to identify the passenger as a person in a wheelchair through the meter system as provided in proposed § 1017.24(d)(9) and that drivers be prohibited from falsifying the status of the passenger.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on October 15, 2013, the Authority submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Urban Affairs Committee and the Senate Consumer Protection and Professional Licensure Committee. In addition to submitting the proposed rulemaking, the Commission provided IRRC and will provide the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Authority, the General Assembly and the Governor of comments, recommendations or objections raised.

*Conclusion*

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

Accordingly, under sections 13 and 17 of the Act (53 Pa.C.S. §§ 5722 and 5742); section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P. L. 287, No. 22), as amended (53 Pa.C.S. § 5505(d)(17), (d)(23) and (d)(24)); sections 201 and 202 of the Act of July 31, 1968 (P. L. 769, No. 240) (45 P.S. §§ 1201 and 1202), and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P.S. § 732.204(b)); section 745.5 of the Regulatory Review Act (71 P.S. § 745.5), and section 612 of The Administrative Code of 1929 (71 P.S. § 232), and the regulations promulgated at 4 Pa. Code §§ 7.231—7.234, the Authority proposes adoption of the regulations set forth in Annex A; *Therefore,*

*It Is Ordered That:*

1. A proposed rulemaking be opened to consider the regulation set forth in Annex A.
2. The Executive Director shall submit this proposed rulemaking Order and Annex A to the Office of Attorney General for review as to form and legality.
3. The Executive Director shall submit this proposed rulemaking Order and Annex A for review and comments

to the Independent Regulatory Review Commission and the Legislative Standing Committees.

4. The Secretary of the Board shall certify this proposed rulemaking Order and Annex A and that the Executive Director shall deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

5. An original and 15 copies of any written comments referencing the docket number of the proposed regulation be submitted within 30 days of publication in the *Pennsylvania Bulletin* to the Philadelphia Parking Authority, Attn: General Counsel, 701 Market Street, Suite 5400, Philadelphia, PA 19106.

6. A copy of this proposed rulemaking Order and Annex A shall be served on the City of the First Class Taxicab and Limousine Advisory Committee and a copy shall be posted on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

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

VINCENT J. FENERTY, Jr.,  
*Executive Director*

**Fiscal Note:** 126-5. (1) Philadelphia Taxicab and Limousine Regulatory Fund; (2) Implementing Year 2013-14 is \$221,000; (3) 1st Succeeding Year 2014-15 is \$298,000; 2nd Succeeding Year 2015-16 is \$378,000; 3rd Succeeding Year 2016-17 is \$457,000; 4th Succeeding Year 2017-18 is \$537,000; 5th Succeeding Year 2018-19 is \$618,000; (4) none—this is a new program; (7) Transfer to Philadelphia Parking Authority; (8) recommends adoption.

**Annex A**

**TITLE 52. PUBLIC UTILITIES**

**PART II. PHILADELPHIA PARKING AUTHORITY**

**Subpart A. GENERAL PROVISIONS**

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

**Subchapter A. GENERAL PROVISIONS**

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

Public meetings of the Authority ordinarily will be held in its offices at [ 3101 Market Street, 2nd Floor ] 701 Market Street, Suite 5400, Philadelphia, Pennsylvania. Schedules for public meetings are advertised and posted under 65 Pa.C.S. Chapter 7 (relating to Sunshine Act) and copies of the schedule can be obtained on the Authority's web site at [www.philapark.org](http://www.philapark.org).

**§ 1001.10. Definitions.**

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

\* \* \* \* \*

*Dispatcher*—The owner of a certificate of public convenience to operate a dispatching service in Philadelphia issued by the Authority under section 5711(c)(6) of the act (relating to power of authority to issue certificates of public convenience) and Chapter 1019 (relating to dispatchers). **The term includes a WAV taxicab dispatcher as provided in § 1011.2 (relating to definitions).**

\* \* \* \* \*

*Taxicab driver*—The individual to whom a current and valid taxicab driver's certificate has been issued by the Authority under section 5706 of the act. **The term includes a WAV taxicab driver as provided in § 1011.2.**

\* \* \* \* \*

**Subpart B. TAXICABS**

**CHAPTER 1011. GENERAL PROVISIONS**

**§ 1011.2. Definitions.**

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

\* \* \* \* \*

*Transfer fee*—The nonrefundable fee charged by the Authority to review an application to sell transferable rights.

*WAV medallion*—A medallion restricted to use on a WAV taxicab.

*WAV medallion taxicab*—A taxicab to which a WAV medallion is attached by the Authority as provided in this chapter.

