

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Resolution TL-18760
Safety & Enforcement Division
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R E S O L U T I O N

RESOLUTION REVISING THE MANDATORY CONTROLLED SUBSTANCE AND ALCOHOL TESTING CERTIFICATION PROGRAM FOR PASSENGER STAGE CORPORATION AND CHARTER-PARTY CARRIER OF PASSENGER APPLICANTS AS ADOPTED IN RESOLUTION TL-18716 AND AMENDING GENERAL ORDERS 157-C AND 158-A TO REFLECT THOSE REVISIONS

SUMMARY

Chapter 405, statutes of 1995 (SB 46), effective January 1, 1996, amended the Public Utilities (PU) Code to require the Commission to adopt a controlled substance and alcohol testing certification program for passenger stage and charter-party carrier applicants which is substantially similar to the program in Parts 40 and 382 of Title 49 of the Code of Federal Regulations (CFR).

General Order (GO) 157-C contains rules and regulations governing the operations of charter-party carriers of passengers pursuant to Chapter 8 of Division 2 of the PU Code (beginning with Section 5351). GO 158-A contains rules and regulations governing the operations of passenger stage corporations pursuant to Chapter 5 of Division 1 of the PU Code (beginning with Section 1031).

By Resolution TL-18716 we incorporated the SB 46 requirements into General Orders 157-C and 158-A, effective January 1, 1996. Since that time, some technical errors in Resolution TL-18716 have been identified by staff. This resolution modifies General Orders 157-C and 158-A to correct these errors.

STATUTORY REQUIREMENTS

The statutory requirements of Chapter 405 appear in Resolution TL-18716.

DISCUSSION

It is the staff's opinion that certain technical errors were made in Resolution TL-18716 which need to be corrected, and the suggested corrections appear below.

On page 7 of Resolution TL-18716, in the second paragraph and in Finding of Fact number 7 on pages 11 and 12, there are references to "blood alcohol level" which should read "breath alcohol level."

The U.S. Department of Transportation has informed us that its authorized custody and control forms, "the DOT Breath Alcohol Testing Form" and "the Federal Drug Testing Custody and Control

Form," may only be used for drivers who are required to participate in a federally mandated drug and alcohol testing program. In addition, federal regulations do not require controlled substance test results to be reported on custody and control forms, but allow a medical review officer to use any manner of signed, written notification which meets the requirements of 49 CFR Part 382.407. In the third paragraph on page 8, in Finding of Fact number 10 on page 13, in ordering paragraph number 8 on page 15, and in Parts 10.02 and 10.06 of General Orders 157 and 158, there are requirements that carriers use the federal forms when implementing their state mandated program and that controlled substance test results be reported to the Commission by the medical review officer on the employer's copy of the custody and control form. Therefore, the Commission adopted regulations should be changed to require that carriers use custody and control forms that are substantially similar to, but distinct from, the forms authorized by the federal government. The Commission adopted regulations should also be amended to allow a medical review officer to report test results to the Commission in a manner consistent with the requirements of 49 CFR Part 382.407.

The pre-employment alcohol testing requirements discussed in the third paragraph on page 7, in Findings of Fact number 8 on page 12 and number 10 on page 13, in ordering paragraph number 8 on page 15, and in Parts 10.02 and 10.06 of General Orders 157 and 158 should be rescinded due to the decision of the Fourth U.S. Circuit Court of Appeal (American Trucking Association vs Federal Highway Authority 51 F.3d 405 (4th Circuit 1995)) and the subsequent suspension of the pre-employment alcohol testing requirements (See 49 CFR Part 382.301(e)). Also, a statement should be added to Part 10.02 in General Orders 157 and 158 to emphasize that pre-employment alcohol testing is not required.

The references to having a copy of the driver-applicant's test results sent directly to the Commission by the attending medical review officer or breath alcohol technician in the third paragraph on page 8, in Finding of Fact number 10 on page 13, in ordering paragraph 8 on page 15 and in Part 10.06 of General Orders 157 and 158 should allow for the test results to be sent to the Commission by the administrator of the consortium in which the driver is enrolled. When drivers enter into a consortium for the purposes of drug and alcohol testing, the consortium routinely receives and distributes custody and control forms and test results. As this control of the paper trail is part of the consortium's purpose, it would not be advisable for the Commission to prohibit consortia from providing that service.

Attached to this resolution is an amended GO 157-C which appears as Appendix A and an amended GO 158-A which appears as Appendix B. These General Orders have been amended to reflect the changes discussed above.

FINDINGS OF FACT:

1. As directed by Chapter 405, statutes of 1995 (SB 46), the Commission adopted alcohol and controlled substance testing requirements for passenger stage corporations and charter-party carriers (Resolution TL-18716). Certain technical errors were made in the resolution which need to be corrected.
2. On page 7 of Resolution TL-18716, in the second paragraph and in Finding of Fact number 7 on pages 11 and 12, there are references to "blood alcohol level" which should read "breath alcohol level."
3. The U.S. Department of Transportation has informed us that its authorized custody and control forms, "the DOT Breath Alcohol Testing Form" and "the Federal Drug Testing Custody and Control Form," may only be used for drivers who are required to participate in a federally mandated drug and alcohol testing program. In addition, federal regulations do not require controlled substance test results to be reported on custody and control forms, but allow a medical review officer to use any manner of signed, written notification which meets the requirements of 49 CFR Part 382.407. In Resolution TL-18716 in the third paragraph of page 8, in Finding of Fact number 10 on page 13, in ordering paragraph number 8 on page 15, and in Parts 10.02 and 10.06 of General Orders 157 and 158, there are requirements that carriers use the federal custody and control forms when implementing their state mandated programs and that controlled substance test results be reported to the Commission by the medical review officer on the employer's copy of the custody and control form. Therefore, the Commission adopted regulations should be changed to require that carriers use custody and control forms that are substantially similar to, but distinct from, the forms authorized by the federal government. The Commission adopted regulations should also be amended to allow a medical review officer to report test results to the Commission in a manner consistent with the requirements of 49 CFR Part 382.407.
4. In Resolution TL-18716, the pre-employment alcohol testing requirements discussed in the third paragraph on page 7, in Findings of Fact number 8 on page 12 and number 10 on page 13, in ordering paragraph number 8 on page 15, and in Parts 10.02 and 10.06 of General Orders 157 and 158 should be rescinded due to the decision of the Fourth U.S. Circuit Court of Appeal (American Trucking Association vs Federal Highway Authority 51 F.3d 405 (4th Circuit 1995)) and the subsequent suspension of the pre-employment alcohol testing requirements (See 49 CFR Part 382.301(e)). Also, a statement should be added to Part 10.02 in General Orders 157 and 158 to emphasize that pre-employment

alcohol testing is not required.

