

RULES AND REGULATIONS

Title 22—EDUCATION

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 14]

Special Education Services and Programs; Intellectual Disability Terminology Update

The State Board of Education (Board) amends Chapter 14 (relating to special education services and programs) to read as set forth in Annex A in this final-omitted rulemaking.

Statutory Authority

The Board adopts this final-omitted rulemaking under the authority granted by sections 1372 and 2603-B of the Public School Code of 1949, as amended (24 P.S. §§ 13-1372 and 26-2603-B).

Purpose

This final-omitted rulemaking amends §§ 14.123—14.125, 14.132, 14.143 and 14.162 by replacing the term “mental retardation” with the term “intellectual disability” and by replacing the term “mentally retarded” with the term “intellectual disability.” These terminology updates are presented for clarity and for consistency with Rosa’s Law (Pub.L. No. 111-256); the regulations found at 34 CFR 300.8(a)(1), (c)(6) and (7) and (10)(ii), 300.309(a)(3)(ii) and 300.311(a)(6); and the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704).

Background

Currently, the regulations in Chapter 14 use the terms “mental retardation” and “mentally retarded.” Rosa’s Law (Pub.L. No. 111-256) amended sections 7(21)(A)(iii), 204(b)(2)(C)(v) and 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. §§ 705(21)(A)(iii), 764(b)(2)(C)(v) and 791(a)), sections 601(c)(12)(C) and 602(3)(A)(i) and 30(C) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400(c)(12)(C) and 1401(3)(A)(i) and (30)(C)), section 760(2)(A) of the Higher Education Act of 1965 (20 U.S.C. § 1140(2)(A)) and section 7202(16)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 7512(16)(E)) (subsequently renumbered as section 6202(16)(E) and repealed), by removing the term “mental retardation” and replacing it with the term “intellectual disability.” See also 82 FR 31910 (July 11, 2017). The act of November 22, 2011 (P.L. 420, No. 105) amended the Mental Health and Mental Retardation Act of 1966 to read as the “Mental Health and Intellectual Disability Act of 1966” and replaced the defined term and references to “mental retardation” with “intellectual disability.”

The Board amends the terminology currently used in Chapter 14 to be consistent with the aforementioned changes in terminology that were enacted in Federal and State law. This final-omitted rulemaking supports individuals with an intellectual disability by replacing the terms “mentally retarded” and “mental retardation” with the term “intellectual disability.” The benefit of this final-omitted rulemaking is to promote respect, community integration and an array of opportunities for an individual with an intellectual disability by using words that are positive and up to date in the Board’s regulations.

Summary of this Final-Omitted Rulemaking

This final-omitted rulemaking amends §§ 14.123, 14.124(a), 14.125(3)(ii), 14.132(a)(2)(vii) and (d), 14.143(b) and 14.162(a).

Amendments to these sections replace the term “mental retardation” with the term “intellectual disability.”

§§ 14.124(c) (*Reevaluation*) and 14.162(a) (*Impartial due process hearing and expedited due process hearing*)

Amendments to these sections replace the term “mentally retarded” with the term “intellectual disability.”

Affected Parties

This final-omitted rulemaking will affect public school entities, including school districts, area career and technical schools, intermediate units and their employees. This final-omitted rulemaking will also affect citizens of this Commonwealth with school-aged children and their school-aged children.

Fiscal Impact and Paperwork Estimates

This final-omitted rulemaking makes amendments for clarity and for consistency with Rosa’s Law (Pub.L. No. 111-256) and the Mental Health and Intellectual Disability Act of 1966. This final-omitted rulemaking does not establish new requirements that carry an additional cost or create new paperwork requirements for the regulated community.

Effective Date

This final-omitted rulemaking will take effect upon notice or publication in the *Pennsylvania Bulletin*.

Sunset Date

The Board will review the effectiveness of Chapter 14 every 4 years in accordance with the Board’s policy and practice regarding its regulations. Thus, no sunset date is necessary.

Omission of Proposed Rulemaking

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the Commonwealth Documents Law (45 P.S. § 1204(3)) and 1 Pa. Code § 7.4(3) (relating to omission of notice of proposed rulemaking), because the Board finds for good cause that the proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest. Under Federal and State law, the terminology “intellectual disability” has replaced the archaic terminology “mental retardation.” See Rosa’s Law (Pub.L. No. 111-256) and the Mental Health and Intellectual Disability Act of 1966.

Although this final-omitted rulemaking is not mandated by any Federal or State law, court orders or Federal regulations, this final-omitted rulemaking is in conformance with Federal and State law. See Rosa’s Law (Pub.L. No. 111-256) and the Mental Health and Intellectual Disability Act of 1966. Because these amendments are for the purpose of making the terminology in the Board’s regulations consistent with the terminology used in Federal and State law, it is unnecessary to hold a public comment period because the Federal and State law dictate the terminology used and consideration of alternative constructs through public comment would be inconsistent with terminology used elsewhere.

Further, individuals affected by an intellectual disability, friends and family members of affected individuals,

providers of services and supports for individuals with an intellectual disability, and county mental health/intellectual disability programs support the use of the up-to-date and appropriate term “intellectual disability” to replace the archaic term “mental retardation.” This final-omitted rulemaking promotes respect, community integration and an array of opportunities for an individual with an intellectual disability by using a term that is positive and up to date.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act, (71 P.S. § 745.5a(c)), on August 2, 2023, the Board submitted a copy of this final-omitted rulemaking, and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the chairperson of the Education Committee of the Senate and the chairperson of the Education Committee of the House of Representatives. On the same date, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on September 20, 2023, this final-omitted rulemaking was deemed approved by the Education Committee of the Senate and the Education Committee of the House of Representatives. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 21, 2023, and approved this final-omitted rulemaking.

Contact Person

Interested persons may contact Karen Molchanow, Executive Director, State Board of Education, ra-stateboardofed@pa.gov, 333 Market Street, 1st Floor, Harrisburg, PA 17126.

Findings

The Board finds that:

(a) Notice of proposed rulemaking is omitted in accordance with section 204(3) of the Commonwealth Documents Law and 1 Pa. Code § 7.4(3). The affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability and educational programs have previously indicated their support the use of the up-to-date and appropriate term “intellectual disability.” This final-omitted rulemaking promotes respect, community integration and an array of opportunities for an individual with an intellectual disability by using a term that is positive and up to date. The Federal government also has indicated its support for the use of the up-to-date and appropriate term “intellectual disability.” Additionally, public comment will not change the terminology used. Therefore, the Board, based on the reasons previously stated, finds that notice of proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest.

(b) The amendment of the regulations in the manner provided in this order is necessary and appropriate for the administration of the Board’s regulations in Chapter 14.

Order

Acting under the authority of the Public School Code of 1949, the Board orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 14, are amended by amending §§ 14.123—14.125, 14.132, 14.143 and 14.162 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director of the Board shall submit a copy of this final-omitted rulemaking to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form, as required by law.

(c) The Executive Director of the Board shall submit this final-omitted rulemaking to IRRC and the Education Committee of the Senate and the Education Committee of the House of Representatives, as required by law.

(d) The Executive Director of the Board shall certify this final-omitted rulemaking, as approved for legality and form, and deposit it with the Legislative Reference Bureau as required by law.