*WAV taxicab*—A motor vehicle authorized by the Authority to provide taxicab service that meets the requirements of a "wheelchair accessible taxicab" as defined in section 5701 of the act (relating to definitions) and § 1017.8 (relating to WAV taxicab specifications).

*WAV taxicab dispatcher*—A dispatcher approved by the Authority to dispatch WAV taxicabs as provided in § 1019.8(b) (relating to dispatcher requirements).

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

*WAV taxicab driver's certificate*—The original photographic identification card issued by the Authority which confirms that an individual has complied with section 5706 of the act and § 1021.8 (relating to certain training subjects).

*Wheelchair*—

(i) A mobility aid belonging to any class of three- or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered.

(ii) A common wheelchair is a device which does not exceed 32 inches in width and 48 inches in length measured 2 inches above the ground and does not weigh more than 600 pounds when occupied.

(iii) The term as further defined by 49 CFR 37.3 (relating to definitions) or its successor regulation.

**CHAPTER 1017. VEHICLE AND EQUIPMENT REQUIREMENTS**

**Subchapter A. GENERAL PROVISIONS**

(*Editor's Note:* The following section is new and printed in regular type to enhance readability.)

**§ 1017.8. WAV taxicab specifications.**

(a) *Basic requirements.* WAV taxicabs must be in compliance with the requirements applicable to taxicabs, except when deviations are authorized or required by the act, this part or an order of the Authority.

(b) *Standard specifications for WAV taxicabs.* In addition to the requirements of subsection (a), a WAV taxicab is a vehicle that has been inspected and approved by the Enforcement Department to meeting the following requirements:

(1) The vehicle complies with the specifications in the Americans with Disabilities Act Accessibility Specifications for Transportation Vehicles codified in 49 CFR 38.23, 38.25 and 38.31 (relating to mobility aid accessibility; doors, steps and thresholds; and lighting) and higher standards set by the act, this part or an order of the Authority. For example, if the Authority required vehicle lift platforms to have provisions to prevent deployment, falling or folding any faster than 10 inches per second, that requirement would supersede the 12 inches per second requirement of 49 CFR 38.23(b).

(2) The vehicle must be capable of transporting at least one passenger seated in a common wheelchair with access and entry to the passenger compartment either from the right side of the vehicle to and from the curb or through rear entry.

(3) If modified to become a WAV taxicab, the modification of the vehicle shall be completed under the vehicle manufacturer's standards. The Authority may publish a list of approved vehicle modification entities on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(4) The owner of a vehicle modified to be a WAV taxicab shall, upon presentation for a preservice inspection as provided in § 1017.2 (relating to preservice inspection), provide the certification of an engineer with at least a bachelor's degree in either mechanical engineering or electrical engineering with at least 3 years of experience in automotive manufacturing that the vehicle has been modified using the design tested to meet or exceed impact protection requirements as provided in 49 CFR Part 571 (relating to Federal motor vehicle safety standards) and the specifications of the vehicle's manufacturer.

(5) When loaded to gross vehicle weight rating, the distance between the ground and the vehicle's frame must be 5 inches or more.

(6) The vehicle's passenger compartment length from the back of the passenger's seats to any barrier in front of it must be 56 inches or more.

(7) The vehicle's effective legroom (L51) for the rear compartment must be at least 43 inches as defined by the Society of Automotive Engineers.

(8) The vehicle's effective legroom (L34) for the front compartment must be at least 42 inches as defined by the Society of Automotive Engineers.

(9) The floor of a WAV taxicab may be lowered only from the base of the firewall to the area immediately in front of the rear axle.

(10) The floor of a WAV taxicab with a lowered floor assembly must be stainless steel (16 gauge minimum) and meet or exceed the 1,000-hour salt spray rating. A vapor-insulating barrier of 1/2 inch marine grade plywood must be applied over the lowered metal floor and thoroughly secured.

(11) The vehicle's wheelchair ramp may not block any part of the door or glass while in the stowed position.

(12) The entry point of the vehicle must measure 56 inches from the ramp to the top of the entry point.

(13) The system provided to securely hold one or more wheelchairs in place in the vehicle must be the equivalent of the system known as Qstraint, QRT Standard or better.

(14) Anchor points may not project more than 1/8 inch above the vehicle's finished floor.

(15) If the vehicle has a middle fold-up passenger seat, it must have a folding mechanism and base plate and must meet the requirements of 49 CFR 571.207 (relating to standard No. 207; seating systems).

(16) Modifications to the rear air conditioning shall be approved by the vehicle's manufacturer.

(17) Electrical wiring installed while modifying the vehicle to meet the requirements of this section must be PVC or better, insulated and color-coded for positive identification.

