

On March 15, 2013, the Philadelphia Parking Authority delivered proposed regulation #2992. On March 26, 2013, the Philadelphia Parking Authority redelivered the Regulatory Analysis Form. Please note that no changes were made to the Preamble or Annex A.

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Regulatory Analysis Form (Completed by Promulgating Agency)		INDEPENDENT REGULATORY REVIEW COMMISSION	
(All Comments submitted on this regulation will appear on IRRC's website)		2013 MAR 26 PM 2:29	
(1) Agency: Philadelphia Parking Authority			
(2) Agency Number: 126		IRRC Number: 2992	
Identification Number: 3			
(3) PA Code Cite: 52 Pa. Code §§ 1017.51, 1017.52, 1055.31 and 1055.32.			
(4) Short Title: Regulatory Impoundment Procedures			
(5) Agency Contacts (List Telephone Number and Email Address):			
Primary Contact: Dennis G. Weldon, Jr., General Counsel at PRM101@philapark.org, 215-683-9630 (FAX: 215-683-9619), 3101 Market Street, 2 nd Floor, Philadelphia, PA 19104.			
Secondary Contact: James R. Ney, Director, Taxicab and Limousine Division at jney@philpark.org, 215-683-6417 (FAX: 215-683-9437), 2415 South Swanson Street, Philadelphia PA 19148.			
(6) Type of Rulemaking (check applicable box):			
<input checked="" type="checkbox"/> Proposed Regulation <input type="checkbox"/> Final Regulation <input type="checkbox"/> Final Omitted Regulation		<input type="checkbox"/> Emergency Certification Regulation; <input type="checkbox"/> Certification by the Governor <input type="checkbox"/> Certification by the Attorney General	
(7) Briefly explain the regulation in clear and nontechnical language. (100 words or less)			
This proposal will codify procedures related to regulatory impoundments in furtherance of the statutory mandate to create a "clean, safe, reliable, and well regulated taxicab and limousine industry..." in Philadelphia. 53 Pa.C.S. § 5701.1(2). The proposal will also clarify the post-impoundment due process rights of the owners and lienholders of impounded properties.			
(8) State the statutory authority for the regulation. Include <u>specific</u> statutory citation.			
Sections 13 and 17 of the act of July 16, 2004, (P.L. 758, No. 94), <i>as amended</i> , 53 Pa.C.S. §§5701 <i>et seq.</i> , §§ 5722 and 5742; section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P.L. 287, No. 22), <i>as amended</i> , 53 Pa. C.S. §§ 5505(d)(17) (d)(23), (d)(24). The act of July 5, 2012, (P.L. 1022, No. 119) ("Act 119").			
(9) Is the regulation mandated by any federal or state law or court order, or federal regulation? Are there any relevant state or federal court decisions? If yes, cite the specific law, case or regulation as well as, any deadlines for action.			
No. A review of a prior version of the Parking Authority's Law resulted in a determination that limited the scope of impoundments conducted pursuant to now repealed language. <i>See Sawink, Inc. et al., v. Philadelphia Parking Authority</i> , 34 A.3d 926 (Pa. Cmwlth. 2012), <i>affirmed</i> , 57 A.3d 644 (Pa. 2012). Act 119 altered statutes relied upon by the courts in that case.			
(10) State why the regulation is needed. Explain the compelling public interest that justifies the regulation. Describe who will benefit from the regulation. Quantify the benefits as completely as			

possible and approximate the number of people who will benefit.

This proposed regulation will give clear guidance to regulated parties as to what violations may result in regulatory impoundments by the Authority of vehicles, equipment and medallions used to provide taxicab or limousine service in Philadelphia. Regulated parties further benefit from the assurance of the right to prompt post-impoundment due process. The Authority regulates approximately 5,100 persons through its taxicab and limousine oversight. Each will benefit from the implementation of these guidelines.

The public will benefit from the continued improvement to operations of the taxicab and limousine industries in Philadelphia that will result from the judicious use of this important enforcement tool. The Authority has regulated the taxicab and limousine industry in Philadelphia since 2005 and has used this impoundment option to remove illegal operators and unsafe vehicles since that time. The Authority believes that it is important for both practical and legal reasons to identify the class of violations that may result in a regulatory impoundment and to clearly outline the post-impoundment due process protections provided through regulations, as opposed to simply publishing procedures.