(e) This final-omitted rulemaking shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

KAREN MOLCHANOW,
Executive Director

(*Editor’s Note:* See 53 Pa.B. 6319 (October 7, 2023) for IRRC’s approval.)

Fiscal Note: 6-341. No fiscal impact; recommends adoption.

Annex A

TITLE 22. EDUCATION

PART I. STATE BOARD OF EDUCATION

Subpart A. MISCELLANEOUS PROVISIONS

CHAPTER 14. SPECIAL EDUCATION SERVICES AND PROGRAMS

CHILD FIND, SCREENING AND EVALUATION

§ 14.123. Evaluation.

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, intellectual disability, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

* * * * *

§ 14.124. Reevaluation.

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.303 (relating to reevaluations), shall include a certified school psychologist when evaluating a child for autism, emotional disturbance, intellectual disability, multiple disabilities, other health impairment, specific learning disability and traumatic brain injury.

* * * * *

(c) Students with disabilities who are identified as having an intellectual disability shall be reevaluated at least once every 2 years.

* * * * *

§ 14.125. Criteria for the determination of specific learning disabilities.

This section contains the State-level criteria for determining the existence of a specific learning disability. Each school district and intermediate unit shall develop procedures for the determination of specific learning disabilities that conform to criteria in this section. These procedures shall be included in the school district’s and intermediate unit’s special education plan in accordance with § 14.104(b) (relating to special education plans). To determine that a child has a specific learning disability, the school district or intermediate unit shall:

* * * * *

(3) Have determined that its findings under this section are not primarily the result of:

- (i) A visual, hearing or orthopedic disability.
- (ii) Intellectual disability.
- (iii) Emotional disturbance.
- (iv) Cultural factors.
- (v) Environmental or economic disadvantage.
- (vi) Limited English proficiency.

* * * * *

IEP

§ 14.132. ESY.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.106 (relating to extended school year services), school entities shall use the following standards for determining whether a student with disabilities requires ESY as part of the student's program:

* * * * *

(2) In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors; however, no single factor will be considered determinative:

* * * * *

(vii) Whether the student's disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe intellectual disability, degenerative impairments with mental involvement and severe multiple disabilities.

* * * * *

(d) Students with severe disabilities such as autism/pervasive developmental disorder, serious emotional disturbance; severe intellectual disability; degenerative impairments with mental involvement; and severe multiple disabilities require expeditious determinations of eligibility for ESY services to be provided as follows:

* * * * *

EDUCATIONAL PLACEMENT

§ 14.143. Disciplinary placements.

* * * * *

(b) A removal from school is a change of placement for a student who is identified with an intellectual disability, except if the student's actions are consistent with 34 CFR 300.530(g)(1)—(3) (relating to authority of school personnel).

PROCEDURAL SAFEGUARDS

§ 14.162. Impartial due process hearing and expedited due process hearing.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.504 (relating to procedural safeguard notice), with regard to a student who has an intellectual disability or who is thought to have an intellectual disability, a notice when mailed shall be issued to the parent by certified mail (addressee only, return receipt requested).

* * * * *

[Pa.B. Doc. No. 23-1675. Filed for public inspection December 1, 2023, 9:00 a.m.]

Title 22—EDUCATION

DEPARTMENT OF EDUCATION

[22 PA. CODE CH. 711]

Charter School and Cyber Charter School Services and Programs for Children with Disabilities; Intellectual Disability Terminology Update

The Department of Education (Department) amends Chapter 711 (relating to charter school and cyber charter school services and programs for children with disabilities) by replacing the term “mental retardation” with the term “intellectual disability” and by replacing the term “mentally retarded” with “an individual with an intellectual disability” as set forth in Annex A.

Statutory Authority

The Department adopts this final-omitted rulemaking under the authority granted by sections 1701-A—1732-A, 1749-A(b)(8) and 1751-A of the Public School Code of 1949, as amended, (24 P.S. §§ 17-1701-A—17-1732-A, 17-1749-A(b)(8) and 17-1751-A).

Omission of Proposed Rulemaking

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the Commonwealth Documents Law (45 P.S. § 1204(3)) and 1 Pa. Code § 7.4(3) (relating to omission of notice of proposed rulemaking) because the Department finds for good cause that the proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest. Under Federal and State law, the terminology “intellectual disability” has replaced the archaic terminology “mental retardation” and “mentally retarded.” See Rosa’s Law (Pub.L. No. 111-256) and the Mental Health and Intellectual Disability Act of 1966 (50 P.S. §§ 4101—4704).

Although this regulation is not mandated by any Federal or State law, court orders, or Federal regulations, this final-omitted rulemaking is in conformance with Federal and State law. See Rosa’s Law (Pub.L. No. 111-256) and the Mental Health and Intellectual Disability Act of 1966. Because the amendments are for the purpose of making the terminology in the regulations consistent with the terminology used in Federal and State law, it is unnecessary to hold a public comment period because the Federal and State law dictate the terminology used and public comment would not change the terminology used.

Further, the affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability and county mental health/intellectual disability programs support the use of the up-to-date and appropriate term “intellectual disability” to replace the archaic terms “mental retardation” and “mentally retarded.” This final-omitted rulemaking promotes respect, community integration and an array of opportunities for an individual with an intellectual disability by using a term that is positive and up to date, and the Department seeks to make this regulatory change in an expeditious manner.

Purpose

This final-omitted rulemaking amends §§ 711.22, 711.24, 711.25, 711.44 and 711.61 by replacing the term “mental retardation” with the term “intellectual disability” and by replacing the term “mentally retarded” with “having an intellectual disability” for clarity and for

consistency with Rosa's Law (Pub.L. No. 111-256), the regulations found at 34 CFR 300.8(a)(1), (c)(6), (7) and (10)(ii), 300.309(a)(3)(ii) and 300.311(a)(6) (relating to child with a disability; determining the existence of a specific learning disability; and specific documentation for the eligibility determination); and the Mental Health and Intellectual Disability Act of 1966.

Background

Currently, regulations in Chapter 711 use the term "mental retardation." Rosa's Law (Pub.L. No. 111-256) amended sections 7(21)(A)(iii), 204(b)(2)(C)(v) and 501(a) of the Rehabilitation Act of 1973 (29 U.S.C. §§ 705(21)(A)(iii), 764(b)(2)(C)(v) and 791(a)), sections 601(c)(12)(C) and 602(3)(A)(i) and 30(C) of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. §§ 1400(c)(12)(C) and 1401(3)(A)(i) and (30)(C)), section 760(2)(A) of the Higher Education Act of 1965 (20 U.S.C. § 1140(2)(A)) and section 7202(16)(E) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. § 7512(16)(E)) (subsequently renumbered as section 6202(16)(E) and repealed), by removing the term "mental retardation" and replacing it with the term "intellectual disability." See also 82 FR 31910 (July 11, 2017), Rules and Regulations. The act of November 22, 2011 (P.L. 420, No. 105) amended the Mental Health and Mental Retardation Act of 1966 (50 P.S. §§ 4101—4704) to read as the "Mental Health and Intellectual Disability Act of 1966" and replaced the defined term and references to "mental retardation" with "intellectual disability."