5. In Resolution TL-18716, the references to having a copy of the driver-applicant's test results sent directly to the Commission by the attending medical review officer or breath alcohol technician in the third paragraph on page 8, in Finding of Fact number 10 on page 13, in ordering paragraph 8 on page 15 and in Part 10.06 of General Orders 157 and 158 should allow for the test results to be sent to the Commission by the administrator of the consortium in which the driver is enrolled. When drivers enter into a consortium for the purposes of drug and alcohol testing, the consortium routinely receives and distributes custody and control forms and test results. As this control of the paper trail is part of the consortium's purpose, it would not be advisable for the Commission to prohibit consortia from providing that service.
6. In order to fully implement the requirements of Chapter 405, it is necessary to amend Resolution TL-18716 and General Orders Series 157 and 158 to incorporate the modifications set forth in Findings 2 through 5.

IT IS ORDERED that:

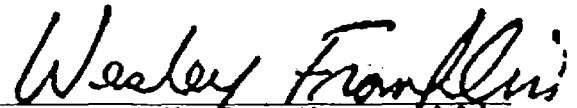
1. General Order 157-C is amended as set forth in Appendix A to this resolution.
2. General Order 158-A is amended as set forth in Appendix B to this resolution.
3. The Executive Director shall provide copies of this Resolution to all charter-party carriers and passenger stage corporations.
4. On page 7 of Resolution TL-18716, in the second paragraph, and in Finding of Fact number 7 on pages 11 and 12, references to "blood alcohol level" shall read "breath alcohol level."
5. In Resolution TL-18716, in the third paragraph on page 8, in Finding of Fact number 10 on page 13, in ordering paragraph number 8 on page 15, and in Parts 10.02 and 10.06 of General Orders 157 and 158, the requirement that carriers use federal custody and control forms when implementing their state mandated programs is revised to require carriers to use custody and control forms that are substantially similar to, but distinct from, the custody and control forms authorized by the federal government. The requirement that controlled substance test results be reported to the Commission by the medical review officer on the employer's copy of the custody and control form is revised to allow a medical review officer to report test results to the Commission

in a manner consistent with the requirements of 49 CFR Part 382.407.

6. In Resolution TL-18716, the pre-employment alcohol testing requirements discussed in the third paragraph on page 7, in Findings of Fact number 8 on page 12 and number 10 on page 13, in ordering paragraph number 8 on page 15, and in Parts 10.02 and 10.06 of General Orders 157 and 158 are rescinded. Also, a phrase is added to Part 10.02 in General Orders 157 and 158 to emphasize that pre-employment alcohol testing is not required.
7. In Resolution TL-18716, the references to having a copy of the driver-applicant's test results sent directly to the Commission by the attending medical review officer or breath alcohol technician in the third paragraph on page 8, in Finding of Fact number 10 on page 13, in ordering paragraph 8 on page 15 and in Part 10.06 of General Orders 157 and 158 are revised to allow for the test results to be sent to the Commission by the administrator of the consortium in which the driver is enrolled.
8. This resolution is effective September 4, 1996.

I hereby certify that the foregoing resolution was duly introduced, passed and adopted at a regular meeting of the Public Utilities Commission of the State of California, held on the fourth day of September, 1996. The following Commissioners voted favorably thereon:

PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA



Wesley M. Franklin
Executive Director

DANIEL Wm. FESSLER
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners

President P. Gregory Conlon,
being necessarily absent, did not
participate.

Attachments: Appendix A
Appendix B

APPENDIX A

General Order 157-C
(Supersedes General Order 157-B)

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

RULES AND REGULATIONS GOVERNING THE OPERATIONS OF CHARTER-PARTY
CARRIERS OF PASSENGERS PURSUANT TO CHAPTER 8 OF DIVISION 2 OF THE
PUBLIC UTILITIES CODE (BEGINNING WITH SECTION 5351).

Adopted December 20, 1995. Effective January 1, 1996.
Resolution TL-18716

Amended September 5, 1996. Effective September 5, 1996.
Resolution TL-18760

CHARTER-PARTY CARRIERS OF PASSENGERS

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PART 1--GENERAL PROVISIONS

- 1.01--SHORT TITLE. These rules and regulations shall be known as "General Order Series 157".
- 1.02--REFERENCES TO STATUTES AND RULES AND REGULATIONS. Whenever reference is made to any portion of any law, such reference shall apply to all amendments and additions heretofore or hereafter made; and whenever reference is made to any portion of these rules and regulations, such reference shall apply to all amendments and additions hereafter made.
- 1.03--CONSTRUCTION OF SINGULAR AND PLURAL. The singular number includes the plural, and the plural the singular.
- 1.04--"SHALL" and "MAY". "Shall" is mandatory and "may" is permissive.
- 1.05--LIABILITY INSURANCE REQUIREMENTS. Every charter-party carrier shall comply with all provisions of General Order Series 115.
- 1.06--APPLICABILITY OF VEHICLE CODE. Every charter-party carrier and their drivers shall comply with the provisions of the California Vehicle Code.
- 1.07--COMMISSION MAY ORDER DEVIATIONS. The Commission may authorize deviations from these rules and regulations or prescribe or require the observance of additional or different rules by special order.
- 1.08--AVAILABILITY OF GENERAL ORDER SERIES 157, VEHICLE CODE AND TITLE 13. Every charter-party carrier shall have a current copy of General Order series 157 and a current copy of the California Vehicle Code and the Motor Carrier Safety Sections (Subchapter 4, Article 12 and 14, and Subchapter 6.5, Articles 1, 3, 6, and 8) of Title 13 of the California Code of Regulations in a place available to all drivers.