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

N/A

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

N/A

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

N/A

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

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

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

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

Section 3 of the Regulatory Review Act, Act 76 of 2012 directs us to 13 CFR Ch. 1 Part 121 (relating to

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

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

The affect of the proposed regulation on all regulated parties will be positive because it will create clear guidance as to what violations may result in regulatory impoundments in Philadelphia. Regulated parties will further benefit from the assurance of the right to prompt post-impoundment due process and the procedures to avail themselves of that process. Each regulated party will benefit from the implementation of these guidelines.

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

The proposed regulation does not create an additional requirement applicable to any person. But each person regulated by the Authority should be aware of the availability of the impoundment tool and the due process rights that spring from such enforcement actions. The Authority approximates that "regulated parties" in Philadelphia includes:

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

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

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

The regulation is needed and is in the public interest (for all of the groups identified) for the reasons identified in response to question Nos. 10 and 15 above. Regulated parties will benefit from the clear understanding of the behavior or conditions that may result in a regulatory impoundment and will further benefit from the assurance of the right to prompt post-impoundment due process. The Authority regulates approximately 5,100 persons through its taxicab and limousine oversight. Each will benefit from the implementation of these guidelines.

The identified groups will benefit from the continued improvement to operations of the taxicab and limousine industries in Philadelphia that will result from the judicious use of this important enforcement tool. The Authority has regulated the taxicab and limousine industry in Philadelphia since 2005 and has used this impoundment option to remove illegal operators and unsafe vehicles since that time. The Authority believes that it is important for both practical and legal reasons to identify the class of violations that may result in a regulatory impoundment and to clearly outline the post-impoundment due process protections provided through regulations, as opposed to simply publishing procedures.

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

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

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

This proposed regulation is intended to clarify existing procedures, both related to impoundments and to post-impoundment due process procedures. Those procedures have largely been in place since 2005. The Authority anticipates that no additional costs will be associated with the promulgation or imposition of this regulation. This proposed regulation is anticipated to be revenue neutral to all regulated parties and does not create a new requirement.

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

The Authority anticipates that no additional costs will be associated with the promulgation or imposition of this regulation. This proposed regulation is anticipated to be revenue neutral to all regulated parties and does not create a new requirement or cost to local governments.

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

The Authority anticipates that no additional costs will be associated with the promulgation or imposition of this regulation. This proposed regulation is anticipated to be revenue neutral to all regulated parties and does not create a new requirement or cost to state governments.

(22) For each of the groups and entities identified in items (19)-(21) above, submit a statement of legal, accounting or consulting procedures and additional reporting, recordkeeping or other paperwork,

including copies of forms or reports, which will be required for implementation of the regulation and an explanation of measures which have been taken to minimize these requirements.

The proposed regulation will apply only to certain persons who violate a narrow set of regulatory requirements. The proposed regulation does not create any new requirement applicable to regulated parties or the public.

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

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

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

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

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

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

Our response to question No. 17 identifies the numbers of small business entities estimated to be impacted by this proposed regulation. There is no anticipated cost associated with the implementation of the proposed regulation, nor is any additional regulatory obligation created as to any persons.

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

There are none.

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

The Authority could have relied upon established policies related to the use of impoundment options and due process procedures thereafter; however, the Authority believes that these standards and procedures are more appropriately placed in regulations.

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

- a) The establishment of less stringent compliance or reporting requirements for small businesses;
- b) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
- c) The consolidation or simplification of compliance or reporting requirements for small businesses;
- d) The establishment of performing standards for small businesses to replace design or operational

- standards required in the regulation; and
- e) The exemption of small businesses from all or any part of the requirements contained in the regulation.

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

(28) If data is the basis for this regulation, please provide a description of the data, explain in detail how the data was obtained, and how it meets the acceptability standard for empirical, replicable and testable data that is supported by documentation, statistics, reports, studies or research. Please submit data or supporting materials with the regulatory package. If the material exceeds 50 pages, please provide it in a searchable electronic format or provide a list of citations and internet links that, where possible, can be accessed in a searchable format in lieu of the actual material. If other data was considered but not used, please explain why that data was determined not to be acceptable.