Affected Parties

This final-omitted rulemaking will affect public, private, parochial and nonpublic schools, including charter schools, cyber charter schools, vocational schools, intermediate units, special education and home education programs, and their employees. This final-omitted rulemaking will also affect citizens of this Commonwealth with school-aged children and their school-aged children.

Fiscal Impact and Paperwork Estimates

This final-omitted rulemaking will make amendments for clarity and for consistency with Rosa's Law, the regulations found at 34 CFR 300.8(a)(1), (c)(6), (7) and (10)(ii), 300.309(a)(3)(ii) and 300.311(a)(6), and the Mental Health and Intellectual Disability Act of 1966. The Department's final-omitted rulemaking does not establish new requirements that carry an additional cost or create new paperwork requirements for the regulated community.

Effective Date

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

Sunset Date

The Department will review the effectiveness of Chapter 711 every 4 years in accordance with the Department's policy and practice regarding its regulations. Thus, no sunset date is necessary.

Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on August 2, 2023, the Department submitted a copy of this final-omitted rulemaking, and a copy of the Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the chairperson of the Education Committee of the Senate and the chairperson of the Education Committee of the House of Representatives. On the same date, the final-omitted regulation was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P.S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on September 20, 2023, this final-omitted regulation was deemed approved by the Education Committee of the Senate and the Education Committee of the House of Representatives. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 21, 2023, and approved this final-omitted regulation.

Public Comments and Contact Person

Although this rulemaking is being adopted without publication as a final-omitted rulemaking, interested persons and individuals affiliated with education are invited to submit written comments, questions, suggestions, commendations, concerns or objections regarding this final-omitted rulemaking to, Carole Clancy, Director, Bureau of Special Education, caclancy@pa.gov, 333 Market Street, Harrisburg, PA 17126, or John Gombocz, Special Education Advisor, jgombocz@pa.gov, 607 South Drive, Harrisburg, PA 17126. Persons with disabilities who require an alternative means of providing public comment may make arrangements by calling John Gombocz at (717) 772-3745.

Findings

The Department finds that:

(a) Notice of proposed rulemaking is omitted in accordance with section 204(3) of the Commonwealth Documents Law and 1 Pa. Code § 7.4(3). The affected individuals with an intellectual disability, friends and family members of affected individuals, providers of services and supports for individuals with an intellectual disability and educational programs support the use of the up-to-date and appropriate term "intellectual disability." This final-omitted rulemaking promotes respect, community integration and an array of opportunities for an individual with an intellectual disability by using a term that is positive and up to date. It is unnecessary to hold a public comment period because Federal and State law dictate the terminology used and public comment would not change the terminology used. Therefore, based on the reasons previously stated, the Department finds that notice of proposed rulemaking is unnecessary and that a delay in the promulgation of these amendments is contrary to the public interest.

(b) The adoption of this final-omitted rulemaking in the manner provided by this Order is necessary and appropriate for the administration and enforcement of the Department's education regulations found in Chapter 711.

Order

The Department, acting under the authorizing statutes, orders that:

(a) The regulations of the Department, 22 Pa. Code Chapter 711, are amended by amending §§ 711.22, 711.24, 711.25, 711.44 and 711.61 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Secretary of Education shall submit this final-omitted rulemaking to the Office of General Counsel and the Office of the Attorney General for review and approval as to legality and form, as required by law.

(c) The Secretary of Education shall submit this final-omitted rulemaking to IRRC and the Education Committee of the Senate and the Education Committee of the House of Representatives, as required by law.

(d) The Secretary of Education shall certify this Order and Annex A, as approved for legality and form, and deposit them with the Legislative Reference Bureau as required by law.

(e) This Order shall take effect upon publication in the *Pennsylvania Bulletin*.

DR. KHALID N. MUMIN,
Secretary

(*Editor’s Note:* See 53 Pa.B. 6319 (October 7, 2023) for IRRC’s approval.)

Fiscal Note: 6-342. No fiscal impact; recommends adoption.

Annex A

TITLE 22. EDUCATION

PART XX. CHARTER SCHOOLS

CHAPTER 711. CHARTER SCHOOL AND CYBER CHARTER SCHOOL SERVICES AND PROGRAMS FOR CHILDREN WITH DISABILITIES

IDENTIFICATION AND EVALUATION

§ 711.22. Reevaluation.

* * * * *

(c) Children with disabilities who are identified as having an intellectual disability shall be reevaluated at least once every 2 years.

§ 711.24. Evaluation.

(a) The group of qualified professionals, which reviews the evaluation materials to determine whether the child is a child with a disability under 34 CFR 300.306 (relating to determination of eligibility), must include a certified school psychologist when evaluating a child for autism, emotional disturbance, intellectual disability, multiple disabilities, other health impairments, specific learning disability or traumatic brain injury.

* * * * *

§ 711.25. Criteria for the determination of specific learning disabilities.

Following are State-level criteria for determining the existence of a specific learning disability. Each charter school and cyber charter school shall develop procedures for the determination of specific learning disabilities that conform to criteria in this section. These procedures shall be included in the school’s charter application and annual report. To determine that a child has a specific learning disability, the charter school or cyber charter school shall:

* * * * *

(3) Have determined that its findings under this section are not primarily the result of any of the following:

- (i) A visual, hearing or orthopedic disability.
- (ii) Intellectual disability.
- (iii) Emotional disturbance.
- (iv) Cultural factors.
- (v) Environmental or economic disadvantage.
- (vi) Limited English proficiency.

* * * * *

IEP

§ 711.44. ESY.

(a) In addition to the requirements incorporated by reference in 34 CFR 300.106 (relating to extended school year services), charter schools and cyber charter schools shall use the following standards for determining whether a student with disabilities requires ESY as part of the student’s program:

* * * * *

(2) In considering whether a student is eligible for ESY services, the IEP team shall consider the following factors, however, no single factor will be considered determinative:

* * * * *

(vii) Whether the student’s disability is severe, such as autism/pervasive developmental disorder, serious emotional disturbance, severe intellectual disability, degenerative impairments with mental involvement and severe multiple disabilities.

* * * * *

(d) Students with severe disabilities such as autism/pervasive developmental disorder, serious emotional disturbance; severe intellectual disabilities; degenerative impairments with mental involvement; and severe multiple disabilities require expeditious determinations of eligibility for ESY services to be provided as follows:

* * * * *

PROCEDURAL SAFEGUARDS

§ 711.61. Suspension and expulsion.

* * * * *

(c) Any removal from the current educational placement is a change of placement for a student who is identified with an intellectual disability.

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[Pa.B. Doc. No. 23-1676. Filed for public inspection December 1, 2023, 9:00 a.m.]

Title 67—TRANSPORTATION

TURNPIKE COMMISSION

[67 PA. CODE CH. 601]

Traffic Regulations

The Turnpike Commission (Commission) hereby amends Chapter 601 (relating to traffic regulations) to read as set forth in Annex A. Specifically, the Commission amends §§ 601.1, 601.3, 601.5, 601.9, 601.12—601.15, 601.17, 601.18 and 601.101—601.103.

A. Statutory Authority

The Commission is publishing this final-form rulemaking under the authority of sections 4 and 12 of the act of May 21, 1937 (P.L. 774, No. 211), referred to as the Pennsylvania Turnpike Commission Act (act) (36 P.S. §§ 652d and 652l); 74 Pa.C.S. §§ 8102, 8107, 8116 and 8117; and 75 Pa.C.S. §§ 6110 and 6110.1 (relating to regulation of traffic on Pennsylvania Turnpike; and fare evasion).