(18) The vehicle must have an electrically operated back-up alarm device that produces an intermittent audible signal when the vehicle's transmission is shifted into reverse.

(19) The vehicle must display the universal logo for wheelchairs as a marking of at least 6 inches high and 6 inches wide on the rear of the vehicle and on each side of the vehicle.

(20) If powered by a hybrid-electric power plant, the vehicle must be equipped with an appropriate device to enable persons who are blind to hear the approach of the vehicle as readily as they can hear a conventional gasoline-powered taxicab.

(c) *Age and mileage limitation.*

(1) When a vehicle is proposed for WAV medallion taxicab service, it must be one of the manufacturer's two latest vehicle model years with an odometer reading of less than 500 miles to qualify for inspection as provided in § 1017.2.

(2) A WAV medallion taxicab will not be eligible for inspection as provided in § 1017.31 (relating to biannual inspections by Authority) upon reaching 5 years of age.

(d) *WAV taxicab dispatching.* Only a WAV dispatcher authorized by the Authority as provided in § 1019.8(b) (relating to dispatcher requirements) may dispatch a WAV taxicab.

(e) *WAV taxicab drivers.* Only a taxicab driver certified by the Authority as provide in § 1021.8 (relating to certain training subjects) may provide taxicab service in a WAV taxicab.

(f) *Current vehicles.* Taxicabs authorized by the Authority on \_\_\_\_\_, (*Editor's Note:* The blank refers to the effective date of adoption of this proposed rule-making.) that are capable of providing taxicab service to a person in a wheelchair without the need for the person to exit the wheelchair are exempt from the requirements of subsections (b) and (c). The exemption provided in this subsection expires when the exempted vehicle is removed from taxicab service and does not run with the associated medallion or certificate of public convenience.

### Subchapter C. METERS

#### § 1017.24. Meter activation and display.

\* \* \* \* \*

(d) The meters in every taxicab must have properly attached and approved receipt printers specified by the

Authority in § 1017.23 (relating to approved meters), including the following:

\* \* \* \* \*

(8) A distress button that can be easily activated by a driver to silently communicate to the dispatcher the need for emergency assistance.

(9) The capability of identifying the passenger as a person seated in a wheelchair through the push of one button on the meter by the driver.

(10) An integrated camera system capable of recording and transmitting a photograph of the passenger at the time the meter is engaged and at the time the meter is disengaged at the termination of the taxicab trip.

(e) Partial-rights certificate holders are not required to comply with subsection (d).

**CHAPTER 1019. DISPATCHERS**

**§ 1019.8. Dispatcher requirements.**

(a) *General requirements.* A dispatcher shall continually maintain standards and equipment capable of providing prompt and adequate service to the public, including the following:

\* \* \* \* \*

(15) A dispatcher shall report violations of the act, this part or an order of the Authority committed by a driver or certificate holder associated with the dispatcher to the Authority immediately.

(16) Upon receipt of a request for WAV taxicab service directly from a source, including a potential customer or as provided in § 1021.11(j) (relating to driver requirements), a dispatcher not authorized to dispatch WAV taxicabs shall immediately forward the potential customer's contact information and location to a WAV taxicab dispatcher through a means of electronic communication approved by the Authority.

(b) *WAV taxicab dispatcher authorization and renewal.*

(1) Only a WAV taxicab dispatcher may dispatch WAV taxicabs.

(2) A dispatcher or applicant for a dispatcher's certificate as provided in § 1019.3 (relating to dispatcher application) may request authorization to act as a WAV taxicab dispatcher by filing a Form No. DSP-7 "WAV Dispatcher Authorization" with the Manager of Administration. Form DSP-7 is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(3) The authorization to dispatch WAV taxicabs is nontransferable.

(4) A WAV taxicab dispatcher shall have no less than 10% of the WAV taxicabs authorized by the Authority to provide city-wide call or demand service in its association at all times. The Authority will maintain a current list of authorized WAV taxicabs on its web site.

(5) A WAV dispatcher shall use a dispatching system that maintains the following data, in addition to the requirements provided in this section and § 1019.14:

(i) Each request to the dispatcher for a WAV taxicab and the dispatcher's response to that request.

(ii) Each occasion of WAV taxicab service to a person in a wheelchair by a taxicab in the dispatcher's association, including the date of service, the amount of the fare paid and the manner in which the taxicab service was initiated.

(iii) The name and WAV taxicab driver certificate number for each driver that has accepted or declined a dispatch for service to a person in a wheelchair.

(6) The WAV Dispatcher's monthly filing of the Form No. DSP-4 as provided in § 1019.9 (relating to list of affiliated taxicabs) must include the data maintained in its dispatch system as provided in paragraph (5).