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

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

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

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

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

**FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU**

(Pursuant to Commonwealth Documents Law)

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

Angela M. Elliott

BY _____
(DEPUTY ATTORNEY GENERAL)

MAR 06 2013

DATE OF APPROVAL

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

Philadelphia Parking Authority
(AGENCY)

DOCUMENT/FISCAL NOTE NO. Docket No 126-3/PPA
receives no money from the State Treasury—No
Fiscal Note.

DATE OF ADOPTION January 28, 2013

BY

Vincent J. Fenerty, Jr.

Vincent J. Fenerty, Jr.

TITLE: Executive Director

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

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

1/28/13
DATE OF APPROVAL

☐ Check if applicable
Copy not approved. Objections attached

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

Proposed Rule Making No. 126-3
Final Rulemaking
Philadelphia Taxicab and Limousine Regulations
52 Pa. Code §§ 1017.51, 1017.52, 1055.31 and 1055.32

The Philadelphia Parking Authority on January 28, 2013 adopted a proposed rulemaking order which modifies regulations related to the impoundment of taxicab, limousines and related property in Philadelphia, in furtherance of the Authority's regulatory functions. The regulation identifies impoundable offenses and provides for prompt post-impoundment due process. The contact person is Dennis G. Weldon, Jr. General Counsel, 215-683-9630.

THE PHILADELPHIA PARKING AUTHORITY

In Re: Proposed Rulemaking Order :
Philadelphia Taxicab and :
Limousine Regulations : Docket No. 126-3
:
:

PROPOSED RULEMAKING ORDER

BY THE AUTHORITY:

In accordance with of the act of July 16, 2004, (P.L. 758, No. 94), *as amended*, 53 Pa.C.S. §§5701 *et seq.*, (the “act”),¹ the Authority formally commences its rulemaking process to promulgate regulations to provide more specific procedures related to the impoundment of vehicles, equipment and medallions by the Authority pursuant to the act. 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. On January 6, 2012, the Commonwealth Court of Pennsylvania determined that the Authority was not authorized to impound a vehicle acting as a taxicab in Philadelphia without rights to do so, provided that the vehicle was authorized to be a taxicab elsewhere in the Commonwealth.² Thereafter, the Legislature enacted the act of July 5, 2012, (P.L. 1022, No. 119) (“Act 119”) specifically amending the provisions of the act relied upon by the Commonwealth Court in *Sawink*, among other things.

DISCUSSION

The Authority has been granted broad powers by the Legislature to regulate the operation of taxicabs and limousines in Philadelphia. Among those powers is the ability to immediately impound vehicles, equipment or medallions used to provide taxicab or limousines service in violation of the act or orders or regulations of the Authority.³ Such impoundments are from time-to-time the only way to provide for “a clean, safe, reliable, and well regulated taxicab and limousine industry...” in Philadelphia. 53 Pa.C.S. § 5701.1 (2).

¹ See 53 Pa.C.S. §§ 5722 and 57 .

² *Sawink, Inc. et al., v. Philadelphia Parking Authority*, 34 A.3d 926 (Pa. Cmwlth. 2012), *affirmed*, 2012 Pa. LEXIS 2897 (Pa. 2012)

³ See 53 Pa.C.S. §§ 5714 (g) and 5741 (f).

The manner in which taxicabs and limousines intimately and continuously interact with the public has long necessitated the ambient regulation of these industries. Nevertheless, due process rights certainly apply in these cases, particularly after the threat to public safety has abated.

The Legislature has enabled the Authority to both conduct these impoundments and promulgate regulations to assure public safety and the property rights of regulated parties are duly protected. Members of the regulated community have noted the need for a clarification of the criteria that may lead to a regulatory impoundment. We agree. Also, while the Authority has always permitted immediate emergency hearings related to the justification of an impoundment and to review the need to continue an impoundment, we believe it is crucial to identify a clear process for such prompt post-impoundment hearings through regulation. We believe this proposed regulation provides these important safeguards and now propose the following changes to the Authority's regulations at 52 Pa. Code §§ 1017.51, 1017.52, 1055.31 and 1055.32 in order to implement the Authority's statutory impoundment powers as modified by Act 119.

B. The regulation.

§ 1017.51. General.

We proposed adding two additional definitions to this subsection. The definition of "impoundable offense" identifies only five scenarios in which an impoundment may be made as provided in § 1017.52. These limited circumstances pose immediate and potentially irreparable harm to the public.