B. Purpose of this Final-Form Rulemaking

This final-form rulemaking establishes the Commission’s statutory authority to promulgate traffic regulations that promote the health, safety and welfare of the Commission’s customers traveling on the Turnpike System. The amendments to Chapter 601 amend and improve the regulations and reflect the Commission’s conversion to a cashless tolling system, that is, all electronic tolling (AET). The amendments include new policies and procedures regarding special hauling permits for over-dimensional/overweight vehicles, update the regulations and chart regarding the transportation of hazardous materials through Turnpike tunnels and revise language regarding vehicles excluded from the Turnpike System

and tandem trailer combinations. The amended regulations also address recent statutory amendments to electronic toll collection and fare evasion. Additional changes include clarifying existing language, deleting or revising obsolete language and other editorial amendments.

C. *Explanation of this Final-Form Rulemaking*

§ 601.1. *Definitions*

The definition of “Class 9 vehicle” is amended to “over-dimensional/overweight vehicle” in conjunction with the revisions to § 601.14 (relating to over-dimensional/overweight vehicles) and the implementation of a new special hauling permitting process. As part of the Commission’s conversion to a cashless tolling system, the Commission has updated and modernized its long-standing Class 9 toll rate for use with AET and the revised permitting process. The phrase “combination of vehicles” is added to clarify that an “over-dimensional/overweight vehicle” could represent other forms of combinations, including tandems. Section 102 of 75 Pa.C.S. (relating to definitions) defines “combination” as “two or more vehicles physically interconnected in tandem.” “Tandem” is defined in § 601.1 (relating to definitions) of the Commission’s regulations “as a truck tractor, semitrailer and trailer.” Therefore, for example, there could be a heavy wrecker (tow truck) towing a bus or a truck tractor. The revised definition also includes the maximum gross weight that may be carried upon any one axle (22,400 pounds).

The definition of “Hazardous material” is amended to reflect the proper citation of said definition as found in 49 CFR Chapter I (relating to pipeline and hazardous materials safety administration, Department of Transportation).

The definition of “max time formula” is deleted because these formulas are determined by business rules rather than a regulation, which the Commission may need to modify periodically.

§ 601.3. *Officers*

This section is amended to reflect the conversion of the Turnpike to a cashless tolling system and deletes references to toll collection and fare booths. The phrase “other officers” is deleted because the word “officers” already appears in the text for § 601.3 (relating to officers). Likewise, the term “maintenance personnel” is deleted because the term “employees” is intended to capture all Commission employees.

§ 601.5. *Hazardous materials*

This section is amended to update the existing chart regarding the Commission’s policies for the transportation of hazardous materials through Turnpike tunnels. The Federal Motor Carrier Safety Administration and the United States Department of Transportation (USDOT) recognize nine classes as the first level of warning for hazardous materials, and multiple placards can fall into those classes. Title 49 of the *Code of Federal Regulations* sets forth the nine hazardous materials classes, listed by class—not placard. See 49 CFR 173.2 (relating to hazardous materials classes and index to hazard class definitions). The definitions for each class are found in various other subsections of 49 CFR Part 173 (relating to shippers—general requirements for shipments and packagings). The hazard class is the overall category of a hazard material, whereas the placard is the recommended sign placed on a vehicle. Because USDOT has multiple placards for some of the classes, the Commission does not want carriers to focus on a single placard for a specific

hazardous materials class. To avoid confusion, the amended chart eliminates “placard name” and now separates hazardous materials classes into prohibited, prohibited in bulk packaging and permitted. Therefore, the amended chart will: (1) recognize and clarify the classes, (2) be easier to read and interpret, and (3) realign the Commission’s regulations to remain consistent with Federal law.

The amended chart updates the status of organic peroxide (Class 5.2) as a prohibited hazardous material, which is the only substantive change to the existing chart. The Commission has already been operating under this change since 2014 to remain consistent with Federal placard revisions required for the highway transportation of organic peroxide, which became mandatory on January 1, 2014. At that time, the Commission updated its web site and guidelines for transporting hazardous materials through its tunnels to include the prohibition of organic peroxide (Class 5.2). Therefore, this will not be a newly disclosed prohibited class for Commission customers, but the amended chart will officially reflect the change that was instituted in 2014. Other amendments to this section are editorial.

§ 601.9. *U-turns*

This section is amended to clarify who may authorize a U-turn on the Turnpike System.

§ 601.12. *Toll collection*

In 2020, the Commission converted to AET, a cashless tolling system that incorporates electronic toll collection. The Commission no longer issues paper tickets and all tolls are collected by electronic toll collection as defined in 74 Pa.C.S. § 8102 (relating to definitions), which includes E-ZPass and license plate imaging captured by cameras or similar technology (Toll By Plate). Section 8116 of 74 Pa.C.S. (relating to collection and disposition of tolls and other revenue) establishes the Commission’s statutory authority to charge and collect tolls, including the right to authorize, fix and revise toll rates for use of the Turnpike System. Section 12 of the act provides similar language. The language of both statutes grants the Commission broad discretion regarding tolling and demonstrates a clear legislative intent that the Commission shall have the sole authority to establish the most efficient and modern methods regarding the collection of tolls. No other governmental entity or agency in the Commonwealth has been granted these powers, which further proves the legislature’s intent that the Commission rely on its operational experience and tolling expertise to determine the best way to collect tolls on the Turnpike System.

This section is renamed “Toll collection” formerly “Toll tickets” and is fully amended to reflect the conversion to AET. The new language incorporates the definition of “electronic toll collection” which includes the implementation of license plate tolling and any other technology used to identify vehicles traveling the Turnpike System and a citation to 74 Pa.C.S. § 8116.

§ 601.13. *Evasion of fare*

The General Assembly enacted the act of November 25, 2013 (P.L. 974, No. 89) and codified the language of 75 Pa.C.S. § 6110.1, which sets the penalties for fare evasion or attempted fare evasion committed on the Turnpike System, including any affirmative actions, which is a misdemeanor of the third degree. Section 601.13 (relating to evasion of fare) is amended to reference the language and penalties set forth in 75 Pa.C.S. § 6110.1. This section is also amended to reflect the

elimination of paper toll tickets as part of the Commission's conversion to a cashless tolling system.

The General Assembly enacted the act of November 3, 2022 (P.L. 1734, No. 112), which amended the language contained in 75 Pa.C.S. § 6110.1(f) relating to "affirmative action" to incorporate the Commission's conversion to electronic toll collection. The 2022 amendments to 75 Pa.C.S. § 6110.1 were codified nearly a year and a half after the publication of the Commission's proposed rulemaking published at 51 Pa.B. 3347 (June 19, 2021) and the Independent Regulatory Review Commission's (IRRC) subsequent August 18, 2021, comments.