(7) The authorization to dispatch WAV taxicabs will automatically expire on July 1 of each year. A dispatcher may reapply for WAV dispatcher authorization at the time it makes its annual filing as provided in § 1011.3 (relating to annual rights renewal process).

(8) The authorization to dispatch WAV taxicabs may be suspended, cancelled or revoked for a violation of the act, this part or an order of the Authority.

(9) Dispatchers engaged in dispatching of WAV taxicabs on \_\_\_\_\_, (*Editor's Note: The blank refers to the effective date of adoption of this proposed rulemaking.*) may continue without the authorization required under subsection (b)(2) until July 1, 2015. This exemption does not apply to the dispatching of WAV medallion taxicabs.

(c) *WAV taxicab dispatcher requirements.*

(1) A WAV taxicab dispatcher shall maintain a means of immediate and simultaneous telephone, Internet or other electronic communication with every WAV taxicab dispatcher that is approved in advance by the Authority. The Authority will post a list of approved communication methods on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(2) Dispatchers shall give preference to persons seated in a wheelchair when dispatching a WAV taxicab.

(3) The employees or agents, or both, of a WAV taxicab dispatcher who are engaged in dispatching to WAV taxicabs shall complete the same training and applicable to a WAV taxicab driver as provided in § 1021.8 (relating to certain training subjects).

(4) Customers referred to a dispatcher as provided in subsection (a)(16) or § 1021.11(j) shall be serviced in all ways as if the request were made directly to the dispatcher.

(5) In the event that a WAV taxicab dispatcher cannot provide a WAV taxicab to a requesting customer within 45 minutes, the request for service shall be forwarded by the WAV taxicab dispatcher to each other WAV taxicab dispatcher through the system required under paragraph (1).

(6) The information provided by the forwarding WAV taxicab dispatcher as provided in paragraph (5) must include the information necessary to provide the requested service, including the following:

(i) The time the request was received by the forwarding WAV dispatcher.

(ii) The time that the service is requested to begin.

(iii) The location where the WAV taxicab is expected to appear to initiate service.

(iv) The telephone number and other contact information of the person requesting service, if available.

(v) The time that the forwarding WAV dispatcher would be able to initiate service, if at all.

(7) A WAV taxicab dispatcher shall immediately accept the request forwarded as provided in paragraph (6) if the dispatcher can provide a WAV taxicab as requested before the forwarding dispatcher and sooner than any other WAV dispatcher. If the request for service is not accepted, the forwarding WAV dispatcher shall provide the service as provided in paragraph (6)(v).

(8) Acceptance of the forwarded request shall be simultaneously communicated to all other WAV taxicab dispatchers through the system required under paragraph (1).

(9) The accepting dispatcher shall inform the person that has requested WAV taxicab service that it will dispatch a WAV taxicab to the requester immediately.

(10) The Authority will maintain a list of WAV dispatchers on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

#### CHAPTER 1021. TAXICAB DRIVERS

*(Editor's Note: The following section is new and printed in regular type to enhance readability.)*

##### § 1021.5a. Special WAV taxicab driver's certificate and requirements.

(a) *Purpose.* The WAV taxicab driver's certificate is created to ensure that the needs of the disabled community are known and fully addressed by the drivers of WAV taxicabs and to ensure that those in need of WAV taxicab transportation are efficiently and adequately provided with that transportation by the best qualified drivers available.

##### (b) WAV taxicab drivers.

(1) The Authority will issue a special driver's certificate for individuals to provide WAV taxicab service as provided in section 5706(a.1)(1) of the act (relating to driver certification program).

(2) A WAV taxicab driver's certificate will identify the driver as having been trained in the operation of a WAV taxicab and in the best practices of transporting a person in a wheelchair.

(3) To obtain a WAV taxicab driver's certificate an individual, including a current taxicab driver, shall comply with the taxicab driver requirements of this chapter and submit a completed Form DR-4 "WAV Driver Application." Form DR-4 is available on the Authority's web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(4) An applicant may apply for a taxicab driver's certificate and a WAV taxicab driver's certificate at the same time. If an applicant discontinues the WAV taxicab driver certification process or is unable to successfully complete the training, the applicant may pursue taxicab driver's certification.

(5) Applications for a WAV taxicab driver certificate will be processed by the Director in the order accepted for filing.

(6) A WAV taxicab driver certificate includes the authorizations applicable to a taxicab driver's certificate.