PART 2--DEFINITIONS

- 2.01--"COMMISSION". "Commission" means the Public Utilities Commission of the State of California.
- 2.02--"CHARTER-PARTY CARRIER OF PASSENGERS", "TCP", "CARRIER". The definition of "charter-party carrier of passengers" shall be that set forth in Sections 5351-5360 of the Public Utilities Code. The initials "TCP" mean "transportation charter-party". Within this General Order the word "carrier" means charter-party carrier of passengers.
- 2.03--"CHARTER-PARTY VEHICLE", "VEHICLE". "Charter-party vehicle" is a motor vehicle used in charter-party service. Within this General Order the word "vehicle" means charter-party vehicle.

- 2.04--"SPECIAL IDENTIFICATION LICENSE PLATE". A "special identification license plate" is a plate issued to a limousine owner or operator by the California Department of Motor Vehicles in accordance with Section 5385.6 of the Public Utilities Code.
- 2.05--"LIMOUSINE". A "limousine" includes any luxury sedan, of either standard or extended length, with a seating capacity of not more than 9 passengers, including the driver, used in the transportation of passengers for hire on a prearranged basis to or from airports within this state.
- 2.06--"DRIVER-APPLICANT". A driver-applicant is any applicant for charter-party carrier operating authority who will also be a driver of any vehicle authorized to be operated under the authority.

PART 3--GENERAL REQUIREMENTS AND RESTRICTIONS

- 3.01--PREARRANGED TRANSPORTATION. Class A and Class B charter-party carriers, as defined in Public Utilities Code Section 5383, and carriers holding permits under Public Utilities Code Section 5384(b) shall provide transportation only on a prearranged basis. The party arranging the transportation shall have exclusive use of the vehicle. The driver shall possess a waybill which includes the following:
1. Name of carrier and TCP number.
 2. Vehicle license plate number.
 3. Driver's name.
 4. Name and address of person requesting or arranging the charter.
 5. Time and date when charter was arranged.
 6. Number of persons in the charter group.
 7. Points of origination and destination.
- Upon request, the driver shall show the waybill to any Commission or airport enforcement officer.
- 3.02--OPERATIONS AT AIRPORTS. No carrier shall conduct any operations on the property of or into any airport unless such operations are authorized by both this Commission and the airport authority involved. Consistent failure to comply with safety or traffic rules and regulations of an airport authority may result in suspension or revocation of Commission operating authority.
- 3.03--TAXI TRANSPORTATION SERVICE NOT AUTHORIZED. A carrier is not authorized to engage in taxicab transportation service licensed and regulated by a city or county. Carriers are prohibited from using vehicles which have top lights and/or taxi meters.
- 3.04--SUB-CARRIERS. A carrier shall not use the services of another carrier (sub-carrier) that provides the vehicle and the driver, unless the second carrier holds Commission authority as a charter-party carrier. The agreement for the utilization of the second carrier's vehicle(s) and

driver(s) by the operating carrier shall be evidenced by a written document, and shall contain the carriers' names, TCP numbers, and the services to be provided.

- 3.05--RENEWAL OF AUTHORITY. Each carrier shall be responsible for filing renewal applications at least three months prior to the expiration date of the certificate or permit.
- 3.06--FICTITIOUS NAMES. A carrier shall not use any trade, business, or fictitious names which are not on file with the Commission.
- 3.07--ADVERTISEMENTS SHALL INCLUDE TCP NUMBER OR SPECIAL LICENSE PLATE NUMBER. Carriers shall state the number of their certificate or permit in every written or oral advertisement, broadcast, or other holding out to the public for services, except that every charter-party carrier operating a limousine may instead state its special identification license plate number. The certificate or permit number shall include the prefix "TCP", and the suffix "A", "B", "C", "S", "P", and/or "Z" (Class "A" certificate, Class "B" certificate, Class "C" certificate, round-trip sightseeing permit, charter-party permit, and specialized carrier permit, respectively) which identify the authority or authorities under which transportation service will be provided.

PART 4--VEHICLES

- 4.01--EQUIPMENT STATEMENT TO BE CURRENT. Every carrier shall maintain, on file with the Commission, an equipment list of all vehicles (owned or leased) in use under each certificate and permit. The information for each vehicle shall include the manufacturer, model year, vehicle identification number (V.I.N.), seating capacity (including driver), description of body type or model designation, whether the vehicle is leased or owned, handicap accessible status, and its license plate number. Additions and deletions to the equipment list shall be filed within ten days of the date the vehicle is put into or pulled out of service.
- 4.02--SAFETY REQUIREMENTS BEFORE OPERATION. All vehicles operated under each certificate or permit shall comply with the requirements of the California Highway Patrol and the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations. Every carrier must inspect all vehicles and maintain proper documentation of such inspections.
- 4.03--NAME OF CARRIER AND VEHICLE NUMBER TO BE DISPLAYED ON VEHICLE. A vehicle shall not be operated in service unless there is painted or displayed, on each side of the vehicle, the name or trade name of the carrier. Every carrier shall assign an identifying number to each vehicle. Such number shall be painted on or otherwise permanently attached to the rear and each side of the exterior of each vehicle. The carrier's name and vehicle numbers shall be

sufficiently large and color contrasted as to be readable, during daylight hours, at a distance of 50 feet. However, the provisions of this section shall not apply to vehicles temporarily leased by carriers for a period of less than 30 days or to vehicles designed to carry not more than 15 persons, including the driver.

- 4.04--TCP NUMBER TO BE DISPLAYED ON VEHICLE. The number assigned by the Commission to the carrier's authority shall be shown in full on all charter party vehicles, including the prefix "TCP", the authority number and the authority suffix "A", "B", "C", "S", "P" and/or "Z" (which designate Class "A" certificate, Class "B" certificate, Class "C" certificate, round-trip sightseeing permit, charter-party permit, and specialized carrier permit, respectively). The letter and numeral symbol size and placement shall be as follows:

The identification symbol shall be in sharp color contrast to the background and such size and shape and so located as to be readily legible during daylight hours at a distance of 50 feet. The symbols shall be displayed on each side of the vehicle, EXCEPT vehicles designed to carry not more than 15 persons, including the driver, which shall display the identification symbol on the front and rear bumpers.