In response to comments received from IRRC, subsection (c) is added to § 601.13 in Annex A of this final-form rulemaking, which lists the actions that constitute "affirmative action" for fare evasion or attempted fare evasion with reference to 75 Pa.C.S. § 6110.1(f). Accordingly, the Commission deletes previously proposed language in § 601.13(b)(2.1) and (3.1) because similar language appears in 75 Pa.C.S. § 6110.1(f) which is now included in the § 601.13(c). Specifically, the proposed language in § 601.13(b)(2.1) now appears in § 601.13(c)(6) of this final-form rulemaking, and the proposed language in § 601.13(b)(3.1) now appears in § 601.13(c)(1). Moreover, to remain consistent, the Commission deletes the existing language in § 601.13(b)(1) because similar language exists in 75 Pa.C.S. § 6110.1(f)(5), which is added to this final-form rulemaking as § 601.13(c)(5).

As suggested by IRRC, the changes discussed previously to § 601.13 in Annex A of this final-form rulemaking help bring clarity to the Commission's fare evasion regulation. The changes are not substantive and will incorporate the 2022 amendments already made by the General Assembly to 75 Pa.C.S. § 6110.1(f).

§ 601.14. Over-dimensional/overweight vehicles

As stated previously, the definition of a "Class 9 vehicle" found in § 601.1 is amended to an "over-dimensional/overweight vehicle." Accordingly, this section is renamed and amended to reflect the Commission's revised policies and procedures for issuing special hauling permits for over-dimensional/overweight vehicles. To foster uniformity within the trucking/hauling industry, and consistency with other entities using a similar permitting process, such as PennDOT and the Ohio Turnpike Commission, the Commission will now charge a separate fee for a special hauling permit in addition to regular toll rates. First, operators of over-dimensional/overweight vehicles must apply for a special hauling permit and pay a \$37 flat fee along with an additional 24 cent-per-ton-mile fee on all weight in excess of 80,000 pounds (if applicable). Second, all appropriate tolls are assessed according to the vehicle classification system in place and then paid in lane by E-ZPass or Toll By Plate at the time of travel.

As part of its conversion to AET, the Commission's long-standing Class 9 toll rate is updated for use with the revised permitting process that includes a new toll rate which is now equal to the significantly lower Class 8 toll rate. The former Class 9 toll was always higher than other tolling rates because of the need for the Commission to affect repairs to the Turnpike System from damage done by over-dimensional/overweight vehicles. The pre-AET Class 9 rate had these costs built into the toll rate and represented the cost for carriers to travel on the Turnpike System, in effect a user fee. However, due to the revised toll rates under AET, the revised permitting system will result in revenue/cost neutrality for the

Commission and the carriers and customers impacted by the new procedures. Moreover, the revised permitting system will not impose new or restrictive conditions on said carriers or customers traveling on the Turnpike System.

The amendments to this section also revise the language regarding escorts for vehicles with excessive width, length, height or weight. As suggested in IRRC's comments, the Commission amends § 601.14(a) in this final-form rulemaking to include the Commission's web site to direct and alert customers on how to request and obtain a special hauling permit.

§ 601.15. Vehicles excluded from the Turnpike

To be consistent with the amendments to § 601.14, this section is amended to replace the term "Class 9 vehicle" with "over-dimensional/overweight vehicle" and the requirement to obtain a special hauling permit before these vehicles can travel on the Turnpike System. This section is also amended to prohibit certain vehicles on the Turnpike System during adverse travel conditions. Weather-related exclusions are already permitted under § 601.15(a) (relating to vehicles excluded from the Turnpike). The Commission's intent is to exclude certain vehicles, as already listed in § 601.15(a), from the Turnpike System for non-weather-related travel conditions as determined by the Commission. For example, closure of a bridge due to structural damages, such as the Delaware Bridge in 2017 or a truck fire in a tunnel.

§ 601.17. Authorized vehicle

The amendments to this section clarify existing language or are editorial.

§ 601.18. Accident prevention investigations

The amendment to this section is editorial.

§ 601.101. Length limit for tandems

To be consistent with the amendments to § 601.14, this section is amended to replace the term "Class 9 vehicle" with "over-dimensional/overweight vehicle" and the requirement to obtain a special hauling permit regarding tandem combinations exceeding 85 feet in length.

§ 601.102. Weight and dimensional limits for tandems

To be consistent with the amendments to § 601.14, this section is amended to replace the term "Class 9 vehicle" with "over-dimensional/overweight vehicle" and the requirement to obtain a special hauling permit regarding tandem combinations. The Commission deletes the sentence "[t]he maximum gross weight that may be carried upon any one axle may not exceed 22,400 pounds" because it is redundant and could be confusing to carriers when read in conjunction with the newly defined "over-dimensional/overweight vehicle." Likewise, obsolete language regarding excessive maximum gross axle weight and upgrading to the next higher vehicle classification is also deleted.

§ 601.103. Exclusion of tandem truck trailers

This section is amended to update the proper citation for the definition of "hazardous materials, substances or wastes" as found in 49 CFR Chapter I (relating to pipeline and hazardous materials safety administration, Department of Transportation).

D. Response to Comments and Summary of Changes

The Commission received no public comments from the regulated community or the general public during the public comment period, which closed on July 19, 2021. On August 18, 2021, the Commission received comments to

its proposed rulemaking from IRRC. The Commission's responses to IRRC's comments are set forth as follows with explanation of any changes made to the proposed rulemaking:

1. *Compliance with the provisions of the RRA or the regulations of IRRC in promulgating the regulation; Possible conflict with statutes and regulations.*

IRRC asked the Commission to identify how many of the approximately 800 registered vendors/businesses with former "Class 9" accounts as reported in the Regulatory Analysis Form (RAF) for 2018-2019 would be considered small businesses, and if so, how many. The Commission has no identifiable method for answering IRRC's question because it does not collect this data or records and does not ask whether a customer applying for a permit is operating as a small business. In the past, including 2018-2019, the Commission has not requested or required personal information from former "Class 9" permit applicants including financial information, business practices, proof of business level (specifically, whether the permit applicant is a business or small business), or other related information. In short, the Commission would have no way of knowing whether a customer applying for a permit is a small business. The Commission does not request this information now with its special hauling permits and accounts and it is not a requirement of this final-form rulemaking. Requesting the business status or classification of a customer applying for a permit could be interpreted as discriminatory in nature. Moreover, the Commission does not require this information to set up an account or process an application for a permit.

In its answers to RAF # 15 and # 17, the Commission explained that all customers operating an over-dimensional/overweight vehicle on the Turnpike System shall be required to comply with this final-form rulemaking and register and obtain a special hauling permit, formally referred to as a "Class 9" permit. Accordingly, the requirements for a special hauling permit are applied equally to any person, business, small business or an organization, as were the former "Class 9" permits in 2018-2019. As detailed by the Commission's answers in RAF # 15, # 17, # 24 and # 27, there is no significant financial/economic or adverse impact to small business, or any permit applicant, because the final-form regulations are revenue/cost neutral when compared to the previous regulations. These final-form regulations amend and revise procedures that already exist and have been in place with the Commission for decades. Moreover, the revised regulations for registering and obtaining a special hauling permit—which all applicants were already required to comply with—will not impose new or restrictive conditions on customers traveling on the Turnpike System (including small businesses).