(7) An applicant for a WAV taxicab driver's certificate shall exhibit a high degree of experience and maintain a record of compliance with the act, this part and orders of the Authority as follows:

(i) A WAV taxicab driver applicant shall have at least 2 years of Philadelphia taxicab driver experience as an Authority certificated driver completed within the immediately preceding consecutive 36-month period prior to the date of application.

(ii) A WAV taxicab driver application will be denied if an order has been entered against the applicant by the Authority or the PUC related to the provision of unsafe or discourteous taxicab service.

(iii) A WAV taxicab driver application will be denied if the applicant's taxicab driver's certificate has ever been cancelled or revoked.

(iv) A WAV taxicab driver application will be denied if the applicant's taxicab driver's certificate has been suspended for any reason in the immediately preceding consecutive 36 months.

##### (c) WAV taxicab driver cap.

(1) Except as provided in paragraph (2), the number of WAV taxicab drivers may not exceed the product of the number of WAV taxicabs multiplied by four. The Authority will continuously maintain a list of the maximum number of WAV taxicab drivers on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

(2) To address circumstances of increased need, the Authority may alter the cap imposed by this section, upon investigation, for a period not to exceed 1 year.

(3) The Director will not accept applications for WAV taxicab driver's certificates in excess of the cap established by the Authority.

##### (d) WAV taxicab driver renewal.

(1) A WAV taxicab driver's certificate may be renewed by filing the completed Form DR-4 with the Manager of Administration and adhering to standard renewal requirements as provided in § 1011.3 (relating to annual rights renewal process).

(2) The Authority may deny the renewal of a WAV taxicab driver's certificate if the driver has failed to provide taxicab service in a WAV taxicab for 250 days or more and for not less than 8 hours each on these days in the immediately preceding consecutive 12-month period.

(3) The Authority will not renew a WAV taxicab driver's certificate if the driver has failed to provide taxicab service in a WAV taxicab for 150 days or more and for not less than 8 hours each on these days in the immediately preceding consecutive 12-month period.

(4) The Authority may deny the renewal of a WAV taxicab driver's certificate if the number of taxicab trips provided by the driver to persons seated in wheelchairs remains below the average provided by WAV taxicab drivers in the immediately preceding consecutive 12-month period.

(5) The annual taxicab driver renewal fee charged by the Authority shall be paid from the proceeds of the sale of WAV medallions authorized by section 5711(c) of the

act (relating to power of authority to issue certificates of public convenience) for each successfully renewed WAV taxicab driver.

(6) When a WAV taxicab driver's certificate is denied for a reason in paragraphs (2)—(5) and not on another basis, the Authority will issue the renewing driver a standard taxicab driver's certificate.

(e) *Wheelchair service preference.*

(1) A person seated in a wheelchair who requests taxicab service shall be given preference by a WAV taxicab driver over a potential customer that is not in a wheelchair. For example, if a WAV taxicab is hailed by two people at the same time but only one of those people is seated in a wheelchair, service shall be provided to the person seated in the wheelchair first.

(2) A customer already seated in a taxicab may not be asked to exit the taxicab to accommodate a person seated in a wheelchair.

(3) When a WAV taxicab has been dispatched and is in route to provide taxicab service to a person not in a wheelchair and is hailed by a person seated in a wheelchair, the WAV taxicab driver shall stop and provide taxicab service to the person in a wheelchair. Prior to assisting the hailing customer into the WAV taxicab, the driver shall notify his dispatcher of the hail. The dispatcher shall arrange for an alternate taxicab to provide service to the original customer.

(f) *WAV taxicab driver incentive program.* Beginning December 1, 2015, the Authority will provide the following incentives to WAV taxicab drivers, upon the successful renewal of their WAV taxicab driver's certificate, from proceeds of the sale of WAV medallions as provided in section 5711(c) of the act:

(1) The amount of \$250 to each WAV taxicab driver who provided 75 taxicab trips or more to a person seated in a wheelchair in a WAV taxicab during the 1-year period immediately preceding the renewal of the WAV driver's certificate.

(2) The amount of \$500 to each WAV taxicab driver who provided 135 taxicab trips or more to a person seated in a wheelchair in a WAV taxicab during the 1-year period immediately preceding the renewal of the WAV driver's certificate. The incentive in this paragraph is in addition to the incentive in paragraph (1).

(3) The amount of \$500 to each WAV taxicab driver who provided 250 taxicab trips or more to a person seated in a wheelchair in a WAV taxicab during the 1-year period immediately preceding the renewal of the WAV driver's certificate. The incentive in this paragraph is in addition to the incentive in paragraphs (1) and (2).

§ 1021.8. **Certain training subjects.**

(a) *Continued training subjects.* The Authority will continually monitor issues related to taxicab drivers, including safety, **WAV taxicab service** and customer service, and maintain a current list of taxicab driver training subjects on its web site at [www.philapark.org/tld](http://www.philapark.org/tld).