The identifying symbol displayed by a carrier subject to the jurisdiction of the Interstate Commerce Commission (ICC) shall serve in lieu of the above requirements, provided such ICC operating authority is registered with this Commission in accordance with the Interstate and Foreign Highway Carrier's Registration Act (commencing with PU Code Section 3901).

- 4.05--DECALS TO BE DISPLAYED. Vehicles designed to carry not more than 8 persons, including the driver, shall display the Commission-issued decal. Vehicles with seating capacity of 9 to 15 persons, including the driver, may display the Commission-issued decal, which will be issued upon request to the License Section of the Safety and Enforcement Division. Any decals issued by the Commission shall be affixed to the lower right hand corner of the rear bumper of the vehicle.

- 4.06--SPECIAL IDENTIFICATION LICENSE PLATES FOR LIMOUSINES. Charter-party carriers operating limousines shall display a set of special identification license plates issued by the Department of Motor Vehicles pursuant to Public Utilities Code Section 5385.6. The special identification license plates shall be displayed in lieu of the decal requirements of Part 4.05. Upon cancellation, suspension or revocation of a charter-party carrier's permit or certificate, the carrier shall immediately remove the special identification license plates and surrender them to the Commission. This Part is effective February 4, 1996.

- 4.07--DAMAGE TO IDENTIFICATION SYMBOLS. It shall be the carrier's responsibility to make immediate restoration or

replacement of any damage caused to the identification names and numbers on vehicles.

- 4.08--ILLEGAL DISPLAY OF P.U.C. IDENTIFICATION. Immediately upon revocation or termination of any permit or certificate the TCP number for the permit or certificate shall be removed from all vehicles. If new operating authority is later granted, it shall be the responsibility of the carrier to make the appropriate identification.
- 4.09--UNAUTHORIZED USE OF OPERATING AUTHORITY. A carrier shall not knowingly permit its operating authority, TCP number(s) or special identification license plate(s) to be used by others.
- 4.10--SALE OR TRANSFER OF VEHICLE. It shall be the carrier's responsibility to remove all certificate or permit numbers, identification symbols, and all special identification license plates when a vehicle is sold or transferred.

PART 5--DRIVERS

- 5.01--DRIVER TO BE LICENSED. Every driver of a charter-party vehicle shall be licensed as required under the California Vehicle Code and shall comply with the driver provisions of the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations.
- 5.02--DRIVER RECORD. Every carrier shall enroll in the "Pull Notice Program" of the Department of Motor Vehicles as defined in Vehicle Code Section 1808.1. A charter-party vehicle shall not be operated by any driver who is presumed to be a negligent operator under Vehicle Code Section 12810.5.
- 5.03--DRIVER STATUS. Every driver of a vehicle shall be the permit/certificate holder or under the complete supervision, direction and control of the operating carrier and shall be:
- A. An employee of the permit/certificate holder; or,
 - B. An employee of a sub-carrier; or,
 - C. An independent owner-driver who holds charter-party carrier authority and is operating as a sub-carrier.
- 5.04--ALCOHOLIC BEVERAGES AND DRUGS: USE BY DRIVER FORBIDDEN. All drivers shall comply with the rules in the Code of Federal Regulations Title 49, Parts 392.4 and 392.5. This rule, in part, prohibits drivers from consuming or being under the influence of a drug or alcoholic beverage while on duty, and prohibits carriers from allowing drivers to consume or be under the influence of a drug or alcoholic beverage while on duty.

PART 6--RECORDS AND INSPECTIONS

- 6.01--CHARTER-PARTY RECORDS. Every carrier shall institute and maintain in its offices, a set of records which reflect information as to the services performed, including waybills, as described in Section 3.01. Every carrier shall also maintain copies of all lease and sub-carrier agreements, and shall maintain maintenance and safety records (including, but not limited to, the records required in Sections 4.01 and 4.02), driver records (including, but not limited to, the records required in Section 5.02), and consumer complaint records (including, but not limited to, the records required in Section 7.01). Such records shall be maintained for a minimum period of three years.
- 6.02--INSPECTIONS. The duly authorized representatives of this Commission shall have the right at all times and shall be allowed to enter into any vehicle or facility for the purpose of inspecting the accounts, books, papers, and documents and for ascertaining whether or not these rules are being complied with and observed. Every owner, operator, or driver of any vehicle shall afford the duly authorized representatives of this Commission all reasonable opportunity and facilities to make such an inspection.

PART 7--COMPLAINTS

- 7.01--CARRIER REQUIRED TO ANSWER COMPLAINTS. Every carrier shall respond within 15 days to any written complaint concerning transportation service provided or arranged by the carrier. A carrier shall, within 15 days, respond to Commission staff inquiries regarding complaints and provide copies of any requested correspondence and records.

PART 8--EXEMPTIONS

- 8.01--BY WRITTEN REQUEST. If, in a particular case, exemption from any of these rules and regulations is desired, a written request may be made to the Commission for such exemption. Such a request shall be accompanied by a full statement of the conditions existing and the reasons relied on to justify the exemption. It is to be understood that any exemption so granted shall be limited to the particular case covered by the request.

PART 9--TRANSPORTATION BY YOUTH CAMPS

- 9.01--TRANSPORTATION BY NONPROFIT YOUTH CAMPS. Transportation performed by nonprofit organizations which is incidental to the operation of youth camps is not subject to the Passenger Charter-Party Carriers' Act, Public Utilities (PU) Code Section 5351, et seq., under the exclusion set forth in PU Code Section 5353(f).
- 9.02--TRANSPORTATION BY FOR-PROFIT YOUTH CAMPS. Transportation performed by for-profit organizations which is incidental

to the operation of youth camps is subject to the Passenger Charter-Party Carriers' Act, Public Utilities Code Section 5351, et. seq.

PART 10--CONTROLLED SUBSTANCE AND ALCOHOL TESTING CERTIFICATION PROGRAM

10.01--WHO MUST COMPLY. All charter-party carrier applicants (new and renewal) who propose to employ any driver who will operate a vehicle having a seating capacity of 15 persons or less, including the driver, must provide for a mandatory controlled substance and alcohol testing certification program for those drivers as required by this General Order unless all such drivers are already covered by federal testing regulations. Charter-party carriers who employ any driver who operates a vehicle with a seating capacity of 16 persons or more, including the driver, must comply with the federal regulations concerning controlled substance and alcohol testing for those drivers.