IRRC asked the Commission to explain how its fiscal impact statement is consistent with section 612 of The Administrative Code of 1929 (71 P.S. § 232), its accompanying regulations at 4 Pa. Code §§ 7.231—7.234 (relating to fiscal notes) and the Regulatory Review Act (71 P.S. §§ 745.1—745.14). In November 2021, the Commission contacted the Chief Counsel for the Office of the Budget (OB) seeking confirmation on whether the Commission is required to submit a fiscal note for its proposed rulemaking. The OB discussed the issue internally and decided that the OB would not produce a fiscal note for the Commission's proposed rulemaking. The OB reasoned that because the Commission does not receive funds from the State Treasury, and operates almost exclusively out of its own funding, the Commission does not fall within

section 612 of The Administrative Code of 1929. Accordingly, the Commission's fiscal note comment at the conclusion of its preamble in the proposed rulemaking is accurate and remains as stated.

In response to IRRC's comment regarding the consistency of the fiscal impact statement, the Commission updates its response in the preamble included with this final-form rulemaking.

2. *Section 601.13. Evasion of fare.—Clarity; and Possible conflict with or duplication of statutes or existing regulations.*

IRRC provided several comments regarding the Commission's amendments to § 601.13. Evasion of fare, including a suggestion that the Commission insert into the regulation the actions that constitute "affirmative action" as listed in 75 Pa.C.S. § 6110.1(f). IRRC requested that the Commission define "Electronic toll collection device" and explain what makes this device valid. IRRC also asked the Commission to clarify the intent of certain conditions that must be present to be considered as fare evasion and to correct certain non-regulatory language.

The General Assembly enacted the act of November 3, 2022 (P.L. 1734, No. 112), which amended the language contained in 75 Pa.C.S. § 6110.1(f) relating to "affirmative action" to incorporate the Commission's conversion to electronic toll collection. The 2022 amendments to 75 Pa.C.S. § 6110.1 were codified after the publication of the Commission's proposed rulemaking published at 51 Pa.B. 3347 and IRRC's subsequent August 18, 2021, comments.

To reflect the amendments to 75 Pa.C.S. § 6110.1(f) as codified by the General Assembly, and to address IRRC's comments, the Commission amends the language of § 601.13 in this final-form rulemaking. The Commission deletes, rearranges and adds additional language into § 601.13. As suggested by IRRC for purposes of clarity, subsection (c) is added, which lists the actions that constitute "affirmative action," with reference to 75 Pa.C.S. § 6110.1(f). With the addition of what constitutes "affirmative action," the Commission deletes the proposed language in § 601.13(b)(2.1) and (3.1) previously submitted with the proposed rulemaking published at 51 Pa.B. 3347 and also deletes the existing language in § 601.13(b)(1). The inclusion of similar language, from the amendment of 75 Pa.C.S. § 6110.1(f), is now contained in § 601.13(c) that addresses toll evasion in an electronic toll collection environment. As a result, the proposed language in § 601.13(b)(2.1) and (3.1), and the existing language in § 601.13(b)(1), is redundant. Further details regarding these amendments are previously explained in Section C of this preamble.

The amended language in Annex A also includes reference to the definition of "electronic toll collection device" in 74 Pa.C.S. § 8102, as amended. This is a new definition in 74 Pa.C.S. § 8102 that was also added by the General Assembly to 75 Pa.C.S. § 6110.1(f) in the 2022 amendments and did not exist at the time that IRRC submitted its comments. The Commission prefers to reference the definition of "electronic toll collection device" in 74 Pa.C.S. § 8102, instead of adding and repeating the same definition to this final-form rulemaking (as is common practice in rulemaking). The term "valid" electronic toll collection device, as it now appears in § 601.13(c), is used in the same context as the General Assembly's 2022 amendments to 75 Pa.C.S. § 6110.1(f). "Valid" in its common usage meaning legally or officially acceptable.

IRRC's remaining comments regarding the proposed language in § 601.13(b)(2.1) and (3.1) are resolved with

inclusion of what constitutes “affirmative action” into § 601.13(c) in this final-form rulemaking. The language previously proposed in § 601.13(b)(2.1) is deleted and similar language from the amendments to 75 Pa.C.S. § 6110.1(f)(6) now appears in § 601.13(c)(6). The non-regulatory language “and/or” is deleted.

Likewise, the previously proposed language in § 601.13(b)(3.1) is deleted and similar language from the amendments to 75 Pa.C.S. § 6110.1(f)(1) now appears in § 601.13(c)(1). IRRC asked if the Commission’s intent is that both conditions, that is, operating a vehicle without a license plate and valid vehicle registration, must be present to be considered an attempted evasion of fare. The answer is yes, and this same language also appears in the amendments to 75 Pa.C.S. § 6110.1(f)(1).

As explained in detail previously, the Commission updates the relevant sections in this final-form rulemaking (in both the preamble and Annex A) to reflect the recommended changes and address IRRC’s comments.

3. *Section 601.14. Over-dimensional/overweight vehicles—Clarity.*

As part of its comments, IRRC asked the Commission to explain why the additional requirements pertaining to special hauling permits found on the Commission’s web site—such as polices for escort vehicles and engineering approvals—are not part of the amended regulations. The Commission desires to maintain the specific policies and procedures for special hauling permits on its web site to facilitate easier changes and updates as required. Therefore, this final-form rulemaking will remain general as to the permit requirements. However, the Commission agrees with IRRC’s suggestion to include a reference in Annex A to the Commission’s web site to alert customers on how to request and obtain a special hauling permit. Accordingly, the Commission amends § 601.14(a) in this final-form rulemaking to include its web site.

4. *Miscellaneous.*

The Commission agrees with IRRC’s comment that the language contained in § 601.13(b)(6) should be consistent with the statutory definition of “electronic toll collection.” Accordingly, § 601.13(b)(6) is amended in this final-form rulemaking to reflect IRRC’s recommendation and the term “appropriate” has been replaced with “prescribed.”

E. *Persons and Entities Affected*

This final-form rulemaking is intended to update and amend the Commission’s current regulations. As before, all customers of the Commission (whether a person, business, small business or an organization) that travel on the Turnpike System will be affected by and required to comply with this final-form rulemaking.

F. *Fiscal Impact*

The Commonwealth and local governments will not experience increased costs or savings as a result of this final-form rulemaking. Moreover, as explained in depth in the RAF, the final-form regulations are expected to be cost neutral and should not impose significant, new fiscal impacts to the regulated community. Customers who travel on the Turnpike System shall be required to comply with this final-form rulemaking and the amendments are consistent with current practices that have been in place for decades. No adverse impacts on small businesses are anticipated because this final-form rulemaking amends and revises the previous regulations that apply to all customers who travel on the Turnpike System including all businesses (small or large). Also, no new

legal, accounting or consulting procedures are required because of this final-form rulemaking.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on June 1, 2021, the Commission submitted a copy of the proposed regulations, published at 51 Pa.B. 3347, to IRRC and to the Chairpersons of the House and Senate Transportation Committees for review and comment.

Under section 5(c) of the Regulatory Review Act the Commission is required to submit to IRRC and the House and Senate Transportation Committees copies of comments received during the public comment period, as well as other documents when requested. In preparing these final-form regulations, the Commission considered all comments received from IRRC. No public comments were received. The Commission also received no comments from the House and Senate Transportation Committees.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5(j.2)), on September 20, 2023, this final-form rulemaking was deemed approved by the House and Senate Transportation Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on September 21, 2023, and approved this final-form rulemaking.