In *Sawink*, the Commonwealth Court agreed that even the pre-Act 119 version of the section 5714 (g) of the act permitted the impoundment of unauthorized taxicabs as identified in section 5714 (f). The use of unapproved or manipulated taxicab meters also represents the type of grave malfeasance necessitating immediate impoundment to stop further public abuses. Permitting the offending taxicab to simply drive off with a citation and the bad meter would undermine public confidence in all fares charged by taxicabs and permit, if not encourage, the continued abuse by the offending party and others. Meter rigging is exactly the type of egregious conduct that merits immediate impoundment.

Similarly, the determination by the Enforcement Department officer that a vehicle's condition or the condition, or behavior of a driver, will create an immediate threat to public safety if permitted to continue operation merits impoundment. This is a high standard for impoundment and exceeds the standard employed in the existing "out of service" designation process founded on a "public safety concern". See 52 Pa. Code § 1003.31.

Finally, the use of a counterfeit medallion constitutes a serious regulatory infraction and is a crime. See 53 Pa.C.S. § 5714 (h). Given the statutorily limited number of authorized taxicab medallions and the importance placed on the health of the medallion system by the Legislature, this violation merits immediate impoundment. See 53 Pa.C.S. § 5712.

The definition of “unauthorized taxicab” is necessary because the terms is used in the definition of “impoundable offense”. The fact that every taxicab that is authorized to provide call or demand service within Philadelphia must have a current TLD inspection sticker attached by the Authority creates a bright-line distinction between authorized taxicabs and all other vehicles on the road. *See* 52 Pa. Code § 1017.32. An exception to this condition is made for PUC authorized taxicabs observed operating in Philadelphia as permitted by section 5714(d)(1) of the act. A vehicle observed providing or attempting to provide taxicab service although it, or the certificate through which it is authorized to provide taxicab service, has already been placed out of service by the Authority is also an unauthorized taxicab.

§ 1017.52. Impoundment of vehicles and equipment.

We propose the deletion of the language previously provided in this section and the insertion of provisions which take into account the new definitions provided in section 1017.51 and more detailed post-impoundment hearing deadlines and procedures. The new language will restrict impoundments to impoundable offenses only. A specific impoundment notice process is also included.

The registered owner of the impounded vehicle may petition for an impoundment hearing at any time to contest the validity of the impoundment. The hearing must be immediately scheduled by the Clerk to occur within two days of the petition, although from past experience hearings of this nature are often conducted on the same day that the petition for hearing is filed, which is often the date of impoundment. An Authority presiding officer may determine that the impoundment was appropriate, but order the release of the impounded property upon certain terms and conditions. If dissatisfied with the presiding officer’s decision, the registered owner may seek interlocutory review as provided in § 1005.131.

The Enforcement Department must initiate a formal complaint in furtherance of the violation necessitating the impoundment within five days. If the impounded property remains in the Authority’s custody, the respondent’s filing of an answer or request for a hearing, as appropriate, will automatically stay the auction deadlines provided for in the impoundment notice. A registered lienholder or medallion lienholder may seek to intervene as provided in § 1005.31, a process that will permit the registered owner to contest either the intervention or the proposed intervenor’s request for relief.

If the presiding officer determines that the respondent is liable for a violation issued in relation to the impoundment, the impounded property will be scheduled for auction after notice of the time, date and location of the auction is duly provided. This notification process often takes approximately 30 days to complete. Upon a determination that the respondent is not liable for the violation, the impounded property will be available to be reclaimed without payment of any fee, penalty or cost.

The registered owner may reclaim the impounded property at any time by paying the penalty demanded in the Enforcement Department’s complaint or the presiding officer’s final adjudication.

§§ 1055.31 and 1055.32.

The changes to sections 1055.31 and 1055.32, relating to limousines, are identical to those applicable to taxicabs in sections 1017.51 and 1017.52, except that references to medallions have been removed and language applicable to limousines has been inserted in place of that related to taxicabs.

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 website of the Independent Regulatory Review Commission, which may be reached at 717-783-5417.