10.02--CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROGRAM REQUIRED. Every applicant who must comply with this General Order shall provide for a testing program as required in Parts 40 and 382 of Title 49 of the Code of Federal Regulations (CFR), except as modified herein.

For the purposes of this Commission's program vehicles with a seating capacity of 15 persons or less, including the driver, shall be considered commercial vehicles. This affects, for example, the determination of what are "safety sensitive functions" for purposes of this Commission's program.

A negative test for alcohol shall show a breath alcohol concentration of less than 0.02 percent and drivers must show a valid California driver's license at the time and place of testing.

Every such applicant must conduct pre-employment testing (Part 382.301), post accident testing (Part 382.303), random testing (Part 382.305), testing due to reasonable suspicion (Part 382.307), followup testing (Part 382.311), and return-to-duty testing (Part 382.309), except that pre-employment testing for alcohol is not required.

Each such applicant must provide educational materials (Part 382.601) that explain the requirements of Part 382 of Title 49 of the CFR and this General Order as well as the employer's policies and procedures with respect to meeting the testing requirements.

Such applicants must advise employees (Part 382.605) of the resources available to them to resolve problems associated with the misuse of alcohol and use of controlled substances.

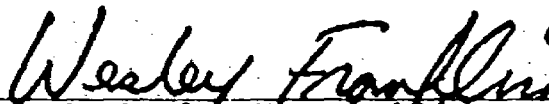
Such applicants must ensure that supervisors undergo the appropriate training to determine whether reasonable suspicion exists to require a driver to undergo testing (Part 382.603).

Such applicants must use a custody and control form that is substantially similar to, but distinct from, the "Federal Drug Testing Custody and Control Form" and the "DOT Breath Alcohol Testing Form" to identify employees who are being tested and to request specific kinds of tests (49 CFR Parts 40.23 and 40.59).

- 10.03--REQUIREMENTS FOR PRE-EMPLOYMENT TESTING. An earlier negative result for a driver shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing. (Any negative test result shall be accepted for one year as meeting any requirement for periodic testing if the driver has not tested positive subsequent to a negative result.)
- 10.04--TESTING COSTS. Applicants shall be responsible for being in compliance with the testing program and shall pay all costs of the testing program, except that an employer may require employees who test positive to pay the costs of rehabilitation and return-to-duty and followup testing.
- 10.05--CONFIDENTIALITY OF TESTS. All test results are confidential and may not be released without the consent of the driver, except as authorized or required by law. 49 CFR Parts 40.35, 40.81, 382.405 and 382.413 detail rules concerning disclosure and confidentiality of employee test records. The results of tests required under the Commission's testing program may be released under the same circumstances as those detailed in 49 CFR Parts 40 and 382. The Commission may require laboratories to make copies of test results available to it on request. No evidence from a positive test shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.
- 10.06--DRIVER-APPLICANT TEST RESULTS TO BE REPORTED TO THE COMMISSION. Test results for applicants who are also drivers must be reported directly to the Commission consistent with the requirements of 49 CFR Part 382.407. Therefore, a driver-applicant applying for new operating authority must cause a copy of its pre-employment controlled substance test results to be sent directly to the Commission by the attending medical review officer or by the administrator of the consortium in which the driver-applicant is enrolled. A driver-applicant applying for renewal of operating authority must cause a copy of its most recent controlled substance and alcohol test results to be sent directly to the Commission by the attending medical review officer or by the administrator of the consortium in which the driver-applicant is enrolled.

Approved and dated September 4, 1996, at San Francisco, California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA



By Wesley M. Franklin
Executive Director

DANIEL Wm. FESSLER
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Commissioners

President P. Gregory Conlon,
being necessarily absent, did not
participate.

APPENDIX B

General Order 158-A
(Supersedes General Order 158)

PUBLIC UTILITIES COMMISSION OF THE
STATE OF CALIFORNIA

RULES AND REGULATIONS GOVERNING THE OPERATIONS OF PASSENGER STAGE
CORPORATIONS AND THE CONSTRUCTION AND FILING OF TARIFFS AND
TIMETABLES

Adopted December 20, 1995. Effective January 1, 1996.
Resolution TL-18716

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PASSENGER STAGE CORPORATIONS

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PART 1--GENERAL PROVISIONS

- 1.01--**SHORT TITLE.** These rules and regulations shall be known as "General Order Series 158".
- 1.02--**REFERENCES TO STATUTES AND RULES AND REGULATIONS.** For convenience, reference to some of the principal pertinent provisions of the Public Utilities Code are Sections 1031-1040 "Passenger Stage Corporations" and Sections 486-496 "Tariff Schedules". Whenever reference is made to any portion of any law, such reference shall apply to all amendments and additions heretofore or hereafter made; and whenever reference is made to any portion of these rules and regulations, such reference shall apply to all amendments and additions hereafter made.
- 1.03--**CONSTRUCTION OF SINGULAR AND PLURAL.** The singular number includes the plural, and the plural the singular.
- 1.04--**"SHALL" and "MAY".** "Shall" is mandatory and "may" is permissive.
- 1.05--**LIABILITY INSURANCE REQUIREMENTS.** Every passenger stage corporation shall comply with all provisions of General Order 101 Series.
- 1.06--**APPLICABILITY OF VEHICLE CODE.** Every passenger stage corporation and their drivers shall comply with the provisions of the California Vehicle Code.
- 1.07--**COMMISSION MAY ORDER DEVIATIONS.** The Commission may authorize deviations from these rules and regulations or prescribe or require the observance of additional or different rules by special order.
- 1.08--**AVAILABILITY OF GENERAL ORDER SERIES 158, VEHICLE CODE AND TITLE 13.** Every passenger stage corporation shall have a current copy of General Order series 158 and a current copy of the California Vehicle Code and the Motor Carrier Safety Sections (Subchapter 4, Article 12 and 14, and Subchapter 6.5, Articles 1, 3, 6, and 8) of Title 13 of the California Code of Regulations in a place available to all drivers.