H. *Effective Date*

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

I. *Sunset Provisions*

The Commission has not established a sunset date for this final-form rulemaking because the traffic regulations are in effect on a continual basis. The Commission will continue to monitor these regulations for their effectiveness and propose amendments as necessary.

J. *Contact Person*

The contact person for questions about this final-form rulemaking is John F. Dwyer, Assistant Counsel, Pennsylvania Turnpike Commission, P.O. Box 67676, Harrisburg, PA 17106-7676, (717) 831-7343 or jdwyer@paturnpike.com.

K. *Findings*

The Commission finds that:

(1) Public notice of the amendments to the regulations was given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202), referred to as the Commonwealth Documents Law, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2 (relating to notice of proposed rulemaking required; and adoption of regulations).

(2) A public comment period was provided as required by law. No public comments were received.

(3) These amendments to the regulations of the Commission are necessary and appropriate for the continued administration and enforcement of the traffic regulations that promote the health, safety and welfare of the Commission’s customers traveling on the Turnpike System.

L. *Order*

The Commission, acting under the authorizing statutes, orders that:

(a) The regulations of the Commission, 67 Pa. Code Chapter 601, are amended by amending §§ 601.1, 601.3, 601.5, 601.9, 601.12—601.15, 601.17, 601.18 and

601.101—601.103 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Commission shall submit this final-form rule-making to the Office of Attorney General, as required by law, for approval as to form and legality.

(c) The Commission shall submit this final-form rule-making to IRRC and the House and Senate Transportation Committees as required by law.

(d) The Commission shall certify this final-form rule-making and deposit it with the Legislative Reference Bureau, as required by law.

(e) This final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

MARK P. COMPTON,
Chief Executive Officer

(Editor’s Note: See 53 Pa.B. 6319 (October 7, 2023) for IRRC’s approval.)

Fiscal Note: The Commission is funded primarily by bonds and tolls. Because there is no direct cost to the Commonwealth as a result of these proposed amendments, the Commission has not submitted a fiscal note.

Annex A
TITLE 67. TRANSPORTATION
PART II. TURNPIKE COMMISSION
CHAPTER 601. TRAFFIC REGULATIONS
GENERAL

§ 601.1. Definitions.

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

Acceleration lane—A speed change lane for the purpose of:

- (i) Enabling a vehicle entering a roadway to increase its speed to a rate at which it can safely merge with through traffic.
- (ii) Providing the necessary merging distance.
- (iii) Giving the main roadway traffic the necessary time and distance to make appropriate adjustments.

Commission—The Pennsylvania Turnpike Commission.

Deceleration lane—The portion of the roadway adjoining the traveled way constructed for the purpose of enabling a vehicle that is exiting a roadway to slow to a safe speed after it has left the mainstream of traffic.

Hazardous material—An explosive, blasting agent, flammable liquid, combustible liquid, flammable solid, flammable and nonflammable compressed gas, corrosive material, poison, poison gas, irritant, oxidizer, organic peroxide, radioactive material, etiologic agent or other regulated material defined in 49 CFR Chapter I (relating to pipeline and hazardous materials safety administration, Department of Transportation) whether a material, a substance or a waste product.

Over-dimensional/overweight vehicle—A vehicle or combination of vehicles, including the load carried thereon, which exceeds any one of the following: 100,000 pounds in maximum gross weight, 22,400 pounds maximum gross weight carried upon any one axle, 13 feet 6 inches in height, 10 feet in width, 85 feet in overall length, or which has a load or part thereof extending 5 feet or more beyond the front bumper or 15 feet or more beyond the rear bumper. The front and rear overhang of stinger

steered vehicles, as defined in 23 CFR 658.13(e) (relating to length), may not be included in calculating the overall length of the stinger steered vehicle, as long as the front overhang does not exceed 3 feet and the rear overhang does not exceed 4 feet.

Recreational vehicle—A multipurpose passenger vehicle that provides living accommodations for persons or an apportionable vehicle designed or converted and used exclusively for personal pleasure or travel by an individual or the individual’s family.

* * * * *

§ 601.3. Officers.

A driver of a motor vehicle and other persons using or traveling upon the Turnpike System shall obey the signs, signals and oral directions rendered by officers, employees, independent contractors or agents of the Commission, including the Pennsylvania State Police.

§ 601.5. Hazardous materials.

(a) Hazardous materials may be transported, under the required Federal permits, on the Turnpike System, if the shipments are in full compliance with 10 CFR Part 71 (relating to packaging and transportation of radioactive material), 49 CFR Chapter I, Subchapter C (relating to hazardous materials regulations), 49 CFR Parts 390—397, regarding Federal motor carrier safety regulations, and other Federal or State laws or regulations relating to the transportation of hazardous materials.

(b) A transporter of hazardous materials shall carry the required Federal permits while traveling on the Turnpike System and shall present the permits upon demand to any Commission employee or the Pennsylvania State Police.

(c) Explosives Divisions 1.1, 1.2, 1.3 and Radioactive materials as defined in 49 CFR 173.50 and 173.403, respectively (relating to Class 1—definitions; and definitions) are prohibited from being transported on the Turnpike System in tandem trailer combinations.

(d) The total volume of material in a tandem combination may not exceed the total volume that could be carried in a single trailer.

(e) The following materials are prohibited, prohibited in bulk packaging or permitted in Commission tunnels under the following chart. Bulk packaging is defined in 49 CFR 171.8 (relating to definitions and abbreviations).

<i>Prohibited Hazardous Materials Classes</i>		
<i>Hazardous Material</i>	<i>Class</i>	<i>Policy</i>
All Explosives	1.1—1.6	Prohibited
Poison Gas	2.3	Prohibited
Dangerous When Wet	4.3	Prohibited
Organic Peroxide	5.2	Prohibited
Poison (Inhalation Hazard)	6.1	Prohibited
Radioactive	7	Prohibited
<i>Prohibited in Bulk Packaging Hazardous Materials Classes</i>		
<i>Hazardous Material</i>	<i>Class</i>	<i>Policy</i>
Flammable Gas	2.1	Prohibited in bulk packaging
Flammable Liquid	3	Prohibited in bulk packaging

<i>Prohibited Hazardous Materials Classes</i>		
<i>Hazardous Material</i>	<i>Class</i>	<i>Policy</i>
Flammable Solid	4.1	Prohibited in bulk packaging
Spontaneously Combustible	4.2	Prohibited in bulk packaging
Oxidizer	5.1	Prohibited in bulk packaging
Poison (Other than Inhalation Hazard)	6	Prohibited in bulk packaging
Corrosive	8	Prohibited in bulk packaging
<i>Permitted Hazardous Materials Classes</i>		
<i>Hazardous Material</i>	<i>Class</i>	<i>Policy</i>
Non-Flammable Gas	2.2	Permitted
Combustible (Fuel Oil)	3	Permitted
Miscellaneous	9	Permitted
Dangerous	-	Permitted
Stow Away From Food Stuffs	-	Permitted

§ 601.9. U-turns.

The making of a U-turn on the Turnpike System is prohibited except by authorized vehicles. A driver of a motor vehicle may reverse direction of travel only by passing through an interchange or other tolling point. The Pennsylvania State Police may authorize a U-turn in an emergency and other personnel authorized by the Commission may authorize a U-turn when necessary.

§ 601.12. Toll collection.

