

**ADOPTED REGULATION OF THE
NEVADA TRANSPORTATION AUTHORITY**

LCB File No. R040-23

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§ 1, 3, 6, 7 and 14, NRS 706.171; §§ 2 and 8-13, NRS 233B.050 and 706.171
§§ 4 and 15, NRS 706.171 and 706.321; § 5, NRS 706.171 and 706.771.

A REGULATION relating to motor carriers; revising definitions relating to motor carriers; revising certain provisions relating to tariffs filed with the Nevada Transportation Authority; revising certain requirements relating to investments of a fully regulated carrier; revising provisions governing the display of certain information on taxicabs; revising certain provisions relating to hearings and practice before the Authority; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law authorizes the Nevada Transportation Authority to make necessary and reasonable regulations governing the administration and enforcement of certain provisions of law relating to motor carriers. (NRS 706.171)

Existing regulations require a fully regulated carrier who has received a permit or certificate of public convenience and necessity issued by the Authority to maintain an investment of at least 20 percent equity capital in his or her operations and include proof of such investment in an annual report filed with the Authority. Existing regulations require a fully regulated carrier who does not comply with this requirement and who receives a notice of noncompliance from the Authority to file a plan with the Authority to meet the requirement within 15 months after receiving the notice. Existing regulations authorize the Authority to revoke the certificate or permit of a fully regulated carrier who does not comply with the minimum equity capital requirement. (NAC 706.149) **Section 5** of this regulation removes the requirement for a fully regulated carrier to file a plan to return to compliance with the minimum equity capital requirement. **Section 5** authorizes the Authority to: (1) impose an administrative fine if a fully regulated carrier fails to comply with the requirement for 2 consecutive years; and (2) suspend or revoke the certificate or permit of a fully regulated carrier who fails to comply with the requirement for 3 consecutive years.

Existing regulations authorize an authorized carrier, with prior approval of the Authority, to enter into an agreement with a person who is not his or her employee to manage his or her business and set forth certain requirements for such an agreement. (NAC 706.250) **Section 6** of this regulation provides that such an agreement may be renewed every year and requires such an agreement to specify the starting and ending dates of the agreement. **Section 6** requires an authorized carrier to notify the Authority of his or her intention to renew the agreement at least 30 days before the ending date stated in the current agreement and provides that if the Authority

is not so notified, the renewed agreement is void and unenforceable. If an authorized carrier continues to operate under an agreement which is void, **section 6** provides that the Authority will issue an order to show cause and hold a hearing to suspend or revoke the authority of the carrier to operate. If an authorized carrier intends to enter into a new agreement which materially differs from the current agreement, **section 6** requires the new agreement to be submitted to the Authority at least 45 days before the end date of the current agreement.

Existing regulations define the term “hearing” to mean any public proceeding for which notice is provided by the Authority and which includes an opportunity for parties to present relevant written or oral testimony. (NAC 706.0655) **Section 1** of this regulation revises the definition of “hearing” to include any public proceeding which includes any other evidence that the Authority determines is relevant and material to the proceeding.

Existing regulations require the presiding officer at a hearing before the Authority to allow any protestant to enter an appearance in the proceeding and make a statement. (NAC 706.397) **Sections 9 and 12** of this regulation move this requirement to a different section of the Nevada Administrative Code. **Section 9** of this regulation also removes language setting forth the process by which a protestant may become an intervener. **Sections 2 and 8** of this regulation make conforming changes to reflect the removal of this language.

Existing regulations authorize all documents required to be served on a party by any other party in a proceeding before the Authority to be served in person or by mail. (NAC 706.3971) **Section 10** of this regulation further authorizes such service to be made by electronic transmission and provides that service by electronic transmission is complete upon transmission, provided that the serving party maintains proof that the transmission occurred.

Existing regulations require that any document required to be served include an acknowledgment of receipt of service or a certain certificate. (NAC 706.3972) **Section 11** of this regulation replaces the certificate with a certifying statement signed by the person who served the document.

Existing regulations set forth the requirements for the submission of documentary evidence in a proceeding before the Authority. (NAC 706.3992) **Section 13** of this regulation revises these requirements by: (1) reducing the number of copies of a documentary exhibit which may be requested by the Authority; (2) removing the authority for certain evidence or exhibits to be read into the record; and (3) requiring, under certain circumstances, that an orderly abstract of relevant data contained in certain documents be prepared and offered as an exhibit and made available for examination by other parties.

Existing regulations set forth certain requirements for formatting tariffs or supplements that are filed by a motor carrier with the Authority. (NAC 706.1385) **Section 4** of this regulation makes various changes to the formatting requirements and eliminates references to specific forms.