Accordingly, under sections 13 and 17 of the Act, 53 Pa.C.S. §§ 5722 and 5742; section 5505(d) of the Parking Authorities Act, act of June 19, 2001, (P.L. 287, No. 22), *as amended*, 53 Pa. C.S. §§ 5505(d)(17), (d)(23), (d)(24); sections 201 and 202 of the Act of July 31, 1968, P.L. 769 No. 240, 45 P.S. §§ 1201-1202, and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2, and 7.5; section 204(b) of the Commonwealth Attorneys Act, 71 P.S. 732.204(b); section 745.5 of the Regulatory Review Act, 71 P.S. § 745.5 we are considering adopting the proposed regulations set forth in Annex A⁴, attached hereto;

THEREFORE,

IT IS ORDERED:

1. That a proposed rulemaking be opened to consider the regulation set forth in Annex A.
2. That the Executive Director shall submit this proposed rulemaking Order and Annex A to the Office of Attorney General for review as to form and legality.
3. That the Executive Director shall submit this proposed rulemaking Order and Annex A for review and comments to the Independent Regulatory Review Commission and the Legislative Standing Committees.
4. That the Secretary of the Board shall certify this proposed rulemaking Order and Annex A and that the Executive Director shall deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.

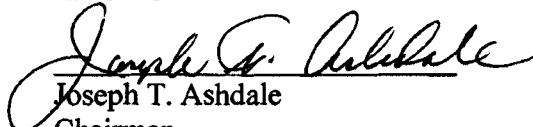
⁴ The Authority does not receive money from the State Treasury and is; therefore, not subject to section 612 of the Administrative Code of 1929, 71 P.S. § 232.

5. That 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, 3101 Market Street, 2nd Floor, Philadelphia, PA 19104.


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

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

**THE PHILADELPHIA PARKING
AUTHORITY**


Joseph T. Ashdale
Chairman
(SEAL)

Certified:


Alfred W. Taubenberg
Vice-Chairman/Secretary
(SEAL)

ORDER ADOPTED: January 28, 2013

ORDER ENTERED: January 28, 2013

ANNEX A

Subchapter E. IMPOUNDMENT OF VEHICLES AND EQUIPMENT

§ 1017.51. General.

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

* * * * *

Impoundable offense—The Authority may immediately confiscate and impound a vehicle, equipment, or medallion, pursuant to section 5714(g) of the act (relating to certificate and medallion required) when used in any of the following circumstances:

- (1) When an unauthorized taxicab provides, or attempts to provide, call or demand service in Philadelphia.
- (2) When a taxicab provides, or attempts to provide, call or demand service in Philadelphia through the use of a meter not approved by the Authority as provided in § 1017.23 (relating to approved meters) or a meter that has been manipulated to charge a fare not authorized by the Authority as provided in section 5703 or 5720 of the act, or both (relating to rates; and wages).
- (3) When the condition of a taxicab will create an immediate threat to public safety if permitted to continue operation.
- (4) When the continued operation of a taxicab by the driver will create an immediate threat to public safety, except when the certificate holder is able to promptly provide an alternate adult individual with a valid driver's license to assume control of the vehicle.
- (5) When a vehicle provides, or attempts to provide, call or demand service in Philadelphia with a counterfeit medallion.

Unauthorized taxicab —

- (i) Every vehicle without a current and valid TLD inspection sticker affixed as provided in § 1017.32 (relating to TLD inspection sticker required).
- (ii) A taxicab that has been placed out of service as provided in § 1003.32 (relating to out of service designation).
- (iii) A taxicab that is operated pursuant to a certificate of public convenience that has been placed out of service as provided in § 1003.32.
- (iv) The term shall not apply to a vehicle that provides call or demand service as provided in section 5714(d)(1) of the act pursuant to current authorization from the PUC.

* * * * *

§ 1017.52. Impoundment of vehicles and equipment.

[(a) *Impoundments generally.* The Authority may impound vehicles, medallions and equipment used to provide call or demand service as provided in section 5714(g) of the act (relating to certificate and medallion required).

(b) *Enforcement proceedings.* The Enforcement Department or trial counsel will initiate an enforcement proceeding as provided in § 1005.11 (relating to formal complaints generally) against the regulated party or owner of the impounded property, if other than a regulated party, related to an impoundment made under this section and the act.

(c) *Notice of impoundment.* The Authority will issue a notice of impoundment to the registered owner of the vehicle and registered lienholder of the vehicle or medallion, or both, if any, as provided in section 5714(g)(2)(ii) of the act.

(d) *Recovery of impounded property.* Except as provided in subsection (g), the owner or lienholder of the property impounded as provided in this section may recover the impounded property by paying all penalties, fines and costs required under section 5714(g)(1) of the act.

