APPENDIX A

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GENERAL ORDER NO. 172

PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

RULES AND REGULATIONS GOVERNING THE USE OF PERSONAL ELECTRONIC DEVICES BY EMPLOYEES OF RAIL TRANSIT AGENCIES AND RAIL FIXED GUIDEWAY SYSTEMS

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Rail Transit Agencies (RTA) and Rail Fixed Guideway Systems (RFGS) operating in California must comply with the following rules governing the use of personal electronic devices by employees.

1 GENERAL PROVISIONS

1.1 *Authority.* These rules and regulations are authorized by and implement the provisions of 49 U.S.C. § 5330; 49 C.F.R. § 659; and the California Public Utilities Code, including Sections 778, 29047, 30646, 100168, and 99152.

1.2 *Purpose.* The purpose of these rules and regulations is to eliminate distractions from the use of personal electronic devices by certain RTA employees operating, controlling, or working around rail transit vehicles or tracks, as defined herein. The safety of patrons, employees, and the public is of primary importance in the application of these regulations.

1.3 *Applicability.* These rules and regulations are applicable to all RTAs in California. This rule does not prohibit RTAs from implementing more stringent rules.

1.4 *Additional Rules.* The Commission may make such additional rules and regulations or changes to these rules and regulations as necessary for the purpose of safety.

1.5 *Exemptions or Modifications.* Requests for exemptions or modifications from these rules and regulations shall contain a full statement of the reasons justifying the request. A request must demonstrate that safety would not be reduced by the proposed exemption or modification. Any exemption or modification so granted shall be limited to the particular case covered by the request. All exemptions and modifications shall require Commission approval.

2 DEFINITIONS

2.1 *Employee* means a person employed by an RTA in California, or a contractor working on behalf of such RTA.

2.2 *Fouling a track* means placing oneself, or any equipment or appurtenance in an area where it could be struck by the widest equipment that could occupy the track.

2.3 *In-Cab Camera* means a closed-circuit audio and video recording device that is mounted in the cab of a rail transit vehicle and continuously records activities of the operator.

2.4 *Personal Electronic Device or PED* means any wireless or portable electronic device. This includes, but is not limited to, wireless phones, personal digital assistants, smart phones, two way pagers, portable internet devices, laptop computers, DVD players, audio players, iPods, MP3 players, games, Bluetooth devices, or any headphones or earbuds. The following devices are excluded from this definition:

- **a.** RTA-owned licensed radio communications equipment such as cab-mounted or portable two-way radios with channels dedicated solely for RTA operations.
- **b.** Electronic or electrical devices prescribed by a licensed medical practitioner to permit an employee to meet minimum levels of hearing ability as required by the RTA or contractor.
- **c.** Roadway worker protection devices.

2.5 *On Their Person* means being located on the person or attached to the person. For instance, if the personal electronic device is attached to the belt in a case, or kept in a pocket, or placed on a strap attached to the person, it is on their person.

2.6 *Rail Fixed Guideway System (RFGS)* means any light, heavy, or rapid rail system, monorail, inclined plane, funicular, trolley, cable car, automatic people mover, or automated guideway transit system used for public

transit and not regulated by the Federal Railroad Administration or not specifically exempted by statute from Commission oversight.

2.7 *Rail Transit Agency (RTA)* means the entity that plans, designs, constructs, and/or operates an RFGS.

2.8 *Rail Transit Vehicle* means an RTA's rolling stock, including but not limited to passenger and maintenance vehicles.

2.9 *Stowed* means put away, out of sight, off the person, not attached to the person, and not in anything on the person. For example, the personal electronic device may be placed in a duffle bag, cabinet, compartment, or locker, in a manner that does not interfere with the safe operation of the rail transit vehicle. All earpieces shall be removed from the ear, stowed, and turned off, except those hearing aid devices described in section 2.5 herein.

2.10 *System Safety Program Plan (SSPP)* shall be as defined in the General Order 164 series.

2.11 *Zero-Tolerance Policy* means a policy where the consequences to a person who does not comply with the PED use prohibitions of this General Order are written, automatic, specific, and non-discretionary. The policy may provide different consequences for different levels of risk that a particular non-compliant act could pose, as long as these levels and consequences are explicitly described in the policy.

3 PROHIBITED USE OF A PERSONAL ELECTRONIC DEVICE

3.1 Persons shall be strictly prohibited from using electronic devices, while:

- **a.** Operating rail transit and other on-track vehicles. Devices must be turned off and stowed.
- **b.** Dispatching, flagging, or otherwise controlling the movement of rail transit vehicles.
- **c.** Performing any task while fouling the tracks.

3.2 Any person may use a cell phone to report a fire or other life-threatening emergency when the RTA-issued communication equipment is not functioning, provided the rail transit or on-track vehicle is stopped and the person is not in the controlling compartment of the rail transit vehicle. Emergency use to push a powerless unoccupied train where cell phone communication is necessary to safely direct the move and no other communication means are available is also allowed if performed with supervisory approval.