Existing regulations set forth certain categories for tariffs for tow cars filed with the Authority based upon the nature of the service provided. Existing regulations provide that towing or removing a vehicle at the request of a law enforcement agency is classified as: (1) Category A if the tow or removal requires the use of a tow car with an unladen weight which is 15,000 pounds or less; or (2) Category B if the tow or removal requires the use of a tow car with an unladen weight which is more than 15,000 pounds. (NAC 706.406) **Section 15** of this regulation provides that: (1) a Category A tariff also includes a tow or removal if the vehicle to be towed or removed is estimated to weigh less than 10,000 pounds; and (2) a Category B tariff also includes

a tow or removal if the vehicle to be towed or removed is estimated to weigh 10,000 pounds or more.

Existing regulations require the name or trade name of the carrier and the city or town from which the carrier is authorized to operate to be painted on each side of a taxicab. (NAC 706.362) **Section 7** of this regulation instead requires the cities, towns or counties in which the carrier is authorized to operate to be displayed on each side of a taxicab by painting, decal, magnetic placard or similar technique.

Existing regulations define the term “tow at the request of a law enforcement agency” to mean the towing of a vehicle that is: (1) impounded after an arrest; (2) impounded after a traffic crash; (3) impounded because the vehicle has been abandoned; or (4) a nonconsensual tow requested by a law enforcement agency. (NAC 706.4026) **Section 14** of this regulation specifies that all the types of tows included in the term are made at the request of a law enforcement agency.

Existing regulations define the term “operating authority” to mean a certificate, permit or other approval issued by the Authority pursuant to which a person may operate a motor carrier or tow car, act as a broker or engage in any other activity subject to the jurisdiction of the Authority. (NAC 706.092) **Section 3** of this regulation revises the definition of “operating authority” to eliminate a certificate, permit or other approval for a person to act as a broker.

Section 1. NAC 706.0655 is hereby amended to read as follows:

706.0655 “Hearing” means any public proceeding:

1. For which notice is provided by the Authority in accordance with applicable statutes and regulations; and

2. Which includes an opportunity for parties to present ~~relevant~~ written or oral testimony ~~or any other evidence that is relevant and material to the proceeding, as determined by the Authority.~~

Sec. 2. NAC 706.071 is hereby amended to read as follows:

706.071 “Intervener” means a person granted leave to intervene by the Presiding Officer or the Authority pursuant to NAC 706.3968 . ~~for 706.397.~~

Sec. 3. NAC 706.092 is hereby amended to read as follows:

706.092 “Operating authority” means a certificate, permit or other approval issued by the Authority pursuant to which a person may operate a motor carrier or tow car, ~~act as a broker~~ or engage in any other activity subject to the jurisdiction of the Authority.

Sec. 4. NAC 706.1385 is hereby amended to read as follows:

706.1385 1. Tariffs or supplements must be in loose-leaf form on good quality paper which is 8 1/2 by 11 inches, typed or reproduced by any clear, legible and durable process. If the tariff is also filed with the Surface Transportation Board and the Surface Transportation Board allows a size or format different from that specified by the Authority, that different size will be accepted by the Authority.

2. The format must be as follows:

(a) On each page, a 1-inch margin must be provided on the left-hand or binding edge and a 1/2-inch margin provided on the right-hand side. No printing or writing may appear in these margins.

(b) Each page must be numbered *consecutively* in the upper left-hand corner . ~~beginning with “Original Title Page, Original Page 1, Original Page 2,” and so forth.~~

(c) Each page ~~[(Form 24C*), except]~~ , *including, without limitation,* the title page ~~[-]~~ *and any subsequent page that contains revisions,* must have:

(1) In the upper right-hand corner, the number ~~[-]~~ *assigned by* the Authority ~~assigned]~~ to ~~that tariff by]~~ *the certificate of public convenience and necessity of the* the motor carrier . ~~[-]~~ ~~issuing agency or agent.]~~

(2) ~~[-]~~ ~~In the center at the top, the name of the carrier, issuing agency or agent and the name of the business, if any. The name, description and number of the tariff must be placed below the names.~~

~~— (3) In the lower left-hand corner, between the text on the page and the statement of the issuing officer, the word “Issued” and on the same line in the lower right-hand corner, the word “Effective.”~~

~~{(4)} (3) On the bottom of the page, in the center, below “Issued” and “Effective,” the words “Issued by” followed by the name of the issuing officer, his or her address, city, state and zip code number.~~

(d) ~~{The title page (Form 24A*) must have:~~

~~— (1) In the upper right-hand corner, the number of the Authority assigned to that tariff by the motor carrier, issuing agency or agent.~~

~~— (2) In the center of the page, the name of the carrier, issuing agency or agent and the name of the business, if any. The name, description and number of the tariff must be placed below the names.~~