(e) *Public auction.* Confiscated property may be sold at public auction as provided in section 5714(g)(2)(i) of the act.

(f) *Return of funds.* If the enforcement proceeding initiated as provided in subsection (b) results in a determination that the respondent was not liable for the violations referenced in the complaint and that the grounds for the impoundment were unsubstantiated, the costs of towing and impoundment paid by the respondent as provided in subsection (d) will be refunded.

(g) *Stay of auction.* Upon motion of the respondent or a registered owner or a registered lienholder as an intervening party as permitted under § 1005.31 (relating to initiation of intervention), the presiding officer may enter an order staying the public auction of the impounded property for a period as the presiding officer deems just. Costs of impoundment will continue to accrue during the period of any stay imposed through this subsection.

(h) *Emergency hold on impounded property.*

(1) To advance the interests of the act or to protect the public good, the Enforcement Department or trial counsel may motion the presiding officer to stay the return of property impounded as provided in this section through the conclusion of the

enforcement proceeding, although requirements for recovery as provided in subsection (d) have been met.

(2) The presiding officer will issue a decision in support of the determination required under this section.

(3) The decision of the presiding officer issued as provided in paragraph (2) will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

(4) If the release of impounded property is stayed, the enforcement proceedings will be conducted on an expedited basis.]

(a) Impoundment. Upon observation of an impoundable offense, the Enforcement Department may direct the immediate impoundment of a vehicle, equipment or medallion and have the impounded property removed to a place of safe storage under the control of the Authority.

(b) Notice of impoundment. The Authority will serve immediate notice of impoundment on the registered owner and registered lienholder, if any, by first class mail as provided in section 5714(g)(2) (relating to certificate and medallion required). The notice of impoundment will include the following information:

(1) The location of the impounded property.

(2) The manner in which the impounded property may be reclaimed.

(3) The date the impounded property will be sold at public auction if action is not taken to reclaim the impounded property or stay the auction as provided in this section.

(4) Such other information required by section 5714(g)(2)(ii) of the act.

(c) Impoundment hearing.

(1) The registered owner may file a hearing request with the Clerk at any time after impoundment solely to regain possession of impounded property by contesting the compliance of the impoundment with this section or the act, or both.

(2) Upon request as provided in paragraph (1), the Clerk will immediately schedule an impoundment hearing to be conducted within two days before a presiding officer.

(3) In the event the presiding officer determines, by order, that the impoundment was not proper, the impounded property may be immediately reclaimed by the registered owner without need to pay any penalty or cost associated with the impoundment.

(4) Where the impoundment is determined to have been appropriate, the presiding officer may, by order, establish terms for the release of the impounded property including the posting of collateral and inspections by the Enforcement Department.

(5) An order of the presiding officer entered as provided in this subsection is subject to the interlocutory appeal procedure in § 1005.131 (relating to interlocutory review generally).

(d) Formal complaint. The Enforcement Department will file a formal complaint with the Clerk against the registered owner averring any violation forming the basis of the impoundment within five days of the impoundment.

(e) Stay of auction. The public auctioning of all impounded property will be stayed if the respondent contests the Enforcement Department's formal complaint by doing one of the following:

(1) Filing an answer to the complaint with the Clerk within 20 days as provided in § 1005.41 (relating to answers to complaints, petitions, motions and other filings requiring a response).

(2) If a citation complaint is filed by the Enforcement Department, filing a request or a hearing within 15 days as provided in § 1005.13(b)(2) (relating to citation complaints by the Authority).

(f) Intervention. A registered lienholder or medallion lienholder may request the impounded property be released into its possession only through a motion to intervene as permitted under § 1005.31 (relating to initiation of intervention).

(g) Final disposition of impounded property.

(1) If the respondent is found not liable for each violation averred in the Enforcement Department complaint, the impounded property may be reclaimed by the registered owner within 30 days of the adjudication without payment of any penalty, fee or cost.

(2) If the respondent is found liable for any violation averred in the Enforcement Department complaint, the impounded property will be scheduled for public auction in not less than 30 days. A notice of the time, date and location of the auction will be provided to the registered owner and registered lienholder by first class mail.

(h) Immediate repossession. The registered owner may reclaim the impounded property at anytime upon payment of the penalties requested in the Enforcement complaint or the penalties assessed in the presiding officer's order, along with the fees and costs associated with the impoundment.