\* \* \* \* \*

(c) *WAV taxicab driver training.*

(1) **In addition to training required under this section, WAV taxicab driver training will consist of additional in-class instruction and field training necessary to address current and evolving issues related to WAV taxicab service, including sensitivity**

**training, safe and proper use of applicable equipment, and regulations regarding WAV taxicab service.**

(2) **WAV taxicab driver training will consist of training in all aspects of WAV taxicab service, including the operation of a WAV taxicab and the entry, exit and securing of a passenger in a wheelchair.**

(3) **A WAV taxicab driver must attend a minimum of 4 hours of continuing WAV taxicab service training every 2 years. The Authority may order additional training as it determines necessary to meet the requirements of the act and this part.**

(d) *Testing.* The applicant will be tested under § 1021.9 (relating to taxicab driver test) on the final day of training.

§ 1021.9. **Taxicab driver test.**

(a) The Authority will develop a test to assure that applicants for taxicab driver's certificates **and WAV taxicab driver's certificates** understand the information presented during training as provided in § 1021.8 (relating to certain training subjects).

\* \* \* \* \*

(c) Except as limited by this chapter, the test may be administered in a manner and in a form deemed appropriate by the Authority. The test may include:

\* \* \* \* \*

(4) The demonstration of an ability to operate a motor vehicle and use taxicab related equipment.

(5) **For WAV taxicab driver applicants, the demonstration of an ability to operate a WAV taxicab and to assist with the entry, exit and securing of a passenger in a wheelchair in the WAV taxicab.**

(d) Failure to pass the test required by this section after three attempts will render the application void.

\* \* \* \* \*

(f) Upon the denial or voiding of a DR-1 **or DR-4** as provided in this chapter an applicant may not reapply for a driver's certificate for 6 months.

§ 1021.11. **Driver requirements.**

\* \* \* \* \*

(i) *Meter operation.* The meter must be in operation during the entire time the taxicab is engaged by a passenger, and the passenger shall be required to pay only the amount recorded by the meter, except that, when back-mileage or surcharge provisions of the tariff of the certificate holder apply, the back-mileage charge or surcharge shall be added to the amount recorded by the meter. Each meter charge shall be collected only once regardless of whether the taxicab is being used in exclusive service or in nonexclusive service.

(j) *Hail by a person in a wheelchair.* **A taxicab driver shall respond to a hail by a person in a wheelchair and immediately inform his dispatcher of a request for taxicab service by a person in a wheelchair if that taxicab driver is unable to provide WAV taxicab service.**

(k) *Identification of passenger in a wheelchair.* Upon initiation of taxicab service, a taxicab driver shall identify the passenger as a person in a wheelchair through the meter as provided in § 1017.24(d) (relating to meter activation and display). A driver



may make the identification required under this section only if the passenger is a person in a wheelchair.

[Pa.B. Doc. No. 13-1987. Filed for public inspection October 25, 2013, 9:00 a.m.]

## STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[ 49 PA. CODE CHS. 47—49 ]

### Qualifications for Licensure

The State Board of Social Workers, Marriage and Family Therapists and Professional Counselors (Board) proposes to amend §§ 47.12c, 48.13 and 49.13 (relating to licensed clinical social worker; licensed MFT; and licensed professional counselor) to read as set forth in Annex A.

#### *Effective Date*

This proposed rulemaking will be effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Statutory Authority*

Section 6(2) of the Social Workers, Marriage and Family Therapists and Professional Counselors Act (act) (63 P. S. § 1906(2)) authorizes the Board to adopt and revise rules and regulations as may be necessary to carry into effect the provisions of the act.

#### *Background and Need for this Proposed Rulemaking*

The act of March 14, 2012 (P. L. 191, No. 17) (Act 17) amended the act by revising some of the qualifications for licensure as a licensed clinical social worker, licensed marriage and family therapist and licensed professional counselor. This proposed rulemaking implements Act 17.

#### *Description of Proposed Rulemaking*

Section 47.12c(a)(5) is proposed to be amended to delete “3 years or” and the definition of “3 years of supervised clinical experience.” Act 17 deleted the language that permitted an applicant to be licensed if they had “completed at least 3 years or 3,000 hours” of supervised clinical experience. The language proved confusing to applicants. This proposed deletion makes the definition describing what constitutes 3 years of supervised clinical experience unnecessary. In addition, Act 17 added an option of holding an Academy of Certified Social Workers Certificate issued by the National Association of Social Workers prior to January 1, 2001, instead of the 3,000 hours of supervised clinical experience. This rulemaking proposes to add that language. Subsection (b)(2) is proposed to be amended to provide that “at least 1/2 the required hours” be supervised by a clinical social worker to be consistent with the proposed amendments to §§ 48.13 and 49.13.