~~— (3) In the lower left-hand corner, the word “Issued” and, immediately below, the word “Effective.” The lower right-hand corner must be left blank for use by the Authority.~~

~~— (4) On the bottom of the page, in the center, on the same line as “Issued,” the words “Issued by,” followed by the name of the issuing officer, his or her address, city, state and zip code number.~~

~~— (e) Each new (Form 24D*) or revised page filed must have the date of issue by the name of the motor carrier inserted after the title “Issued.” The space after “Effective” may be left blank on strictly intrastate tariffs in the State of Nevada. Any desired effective date in such a case must be included in the applicant’s transmittal letter. An effective date must be inserted in the space after “Effective” in joint tariffs filed with the Authority and the Surface Transportation Board.~~

~~— (f) If a new or revised page is filed cancelling a page (Form 24B*), the new page must read:~~

~~1st revised page.....(fill in page number)~~

~~-----cancels~~

~~Original page.....(fill in page number)~~

~~A revised page only cancels one page and does not cancel any other page.~~

~~(g)~~ Except as otherwise provided in NAC 706.3983, one original and two copies of regulations or rates, or both, must be filed with the Authority at least 30 days before becoming effective.

~~(h)~~ (e) Any changes on a page which has been filed must be clearly marked with one of the following codes:

- (1) -Increase.
- (2) -Reduction.
- (3) -Change resulting in neither an increase nor a reduction.
- (4) Any other pertinent symbol or abbreviation.

↪ A separate page may be used for these codes ~~{(Form 24C*)}~~ or, when symbols are used, a note explaining them may be placed at the bottom of the page or within the block containing the affected item.

~~{(i)} Each new or revised page must have a correction number assigned to it beginning with Correction No. 1 and continuing numerically as new or revised pages are entered in that tariff filing, inserted below the bottom line in the left hand corner of the page (Form 24E*). Each tariff filed must have a checking sheet for correction numbers (Form 24C*) on page 1 and must be referred to as that tariff filing is revised. One correction number must be assigned to each new or revised page, and no correction number may be used for more than one page.~~

~~—(j) If any tariff is reissued that completely cancels a current tariff (Form 24E*), the reissued tariff must bear the same tariff number as the current tariff, suffixed by a letter, for example, Tariff No. 1-A, and continuing through the alphabet as that tariff is reissued. The reissued tariff will be assigned a new number that does not duplicate any other number on any other tariff held by that motor carrier, issuing agency or agent and must be displayed on the reissued tariff as follows:~~

~~T.S.A. No. 2~~

~~cancels~~

~~T.S.A. or P.S.C.N. No. 1~~

~~Tariff No. 1-A~~

~~cancels~~

~~Tariff No. 1}~~

3. The provisions of this section, except paragraphs ~~{(g)}~~ (d) and ~~{(h)}~~ (e) of subsection 2, do not apply to the National Motor Freight Classification or the ATA Hazardous Materials Tariff.

~~{*See adopting agency for form.}~~

Sec. 5. NAC 706.149 is hereby amended to read as follows:

706.149 1. After receiving a certificate or permit, every fully regulated carrier shall maintain an investment of not less than 20 percent equity capital in his or her operations and include proof that the fully regulated carrier meets this requirement in ~~his or her~~ *each* annual report filed with the Authority.

2. ~~{A}~~ *If a* fully regulated carrier ~~{who}~~ does not meet the requirement of subsection 1 ~~{shall, within 3 months after receiving notice from the Authority of that failure, file a plan proposing the specific steps he or she will take to meet that requirement within the next 12 months.}~~

~~—3.— Within 15 months after receiving notice from the Authority that he or she does not maintain adequate equity capital, a fully regulated carrier must have an investment of not less than 20 percent equity capital in his or her operations.~~

~~—4.— The} :~~

(a) For 2 consecutive years, the Authority may impose an administrative fine pursuant to subsection 2 of NRS 706.771.

(b) For 3 consecutive years, the Authority may suspend or revoke the certificate or permit of ~~{a}~~ *the* fully regulated carrier . ~~{who does not comply with this section may be revoked by the Authority.}~~

Sec. 6. NAC 706.250 is hereby amended to read as follows:

706.250 1. An authorized carrier may, with the prior approval of the Authority, enter into an agreement with a person who is not his or her employee to manage his or her business. The agreement may be for a period of not more than 1 year . ~~{, but}~~ *The agreement* may be renewed ~~{}~~ *each year.*

2. An agreement to manage a carrier's business must:

(a) Be filed with the Authority;

(b) Specify the compensation paid to the manager;

(c) Specify the term of the agreement ~~{}~~ , *including, without limitation, the starting and ending dates of the agreement;*

(d) Specify the scope of the authority that the person will have to manage the business of the carrier; and

(e) Specify any other information required by the Authority.