* * * * *

§ 1055.31. General.

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

* * * * *

Impoundable offense—The Authority may immediately confiscate and impound a vehicle or equipment pursuant to section 5741 (f) of the act (relating to certificate of public convenience required) when used in any of the following circumstances:

- (1) When an unauthorized limousine operates as a limousine or offers to operate as a limousine in Philadelphia.
- (2) When the condition of a limousine will create an immediate threat to public safety if permitted to continue operation.
- (3) When the continued operation of a limousine by the driver will create an immediate threat to public safety, except when the certificate holder is able to promptly provide an alternate adult individual with a valid driver's license to assume control of the vehicle.

Unauthorized limousine—

- (i) Every vehicle without a current, valid and properly affixed remote carrier sticker issued by the Authority as provided in § 1053.43 (f) (relating to certain limousine requirements) or limousine rights sticker issued by the Authority as provided in § 1055.2 (relating to limousine rights sticker).
- (ii) A limousine that has been placed out of service as provided in § 1003.32 (relating to out of service designation).
- (iii) A limousine that is operated pursuant to a certificate of public convenience that has been placed out of service as provided in § 1003.32.
- (iv) The term shall not apply to a vehicle that provides common carrier service as provided in section 5741 (a.3) of the act pursuant to current authorization from the PUC.

§ 1055.32. Impoundment of vehicles and equipment.

[(a) *Impoundments generally.* The Authority may impound vehicles and equipment used to provide limousine service as provided in section 5741(f) of the act (relating to certificate of public convenience required).

(b) *Enforcement proceedings.* The Enforcement Department or trial counsel will initiate an enforcement proceeding as provided in § 1005.11 (relating to formal complaints

generally) against the regulated party or owner of the impounded property, if other than a regulated party, related to an impoundment made under this section and the act.

(c) *Notice of impoundment.* The Authority will issue a notice of impoundment to the registered owner of the vehicle and registered lienholder of the vehicle, or both, if any, as provided in section 5741(f)(2)(ii) of the act.

(d) *Recovery of impounded property.* Except as provided in subsection (g), the owner or lienholder of the property impounded as provided in this section may recover the impounded property by paying all penalties, fines and costs required under section 5741(f)(1) of the act.

(e) *Public auction.* Confiscated property may be sold at public auction as provided in section 5741(f)(2)(i) of the act.

(f) *Return of funds.* If the enforcement proceeding initiated as provided in subsection (b) results in a determination that the respondent was not liable for the violations referenced in the complaint and that the grounds for the impoundment were unsubstantiated, the costs of towing and impoundment paid by the respondent as provided in subsection (d) will be refunded.

(g) *Stay of auction.* Upon motion of the respondent or a registered owner or a registered lienholder as an intervening party as permitted under § 1005.31 (relating to initiation of intervention), the presiding officer may enter an order staying the public auction of the impounded property for a period as the presiding officer deems just. Costs of impoundment will continue to accrue during the period of a stay imposed through this subsection.

(h) *Emergency hold on impounded property.*

(1) Even if the requirements for recovery under subsection (d) have been met, to advance the interests of the act or to protect the public good, the Enforcement Department or trial counsel may motion the presiding officer to stay the return of property impounded as provided in this section through the conclusion of the enforcement proceeding.

(2) The presiding officer will issue a decision in support of the determination required under this section.

(3) The decision of the presiding officer issued as provided in paragraph (2) will constitute a recommended decision and will be reviewed by the Authority as provided in §§ 1005.211—1005.215 (relating to exceptions to recommended decisions).

(4) If the release of impounded property is stayed, the enforcement proceedings will be conducted on an expedited basis.]

(a) Impoundment. Upon observation of an impoundable offense, the Enforcement Department may direct the immediate impoundment of a vehicle or equipment and have the impounded property removed to a place of safe storage under the control of the Authority.

(b) Notice of impoundment. The Authority will serve immediate notice of impoundment on the registered owner and registered lienholder, if any, by first class mail as provided in section 5714(g)(2) (relating to certificate and medallion required). The notice of impoundment will include the following information:

- (1) The location of the impounded property.
- (2) The manner in which the impounded property may be reclaimed.
- (3) The date the impounded property will be sold at public auction if action is not taken to reclaim the impounded property or stay the auction as provided in this section.
- (4) Such other information required by section 5741(f)(2)(ii) of the act.