Section 48.13 is proposed to be amended to incorporate a change made by Act 17 to permit applicants for licensure as a licensed marriage and family therapist to have completed a master’s degree of less than 48 semes-

ter hours or 72 quarter hours granted on or before June 30, 2009 (instead of by March 2, 2007). Essentially, this extension from 2007 to 2009 opens up the option of licensure to additional candidates who do not currently qualify. In addition, Act 17 reduced the number of hours of required supervised clinical experience from 3,600 to 3,000 hours for individuals who have completed a master’s degree. Act 17 also deleted the confusing “3 years or,” “2 years or” and “1 year or” language in favor of maintaining the more definite 3,000 hours, 2,400 hours and 1,200 hours in subsection (a)(4)(i) and (ii). In addition, subsection (b)(2) is proposed to be amended to provide that at least 1/2 of the required supervised clinical experience shall be supervised by a marriage and family therapist. Subsection (b)(9) is proposed to be amended to require no less than 500 hours and no more than 1,800 hours of supervised clinical experience may be credited in any 12-month period. The minimum number of hours was adjusted due to the reduction in the total number of hours that may be completed over a maximum 6-year period to 3,000. The maximum number of hours was maintained at 1,800 to minimize disruption to individuals already working toward licensure.

Section 49.13 is proposed to be amended in a similar fashion as § 48.13 to permit a candidate for licensure as a licensed professional counselor to have completed a master’s degree of less than 48 semester hours or 72 quarter hours, so long as the degree was granted on or before June 30, 2009; reducing the number of hours of required supervised clinical experience to 3,000; deleting confusing language; and adjusting the minimum number of hours completed in a given 12-month period.

#### *Fiscal Impact*

The proposed rulemaking will benefit those individuals who now qualify for licensure without the required 48 semester hour master’s degree in that they will not have to return to school to obtain a 48 semester hour/72 quarter hours master’s degree. It will also benefit applicants for licensure as licensed marriage and family therapists and licensed professional counselors who can become licensed sooner by not having to complete (and sometimes pay for) 600 additional hours of supervised clinical experience. The proposed rulemaking is not expected to have other fiscal impact on the regulated community, the private sector, the general public or political subdivisions in this Commonwealth.

#### *Paperwork Requirements*

The proposed rulemaking will require the Board to alter some of its application forms to reflect the revised qualifications for licensure. However, the proposed rulemaking will not create additional paperwork for the regulated community or the private sector.

#### *Sunset Date*

The Board continuously monitors the effectiveness of its regulations on a fiscal year and biennial basis. Therefore, a sunset date has not been assigned.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 16, 2013, the Board submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections must specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Board, the General Assembly and the Governor of comments, recommendations or objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Cynthia Montgomery, Regulatory Counsel, State Board of Social Workers, Marriage and Family Therapists and Professional Counselors, P.O. Box 2649, Harrisburg, PA 17105-2649 within 30 days following publication of this proposed rulemaking in the Pennsylvania Bulletin. Reference 16A-6921—Qualifications for Licensure on comments submitted.

Laura Hinds, MSW, LSW, Chairperson

Fiscal Note: 16A-6921. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 47. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

LICENSURE

§ 47.12c. Licensed clinical social worker.

(a) Conditions for licensure. To be issued a license to hold oneself out as a licensed clinical social worker, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

\* \* \* \* \*

(5) [ Completed ] Has completed at least [ 3 years or ] 3,000 hours of supervised clinical experience meeting the criteria in subsection (b) after completion of the master's degree in social work or holds an Academy of Certified Social Workers Certificate issued by the National Association of Social Workers prior to January 1, 2001. [ For purposes of this paragraph, "3 years of supervised clinical experience" means three 12-month periods during each of which the applicant has completed at least 1,000 hours of supervised clinical experience meeting the requirements in subsection (b). ] Supervision for the clinical experience shall be provided by a supervisor as defined in §§ 47.1 and 47.1a (relating to definitions; and qualifications for supervisors).

(b) Supervised clinical experience. Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of clinical social work consistent with the applicant's education and training, and conforms to the following:

\* \* \* \* \*

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in §§ 47.1 and 47.1a. However, at least [ 1,500 ] 1/2 of the required hours shall be supervised by a supervisor meeting the qualifications in § 47.1a(1) and (3).