4 IN-CAB CAMERAS AND OTHER TECHNOLOGY.

4.1 RTAs shall install inward-facing in-cab cameras in the controlling compartment of rail transit vehicles. Cameras shall be focused on the rail transit vehicle operator during rail transit vehicle operations and shall have a continuous recording loop covering at least eight (8) days of operations. Exclusions include:

- **a.** On-track maintenance vehicles.
- **b.** Vehicles without on-board operators.
- **c.** Historic street cars upon an exemption request by an RTA, and with approval from the Consumer Protection and Safety Division Director or Deputy Director. Requests shall be by type and model of vehicle, and shall include the justification for not installing cameras and the mitigation measures taken in lieu of cameras to ensure compliance with the use prohibitions in Section 3.

4.2 Inward-facing in-cab cameras must be installed and in service no later than 36 months after the effective date of this order.

4.3 Recording review. At a minimum, video loop recordings shall be reviewed for violations of this General Order under the following conditions:

- **a.** After any derailment.
- **b.** After any impact between a rail transit vehicle and any other vehicle, object, or person.

c. After any activity or event on the right-of-way that results in death to any person, injury to any person that requires medical treatment, or injury to any RTA employee.

d. After any reported complaint or observation of 1) an alleged violation of this General Order, or 2) a rules violation that may suggest distraction due to PED use as a possible cause.

e. For the purposes of conducting a video-based rules-compliance testing program to ensure compliance with the provisions of this General Order.

f. Nothing in this General Order shall preclude any RTA from using the video equipment as a tool in reviewing operator performance and ensuring compliance with any operating rule.

4.4 Recording retention – Video recordings shall be saved and retained on separate storage media if a rail transit vehicle operator is observed violating this General Order. Recordings shall be retained at least until the last appeal of any litigation or disciplinary action is complete.

4.5 An RTA may submit for Commission approval a plan to use a new and/or different technology that provides at least as effective means to ensure compliance with this General Order. If approved by the Commission, the technology may be used in lieu of the inward-facing in-cab camera and/or its recording device, and/or certain other provisions of this General Order.

4.6 In the interim period before inward-facing cameras are installed and in-use, RTAs shall conduct random evaluations regarding PED use at a minimum of ten (10) percent of the rail transit vehicle operator population per quarter.

5 REQUIREMENTS TO IMPLEMENT A ZERO-TOLERANCE POLICY AND PROGRAM

5.1 Each RTA shall develop, implement, and comply with a zero tolerance policy and program regarding prohibited PED usage. The policy shall include discipline up to and including discharge.

5.2 RTAs shall include or reference their zero-tolerance policy and program in their SSPP and rail operations rules.

- **a.** The RTA's zero-tolerance policy and program shall include actions sufficiently serious to be reasonably expected to prevent violations of this General Order.
- **b.** Within 90 days of the effective date of this General Order, each RTA must file its zero-tolerance policy and program with the Commission.
- **c.** The policies must describe the actions the RTA will take to address violations, as well as the process afforded the employee to appeal the violation and discipline.
- **d.** RTAs shall keep records of violations of PED use prohibitions and make them available to Commission staff upon request.

5.3 RTAs shall notify and instruct their employees on the provisions of the RTA's PED zero-tolerance policy and program regarding electronic device use. Each RTA shall provide a refresher course on its zero-tolerance policy and program at least every two (2) years. Records showing compliance with this requirement shall be maintained for a minimum of three (3) years.

5.4 Each RTA shall post a PED use prohibition reminder decal inside each rail transit vehicle cab and on the passenger-facing side of the cab door on rail transit passenger vehicles. This notice shall also be placed at all locations where RTA employees report for duty.

6 REQUIREMENTS FOR MONITORING AND ENFORCEMENT

6.1 Prior to video camera installation and operation, RTAs shall develop, and include or reference in their SSPP, a video-based enforcement and random monitoring program designed to ensure compliance with this General Order, as part of their existing program of operational evaluations.

- **a.** Each RTA, as a part of their SSPP, shall submit their program to the Consumer Protection and Safety Division (CPSD) Director or Deputy Director for review and approval at least 90 days prior to video camera operation.
- **b.** Program revisions must be submitted to the CPSD Director or Deputy Director for approval, and will be included in the annual revision of the SSPP.

6.2 RTAs shall periodically conduct operational evaluations and inspections to determine the extent of compliance with this General Order.

6.3 Records of operational evaluations and/or inspections shall be maintained for a minimum of three (3) years.

7 REQUIREMENTS FOR EMERGENCY CONTACT PROCEDURES

RTAs shall implement procedures by which employees addressed in this General Order can be contacted in the event of a personal or family emergency. These procedures shall include, at minimum, the routing of that contact through a designated person or division within the RTA. These procedures shall be communicated to all affected employees in writing, and copies shall be available to Commission staff and be included or referenced in an RTA's SSPP when it is revised.

(END OF APPENDIX A)