(c) Impoundment hearing.

- (1) The registered owner may file a hearing request with the Clerk at any time after impoundment solely to regain possession of impounded property by contesting the compliance of the impoundment with this section or the act, or both.
- (2) Upon request as provided in paragraph (1), the Clerk will immediately schedule an impoundment hearing to be conducted within two days before a presiding officer.
- (3) In the event the presiding officer determines, by order, that the impoundment was not proper, the impounded property may be immediately reclaimed by the registered owner without need to pay any penalty or cost associated with the impoundment.
- (4) Where the impoundment is determined to have been appropriate, the presiding officer may, by order, establish terms for the release of the impounded property including the posting of collateral and inspections by the Enforcement Department.
- (5) An order of the presiding officer entered as provided in this subsection is subject to the interlocutory appeal procedure in § 1005.131 (relating to interlocutory review generally).

(d) Formal complaint. The Enforcement Department will file a formal complaint with the Clerk against the registered owner averring any violation forming the basis of the impoundment within five days of the impoundment.

(e) Stay of auction. The public auctioning of all impounded property will be stayed if the respondent contests the Enforcement Department's formal complaint by doing one of the following:

(1) Filing an answer to the complaint with the Clerk within 20 days as provided in § 1005.41 (relating to answers to complaints, petitions, motions and other filings requiring a response).

(2) If a citation complaint is filed by the Enforcement Department, filing a request for a hearing within 15 days as provided in § 1005.13 (b) (2) (relating to citation complaints by the Authority).

(f) Intervention. A registered lienholder may request the impounded property be released into its possession only through a motion to intervene as permitted under § 1005.31 (relating to initiation of intervention).

(g) Final disposition of impounded property.

(1) If the respondent is found not liable for each violation averred in the Enforcement Department complaint, the impounded property may be reclaimed by the registered owner within 30 days of the adjudication without payment of any penalty, fee or cost.

(2) If the respondent is found liable for any violation averred in the Enforcement Department complaint, the impounded property will be scheduled for public auction in not less than 30 days. A notice of the time, date and location of the auction will be provided to the registered owner and registered lienholder by first class mail.

(h) Immediate repossession. The registered owner may reclaim the impounded property at anytime upon payment of the penalties requested in the Enforcement complaint or the penalties assessed in the presiding officer's order, along with the fees and costs associated with the impoundment.



**Philadelphia
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March 15, 2013

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

Re: Docket No. and Agency/ID No. 126-3
Proposed Rulemaking
Philadelphia Taxicab and Limousine Regulations
52 Pa. Code §§ 1017.51, 1017.52, 1055.31 and 1055.32

Dear Chairman Lutkewitte:

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

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

The proposed regulation will establish a clear regulatory framework for the impoundment of vehicles, medallions and equipment used to provide taxicab and limousine service, or both, in Philadelphia. The proposal includes a limitation of the grounds upon which an impoundment may occur and established prompt post impoundment due process.

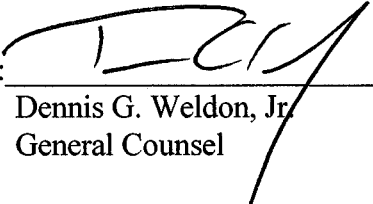
The contact person is the undersigned and may be contacted at 215-683-9630.

Honorable Silvan B. Lukewitte, III
March 15, 2013

Page...Two

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

Very truly yours,
The Philadelphia Parking Authority

By: 
Dennis G. Weldon, Jr.
General Counsel

DGW/pdm

Enclosures

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

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT
TO THE REGULATORY REVIEW ACT

ID Number: 126-3

Subject: Regulation to provide for regulatory impoundment procedures.

Philadelphia Parking Authority

TYPE OF REGULATION

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

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FILING OF REPORT

Date

Signature

Designation

3/15/13 Christine Goldbeck

HOUSE COMMITTEE (Gillerpie)
Urban Affairs

3/15/13 Hilda J. Sine

3/15/13 J. L. W.

SENATE COMMITTEE (Tomlinson)
Consumer Protection and
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3-15-13 J. A. H.

3/15/13 J. F. H.

Independent Regulatory Review
Commission

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Attorney General

Legislative Reference Bureau