\* \* \* \* \*

CHAPTER 48. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF MARRIAGE AND FAMILY THERAPISTS

LICENSURE

§ 48.13. Licensed MFT.

(a) Conditions for licensure. To be issued a license to hold oneself out as a licensed MFT, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

\* \* \* \* \*

(3) Successfully met one of the following educational requirements:

(i) [ By March 2, 2007, has ] Has completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework which is closely related to marriage and family therapy as defined in § 48.1 (relating to definitions), including one of the following:

(A) A master's degree granted on or before June 30, 2009, in marriage and family therapy from an accredited educational institution.

(B) A master's degree granted on or before June 30, 2009, in a field closely related to the practice of marriage and family therapy as defined in § 48.1 from an accredited educational institution, with graduate level coursework in marriage and family therapy as defined in § 48.1 and § 48.2 (relating to educational requirements) from an accredited educational institution or from a program recognized by a National accrediting agency as defined in § 48.1.

\* \* \* \* \*

(4) Has met the following experience requirements:

(i) Individuals who meet the education requirements of paragraph (3)(i) or (ii), shall have completed at least [ 3 years or 3,600 ] 3,000 hours of supervised clinical experience meeting the criteria in subsection (b), obtained after the completion of 48 semester hours or 72 quarter hours of graduate coursework. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 48.1.

(ii) Individuals who meet the education requirements of paragraph (3)(iii) or (iv) shall have completed at least [ 2 years or ] 2,400 hours of supervised clinical experience which meets the criteria in subsection (b), [ 1 year or ] 1,200 hours of which was obtained subsequent to the granting of the doctoral degree. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 48.1.

(b) Supervised clinical experience. Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of marriage and family therapy consistent with the applicant's education and training.

\* \* \* \* \*

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in § 48.1 and § 48.3

(relating to qualifications for supervisors). However, [ 1,800 ] at least 1/2 of the required hours shall be supervised by a supervisor meeting the qualifications in § 48.3(1) or (3).

\* \* \* \* \*

(9) The supervised clinical experience shall be completed in no less than 2 years and no more than 6 years, except that no less than [ 600 ] 500 hours and no more than 1,800 hours may be credited in any 12-month period.

\* \* \* \* \*

**CHAPTER 49. STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS—LICENSURE OF PROFESSIONAL COUNSELORS**

**LICENSE**

**§ 49.13. Licensed professional counselor.**

(a) *Conditions for licensure.* To be issued a license to hold oneself out as a licensed professional counselor, an applicant shall provide proof satisfactory to the Board, that the applicant has met the following conditions:

\* \* \* \* \*

(3) Successfully met one of the following education requirements:

(i) [ **By March 2, 2007, has** ] **Has** successfully completed a planned program of 60 semester hours or 90 quarter hours of graduate coursework in counseling or a field closely related to the practice of professional counseling as defined in § 49.1 (relating to definitions) including one of the following:

(A) A master's degree **granted on or before June 30, 2009**, in professional counseling from an accredited education institution.

(B) A master's degree **granted on or before June 30, 2009**, in a field closely related to the practice of professional counseling as defined in § 49.1 from an accredited educational institution.

\* \* \* \* \*

(4) Has met the following experience requirements:

(i) Individuals who met the educational requirements of paragraph (3)(i) or (ii), shall have completed at least [ **3 years or 3,600** ] **3,000** hours of supervised clinical experience meeting the criteria in subsection (b), obtained after the completion of 48 semester hours or 72 quarter hours of graduate coursework. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in § 49.1 and § 49.3 (relating to qualifications for supervisors).

(ii) Individuals who meet the educational requirements of paragraph (3)(iii) or (iv) shall have completed at least [ **2 years or** ] 2,400 hours of supervised clinical experience meeting the criteria in subsection (b), [ **1 year or** ] 1,200 hours of which was obtained subsequent to the granting of the doctoral degree. Supervision for the supervised clinical experience shall be provided by a supervisor as defined in §§ 49.1 and 49.3.

(b) *Supervised clinical experience.* Experience acceptable to the Board means experience as a supervisee in a setting that is organized to prepare the applicant for the practice of counseling consistent with the applicant's education and training.

\* \* \* \* \*

(2) Supervision for the clinical experience shall be provided by a supervisor as defined in § 49.1. [ **Eighteen hundred** ] **At least 1/2 of the required** hours shall be supervised by a supervisor meeting the qualifications in § 49.3(1) and (3).

\* \* \* \* \*

(9) The supervised clinical experience shall be completed in no less than 2 years and no more than 6 years, except that no less than [ **600** ] **500** hours and no more than 1,800 hours may be credited in any 12 month period.

\* \* \* \* \*

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