PART 2--DEFINITIONS

- 2.01--**"COMMISSION".** "Commission" means the Public Utilities Commission of the State of California.
- 2.02--**"PASSENGER STAGE CORPORATION", "PSC", "CARRIER".** The definition of "passenger stage corporation" shall be that set forth in Section 226 of the Public Utilities Code. The initials "PSC" mean passenger stage corporation. Within this General Order the word "carrier" means passenger stage corporation carrier unless specific reference includes charter-party carriers.
- 2.03--**"VEHICLE".** Within this General Order the word "vehicle" means a motor vehicle operated in passenger stage service.

- 2.04--"TARIFF", "TIMETABLE". The definition of "tariff" and "timetable" means an original publication, a supplement, amendment, or revised page thereto, or a reissue thereof.
- 2.05--"SCHEDULED SERVICE". Within this General Order the term "scheduled service" means service to be provided to specific places at specific times.
- 2.06--"DRIVER-APPLICANT". A driver-applicant is any applicant for passenger stage operating authority who will also be a driver of any vehicle authorized to be operated under the authority.

PART 3--GENERAL REQUIREMENTS AND RESTRICTIONS

- 3.01--OPERATIONS AT AIRPORTS. No carrier shall conduct any operations on the property of or into any airport unless such operations are authorized by both this Commission and the airport authority involved. Consistent failure to comply with safety or traffic rules and regulations of an airport authority may result in suspension or revocation of Commission operating authority.
- 3.02--TAXI TRANSPORTATION SERVICE NOT AUTHORIZED. A carrier is not authorized to engage in taxicab transportation service licensed and regulated by a city or county. Carriers are prohibited from using vehicles which have top lights and/or taxi meters.
- 3.03--SUB-CARRIERS. A carrier shall not use the services of another carrier (sub-carrier) that provides the vehicle and the driver, unless the second carrier holds Commission authority as a charter-party carrier. The agreement for the utilization of the second carrier's vehicle(s) and driver(s) by the operating carrier shall be evidenced by a written document, and shall contain the carrier's names, TCP numbers, and the services to be provided.
- 3.04--FICTITIOUS NAMES. A carrier shall not use any trade, business, or fictitious names, which are not on file with the Commission.
- 3.05--ADVERTISEMENTS SHALL INCLUDE PSC NUMBER. Carriers shall state the number of their certificate in every written or oral advertisement, broadcast, or other holding out to the public for services. The number shall be preceded by the letters "PSC".

PART 4--VEHICLES

- 4.01--EQUIPMENT STATEMENT TO BE CURRENT. Every carrier shall maintain, on file with the Commission, an equipment list of all vehicles (owned or leased) in use under each certificate. The information for each vehicle shall include the manufacturer, model year, vehicle identification number (V.I.N.), seating capacity (including driver), description of body type or model designation, whether the vehicle is leased or owned, handicap accessible

status, and its license plate number. Additions and deletions to the equipment list shall be filed within ten days of the date the vehicle is put into or pulled out of service.

4.02--SAFETY REQUIREMENT BEFORE OPERATION. All vehicles operated under each certificate shall comply with the requirements of the California Highway Patrol and the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations. Every carrier must inspect all vehicles and maintain proper documentation of such inspections.

4.03--NAME OF CARRIER AND VEHICLE NUMBER TO BE DISPLAYED ON VEHICLE. A vehicle shall not be operated in service unless there is painted or displayed, on each side of the vehicle, the name or trade name of the carrier. Every carrier shall assign an identifying number to each vehicle. Such number shall be painted on or otherwise permanently attached to the rear and each side of the exterior of each vehicle. The carrier's name and vehicle numbers shall be sufficiently large and color contrasted as to be readable, during daylight hours, at a distance of 50 feet. However, the provisions of this section shall not apply to vehicles temporarily leased by carriers for a period of less than 30 days.

4.04--PSC NUMBER TO BE DISPLAYED ON VEHICLE. The number assigned by the Commission to the carrier's authority shall be shown in full on all vehicles, including the prefix "PSC", and the authority number. The letter and numeral symbol size and placement shall be as follows:

The identification symbol shall be in sharp color contrast to the background and such size and shape and so located as to be readily legible during daylight hours at a distance of 50 feet. The symbols shall be displayed on each side of the vehicle.

The identifying symbol displayed by a carrier subject to the jurisdiction of the Interstate Commerce Commission (ICC) shall serve in lieu of the above requirements, provided such ICC operating authority is registered with this Commission in accordance with the Interstate and Foreign Highway Carrier's Registration Act (commencing with PU Code Section 3901).

4.05--DAMAGE TO IDENTIFICATION SYMBOLS. It shall be the carrier's responsibility to make immediate restoration or replacement of any damage caused to the identification names and numbers on vehicles.

4.06--ILLEGAL DISPLAY OF P.U.C. IDENTIFICATION. Immediately upon revocation or termination of any certificate the PSC number for the certificate shall be removed from all vehicles. If new operating authority is later granted, it shall be the responsibility of the carrier to make the appropriate identification.

- 4.07--UNAUTHORIZED USE OF OPERATING AUTHORITY. A carrier shall not knowingly permit its operating authority or its PSC number(s) to be used by others.
- 4.08--SALE OR TRANSFER OF VEHICLE. It shall be the carrier's responsibility to remove all certificate numbers and identification symbols when a vehicle is sold or transferred.

PART 5--DRIVERS

- 5.01--DRIVER TO BE LICENSED. Every driver of a vehicle shall be licensed as required under the California Vehicle Code and shall comply with the driver provisions of the Motor Carrier Safety Sections of Title 13 of the California Code of Regulations.
- 5.02--DRIVER RECORD. Every carrier shall enroll in the "Pull Notice Program" of the Department of Motor Vehicles as defined in Vehicle Code Section 1808.1. A vehicle shall not be operated by any driver who is presumed to be a negligent operator under Vehicle Code Section 12810.5.
- 5.03--DRIVER STATUS. Every driver of a vehicle shall be the certificate holder or under the complete supervision, direction and control of the operating carrier and shall be:
- A. An employee of the certificate holder; or,
 - B. An employee of a sub-carrier; or,
 - C. An independent owner-driver who holds charter-party carrier authority and is operating as a sub-carrier.
- 5.04--ALCOHOLIC BEVERAGES AND DRUGS; USE BY DRIVER FORBIDDEN. All drivers shall comply with the rules in the Code of Federal Regulations Title 49, Parts 392.4 and 392.5. This rule, in part, prohibits drivers from consuming or being under the influence of a drug or alcoholic beverage while on duty, and prohibits carriers from allowing drivers to consume or be under the influence of a drug or alcoholic beverage while on duty.