Vehicles that travel on the Turnpike System, unless otherwise authorized, shall pay a toll through any of the following:

- (1) Electronic toll collection, as defined in 74 Pa.C.S. § 8102 (relating to definitions).
- (2) By license plate tolling with an invoice sent to the vehicle's registered owner, as authorized in 74 Pa.C.S. § 8116 (relating to collection and disposition of tolls and other revenue).
- (3) Other technology which identifies a vehicle by photographic, electronic or other method, as authorized in 74 Pa.C.S. § 8116.

§ 601.13. Evasion of fare.

(a) Evasion of fare or attempted evasion of fare is prohibited and constitutes a summary offense unless a person intentionally or knowingly takes an affirmative action as defined in 75 Pa.C.S. § 6110.1(f) (relating to fare evasion) in an attempt to evade tolls, in which case the offense constitutes a misdemeanor of the third degree. Fines for evasion of fare, attempted evasion of fare and affirmative action are imposed by 75 Pa.C.S. § 6110.1(a) and (b).

(b) Evasion of fare or attempted evasion of fare includes the following:

- (1) [Reserved].
- (2) [Reserved].
- (3) [Reserved].
- (4) [Reserved].
- (5) [Reserved].

(6) The failure by a person to pay the prescribed toll as indicated in § 601.12 (relating to toll collection).

- (7) [Reserved].
- (8) [Reserved].

(c) As used in this section, the term "affirmative action," as defined in 75 Pa.C.S. § 6110.1(f), includes:

- (1) Operating a vehicle without a license plate and valid vehicle registration;
- (2) Operating a vehicle without a valid electronic toll collection device, as defined in 74 Pa.C.S. § 8102 (relating to definitions), and installing a mechanism which rotates, changes, blocks or otherwise mechanically alters the ability of a license plate to be read by a toll collection system;

(3) Installing a device upon a vehicle which serves the sole purpose of masking, hiding or manipulating the true weight of the vehicle as it appears to a mechanical scale;

(4) Conspiring with an individual or group of individuals to alter, lower or evade payment of correct tolls;

(5) Unauthorized use of a Turnpike System private gate access or otherwise unauthorized movement entering or exiting the Turnpike System other than at approved tolling points; and

(6) Operating a vehicle without a valid electronic toll collection device and altering, obstructing, covering, distorting, manipulating or removing a license plate from a vehicle to impede electronic toll collection, as defined in 74 Pa.C.S. § 8102.

§ 601.14. Over-dimensional/overweight vehicles.

(a) Prior to entering the Turnpike System, operators of over-dimensional/overweight vehicles shall request and obtain a special hauling permit according to Commission policies and procedures and pay all applicable fees. The requester must apply online at the Commission's web site, www.paturnpike.com, which contains all of the current policies and procedures for obtaining a special hauling permit.

(b) The requester shall be prepared to provide the following information:

- (1) The size, weight and number of axles of the over-dimensional/overweight vehicle.
- (2) The name, address and telephone number of the carrier.
- (3) The planned entry and exit interchange.
- (4) The planned date of movement.
- (5) Other information which may be requested by the Commission.

(c) If approved, the Commission will provide the requester with proof of a valid special hauling permit that the operator shall produce upon request from the Pennsylvania State Police or a Commission employee at any point during permitted travel on the Turnpike System.

(d) Based on Commission policies and procedures, operators of over-dimensional/overweight vehicles with excessive width, length, height or weight, or at the discretion of the Commission, may be required to provide an escort vehicle or have a Pennsylvania State Police escort, or both, for movement on the Turnpike System.

(e) Over-dimensional/overweight vehicles may travel on the Turnpike System only on days and at times designated by the Commission. The Commission will provide schedules and additional information according to policies and procedures.

(f) If the operator is unable to travel on the planned dates of movement, or the special hauling permit is cancelled, the requester shall notify the Commission according to policies and procedures.

§ 601.15. Vehicles excluded from the Turnpike.

(a) During adverse weather or travel conditions, recreational vehicles, motorcycles, vehicles towing trailers, tandem trailers, buses and over-dimensional/overweight vehicles may be excluded from parts or all of the Turnpike System. Vehicles may be excluded from the Turnpike System to effect proper snow removal or to remedy hazardous situations. Unsafe vehicles may be excluded at any time.

(b) Over-dimensional/overweight vehicles are prohibited from using the Turnpike System except by special hauling permit issued from the Commission, as indicated in §§ 601.1 and 601.14 (relating to definitions; and over-dimensional/overweight vehicles).

* * * * *

§ 601.17. Authorized vehicle.

(a) For the purposes of this chapter, the term “authorized vehicle” shall be defined as follows:

(1) A vehicle which carries the Commission seal, including automobiles and construction and maintenance vehicles.

(2) A vehicle owned by the Commission which does not carry the Turnpike seal.

(3) A vehicle driven by a Commission employee used in an official capacity and in the performance of employment.

(4) A vehicle of the Commission’s Consulting Engineer utilized in the furtherance of the Consulting Engineer’s duties, under the Trust Indenture.

(5) A vehicle of a consultant under contract with the Commission utilized in the furtherance of the consultant’s duties under the Commission contract.

(6) A towing or wrecking vehicle which meets the following conditions:

(i) Through contract with the Commission as an authorized service provider and the vehicle displays that designation.

(ii) Is called by an authorized employee of the Commission or the Pennsylvania State Police to perform special clean-up or towing services.

(7) A construction vehicle owned, leased or operated by a company performing a construction contract for the Commission which is operating within the terms of the contract.

(8) A vehicle which has obtained prior permission from the Commission and is moving under the supervision of the Pennsylvania State Police in executing the otherwise restricted activity.

* * * * *

§ 601.18. Accident prevention investigations.

(a) The Commission may conduct in-depth accident investigations and safety studies of the human, vehicle and environmental aspects of traffic accidents for the purpose of determining the cause of traffic accidents and the improvements which may help prevent similar types of accidents or increase the overall safety of the Turnpike roadway and bridges.

(b) In-depth accident investigations and safety studies and information, records and reports used in their preparation are not discoverable or admissible as evidence in any civil action or proceeding. Officers or employees or the agencies charged with the development, procurement or custody of in-depth accident investigations and safety study records and reports are not required to give depositions or evidence pertaining to anything contained in the in-depth accident investigations or safety study records or reports in any civil action or other proceeding.

TANDEM TRAILER COMBINATIONS

§ 601.101. Length limit for tandems.

A semitrailer, or the trailer of a tandem trailer combination, may not be longer than 28 1/2 feet. A tandem combination—including the truck tractor, semitrailer and trailer—which exceeds 85 feet in length is considered an over-dimensional/overweight vehicle which requires a special hauling permit to travel on the Turnpike System.

§ 601.102. Weight and dimensional limits for tandems.

A tandem trailer combination which is considered an over-dimensional/overweight vehicle shall require a special hauling permit to travel on the Turnpike System. In tandem combinations, the heaviest trailer shall be towed next to the truck tractor.

§ 601.103. Exclusion of tandem tank trailers.

Tandem tank trailer combinations transporting hazardous materials, substances or wastes, as defined in 49 CFR Chapter I (relating to pipeline and hazardous materials safety administration, Department of Transportation) are prohibited from using the Turnpike System.

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