PART 6--RECORDS AND INSPECTIONS

- 6.01--RECORDS. Every carrier shall institute and maintain in its offices, a set of records on the services it performs. These records shall include tariffs, timetables, and the number of passengers transported. Every carrier shall also maintain copies of all lease and sub-carrier agreements, and shall maintain maintenance and safety records (including, but not limited to, the records required in Sections 4.01 and 4.02), driver records (including, but not limited to, the records required in Section 5.02), and consumer complaint records (including, but not limited to, the records required in Section 7.01). All records shall be maintained for a minimum period of three years.

6.02--INSPECTIONS. Commission staff shall have the right to enter any vehicle or facility to inspect a carrier's accounts, books, papers, and documents, or to ascertain if Commission rules and State laws are being complied with and observed. Every owner, operator, or driver of any vehicle shall afford the Commission staff all reasonable opportunity and facilities to make such an inspection.

PART 7--COMPLAINTS

7.01--CARRIER REQUIRED TO ANSWER COMPLAINTS. Every carrier shall respond within 15 days to any written complaint concerning transportation service provided or arranged by the carrier. A carrier shall, within 15 days, respond to Commission staff inquiries regarding complaints and provide copies of any requested correspondence and records.

PART 8--TARIFFS AND TIMETABLES

8.01--APPLICABILITY. All carriers shall file tariffs and all scheduled carriers shall file timetables in compliance with the Public Utilities Code, Commission directives, and the following rules. Commission staff may reject a tariff or timetable for noncompliance with the rules, any time before it becomes effective. A tariff or timetable currently in effect may be rejected or canceled for noncompliance on 30 days' notice.

8.02--PURPOSE. Tariffs and timetables are for the information and use of the general public. They shall be published in a manner that ensures they are readable and that their terms and conditions are easy to understand and apply.

8.03--FILING REQUIREMENTS. Three copies of each tariff and timetable shall be delivered to the Commission with a signed transmittal letter clearly explaining the purpose of the filing, the notice provisions followed, and the statutory authority for the filing. Where the filing affects an airport, an additional copy with attached mailing label, for each affected airport authority, shall be provided. Separate filings can be made for distinct services and/or service territories. A carrier may receive a receipt by filing an additional copy of the transmittal letter and a self-addressed stamped envelope. A copy of the transmittal letter will be dated by the Commission and returned to acknowledge receipt of a filing. The Commission may direct the reissue of any tariff and/or timetable.

8.04--POSTING. All carriers shall follow the posting rules set forth in General Order 122 series. In addition, all carriers serving an airport shall conspicuously display tariff and timetable information in each vehicle used in airport service, in each location where airport tickets are sold, and shall have copies available for public distribution. The required airport service information shall include, but not be limited to:

a) All airport service fares, or if the carrier has more than 10 fares, at least 10 fares representative of the service performed.

b) All other charges (e.g. baggage, waiting).

c) Complete complaint procedures including reference to the Commission's regulatory role and passenger complaint line.

For purposes of this section, vehicles serving airports as part of through intercity service shall not be deemed carriers serving an airport and shall be exempt from the posting requirements contained herein.

8.05--CONTENT. Each tariff shall contain the complete terms and conditions under which the carrier will provide service, including:

A. A title or cover page containing the legal name and Commission-issued PSC number(s) of the carrier, all trade names, a business address and telephone number, the territory or points to and from which the tariff applies (briefly stated), the date effective on the bottom right side of the page, and the authority under which the tariff is filed (e.g., decision number, order number).

B. All fares, additional charges, and discount provisions.

C. An attached timetable including specific route points and times for all scheduled services.

D. A service definition, hours of service, and specified territory by name and postal ZIP code for nonscheduled services.

E. Any service restrictions or limitations, including policies for: guarantee of service; ticket sale, use, refund, and exchange; and baggage provisions.




F. If applicable, procedures for the handling of claims for loss or damage of express shipments consistent with General Order 139.

G. A consumer complaint procedure that includes the address and telephone number of the Safety and Enforcement Division's Consumer Affairs Unit.

8.06--FORM. Tariffs and timetables shall be filed in book (pamphlet) or loose-leaf form. Tariffs shall be machine-printed on paper of good quality.

8.07--SIZE. Tariffs and timetables shall be filed on paper of good quality that is no larger than 8-1/2 inches by 11 inches and no smaller than 8 inches by 10-1/2 inches.

8.08--UNIFORM SYMBOLS. Uniform symbols shall be used to indicate changes in tariffs as follows:

Letter (A), (a) or  to indicate increases.
Letter (R), (r) or  to indicate reductions.
Letter (C), (c) or  to indicate a change resulting in neither an increase nor a reduction.

The following symbols shall be used only for the purposes indicated:

- * to show new material added to the tariff.
- + to show "Applicable to intrastate traffic only."
- ⊙ to indicate "Applicable to interstate traffic only."
- to indicate reissued matter.

8.09--LOOSE-LEAF TARIFFS. Each page or supplement of a loose-leaf tariff shall show:

- A. The name, PSC number, address, and telephone number of the issuing carrier.
- B. The page number (e.g. "Original Page 4," "Third Revised Page 10," etc.).
- C. The date the page will become effective in the lower right corner.
- D. The authority under which the amendment is filed.
- E. Amendments shall be made by filing new pages. Amended pages shall be new pages or consecutively numbered revisions of previous pages (e.g. "First Revised Page 10 cancels Original Page 10"). A loose-leaf tariff may be canceled by supplement or by filing a new tariff.
- F. A one-inch margin on the left-hand side of each page.

8.10--AMENDMENTS TO BOOK TARIFFS. Book (pamphlet) tariffs shall be amended by filing supplements constructed generally in the same manner and arranged in the same order as the tariff being amended. Each supplement shall refer to the page, item, or index of the tariff or supplement it amends. Every supplement, excluding suspensions and cancelations, shall contain a cumulative index of changes in the tariff. No tariff shall have more than 2 supplements in effect at any one time. When a tariff with 2 supplements requires amendment, the entire tariff shall be reissued.

8.11--ADOPTION OF TARIFFS. When operative rights of a carrier are transferred from the operating control of one company to that of another, the succeeding carrier shall issue its own tariff canceling the tariff of the preceding company or issue an adoption notice accepting as its own the tariffs of the preceding company. The adoption notice shall state

the Commission order authorizing the transfer. The carrier shall also immediately inform, in writing, all agents or other carriers issuing tariffs in which it participates, of the change in ownership.

8.12--CHANGE OF NAME. When a carrier changes its legal or trade name, without the transfer of control, it shall, within 10 days, amend its tariff to show the new name of the carrier. The carrier shall also, within 10 days, inform in writing all agents or other carriers issuing tariffs in which it participates of the change in name. Said agents and carriers shall promptly amend the affected tariffs to reflect the change in name. The tariff amendments shall show the new name of the carrier and its former name, for example "ABC Limo (formerly XYZ Limo)."

PART 9--EXEMPTIONS

9.01--BY WRITTEN REQUEST. If, in a particular case, exemption from any of these rules and regulations is desired, a written request may be made to the Commission for such exemption. Such a request shall be accompanied by a full statement of the conditions existing and the reasons relied on to justify the exemption. It is to be understood that any exemption so granted shall be limited to the particular case covered by the request.

PART 10--CONTROLLED SUBSTANCE AND ALCOHOL TESTING CERTIFICATION PROGRAM

10.01--WHO MUST COMPLY. All passenger stage corporation applicants who propose to employ any driver who will operate a vehicle having a seating capacity of 15 persons or less, including the driver, must provide for a mandatory controlled substance and alcohol testing certification program for those drivers as required by this General Order unless all such drivers are covered by the federal testing regulations. Passenger stage corporations who employ any driver who operates a vehicle with a seating capacity of 16 persons or more, including the driver, must comply with the federal regulations concerning controlled substance and alcohol testing for those drivers.

10.02--CONTROLLED SUBSTANCE AND ALCOHOL TESTING PROGRAM REQUIRED. Every applicant who must comply with this General Order shall provide for a testing program as required in Parts 40 and 382 of Title 49 of the Code of Federal Regulations (CFR), except as modified herein.

For the purposes of this Commission's program vehicles with a seating capacity of 15 persons or less, including the driver, shall be considered commercial vehicles. This affects, for example, the determination of what are "safety sensitive functions" for purposes of this Commission's program.

A negative test for alcohol shall show a breath alcohol concentration of less than 0.02 percent and drivers must show a valid California driver's license at the time and place of testing.

Every such applicant must conduct pre-employment testing (Part 382.301), post accident testing (Part 382.303), random testing (Part 382.305), testing due to reasonable suspicion (Part 382.307), followup testing (Part 382.311), and return-to-duty testing (Part 382.309), except that pre-employment testing for alcohol is not required.

Each such applicant must provide educational materials (Part 382.601) that explain the requirements of Part 382 of Title 49 of the CFR and this General Order as well as the employer's policies and procedures with respect to meeting the testing requirements.

Such applicants must advise employees (Part 382.605) of the resources available to them to resolve problems associated with the misuse of alcohol and use of controlled substances.

Such applicants must ensure that supervisors undergo the appropriate training to determine whether reasonable suspicion exists to require a driver to undergo testing (Part 382.603).

Such applicants must use a custody and control form that is substantially similar to, but distinct from, the "Federal Drug Testing Custody and Control Form" and the "DOT Breath Alcohol Testing Form" to identify employees who are being tested and to request specific kinds of tests (49 CFR Parts 40.23 and 40.59).

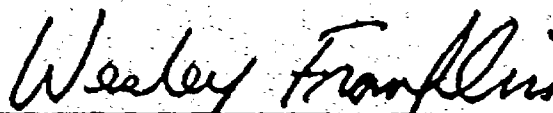
- 10.03--REQUIREMENTS FOR PRE-EMPLOYMENT TESTING. An earlier negative result for a driver shall not be accepted as meeting the pre-employment testing requirement for any subsequent employment, or any testing requirements under the program other than periodic testing. (Any negative test result shall be accepted for one year as meeting any requirement for periodic testing if the driver has not tested positive subsequent to a negative result.)
- 10.04--TESTING COSTS. Applicants shall be responsible for being in compliance with the testing program and shall pay all costs of the testing program, except that an employer may require employees who test positive to pay the costs of rehabilitation and return-to-duty and followup testing.
- 10.05--CONFIDENTIALITY OF TESTS. All test results are confidential and may not be released without the consent of the driver, except as authorized or required by law. 49 CFR Parts 40.35, 40.81, 382.405 and 382.413 detail rules concerning disclosure and confidentiality of employee test records. The results of tests required under the Commission's testing program may be released under the same circumstances as those detailed in 49 CFR

Parts 40 and 382. The Commission may require laboratories to make copies of test results available to it on request. No evidence from a positive test shall be admissible in a criminal prosecution concerning unlawful possession, sale or distribution of controlled substances.

10.06--DRIVER-APPLICANT TEST RESULTS TO BE REPORTED TO THE COMMISSION. Test results for applicants who are also drivers must be reported directly to the Commission consistent with the requirements of 49 CFR Part 382.407. Therefore, a driver-applicant applying for new operating authority must cause a copy of its pre-employment controlled substance test results to be sent directly to the Commission by the attending medical review officer or by the administrator of the consortium in which the driver-applicant is enrolled. A driver-applicant applying for renewal of operating authority must cause a copy of its most recent controlled substance and alcohol test results to be sent directly to the Commission by the attending medical review officer or by the administrator of the consortium in which the driver-applicant is enrolled.

Approved and dated September 4, 1996, at San Francisco, California.

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA



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