3. *An authorized carrier must notify the Authority of his or her intention to renew an agreement to manage the carrier's business at least 30 days before the ending date stated in the current agreement.*

4. *If the Authority is not notified of the intention of the authorized carrier to renew an agreement in accordance with subsection 3, the renewed agreement is deemed void and unenforceable. If an authorized carrier continues to operate under a renewed agreement which is void pursuant to this subsection, the Authority will issue an order to show cause and hold a hearing to suspend or revoke the authority of the carrier to operate.*

5. *If an authorized carrier intends to enter into a new agreement to manage the carrier's business which materially differs from the current agreement, the new agreement must be submitted to the Authority at least 45 days before the ending date that is stated in the current agreement. The new agreement must include the information required by paragraphs (b) to (e), inclusive, of subsection 2. The new agreement does not become effective unless approved by the Authority.*

6. The compensation paid to the manager may include a limited bonus in the form of cash or stock, or both, to be paid upon the occurrence of a specified condition.

~~14.1~~ 7. Any agreement which:

(a) Includes a bonus to the manager of more than 10 percent of the carrier's stock; or

(b) Grants to the manager total control of the overall operations of the carrier,

↪ will be considered an attempted transfer of a certificate, permit or license and will not be approved.

~~§~~ 8. A background investigation of the manager selected by the carrier may be conducted by the Authority as part of its process in determining whether to grant approval.

Sec. 7. NAC 706.362 is hereby amended to read as follows:

706.362 1. A person holding a certificate to operate a taxicab shall post in the vehicle a schedule of the rates based on zones or mileage or any other rate approved by the Authority for the operation of the vehicle. The schedule must be clearly readable by all occupants of the taxicab. If the vehicle is operated under a tariff based on zones, there must be posted within that vehicle a map clearly visible to occupants in the rear showing the territory served with the zones outlined and the applicable fares stated.

2. The name or trade name of the carrier and the ~~{city or town from}~~ *cities, towns or counties in* which the carrier is authorized to operate under its certificate must be ~~{painted}~~ *displayed* on each side of a taxicab ~~H~~ *by painting, decal, magnetic placard or similar technique*. A trade name may not be used unless it is first approved by the Authority.

Sec. 8. NAC 706.3936 is hereby amended to read as follows:

706.3936 1. According to the nature of the proceedings before the Authority and the relationships of the parties to the proceedings, a party to a proceeding must be styled an applicant, petitioner, complainant, respondent, intervener or staff of the Authority.

2. A person applying in the first instance for a privilege, right or authorization from the Authority must be styled an “applicant.”

3. A person who complains to the Authority of an act by a person subject to the jurisdiction of the Authority must be styled a “complainant.”

4. A person granted leave to intervene pursuant to NAC 706.3965 to ~~706.397,~~ 706.3969, inclusive, must be styled an “intervener.”

5. A person, other than a complainant or an applicant, petitioning for affirmative relief must be styled a “petitioner.”

6. A person against whom a complaint is filed or a person who is the subject of an official investigation by the Authority must be styled a “respondent.”

7. Members of the staff of the Authority who participate in a proceeding are considered parties to the proceeding, but any other party required to provide notice or other information to the parties to a proceeding is only required to provide such notice to the Authority, not to each member of the staff of the Authority participating in the proceeding.

Sec. 9. NAC 706.397 is hereby amended to read as follows:

706.397 1. Any objection or request to make a statement at a hearing by a person, including, without limitation, a state or local government entity, who is not a party to an application, petition or other matter must be styled a “protest” and such a person must be styled a “protestant.” The filing of a protest or request to make a statement does not make the protestant a party.

2. A written protest must legibly set forth a clear statement of the matter to which an objection is made.

3. The Authority will make available a copy of a written protest to the parties against whom it is directed.

4. Even if a hearing on a written protest is not required by law, the Authority will notify the parties and may hold such a hearing if the public interest will be served.

5. A protest at a hearing may be oral or written.

~~{6.— At a hearing, the presiding officer shall allow any protestant to enter an appearance in the proceeding and may allow a protestant to make a statement. A protestant who desires to participate as a party in a proceeding must file a written petition for leave to intervene unless the presiding officer upon good cause shown allows an oral petition for leave to intervene. A protestant is entitled to participate as a party only to the extent that leave to intervene is granted, at which time the protestant must be styled an “intervener.”}~~

Sec. 10. NAC 706.3971 is hereby amended to read as follows:

706.3971 1. All documents required to be served on a party by any other party may be served in person , ~~or~~ by mail ~~or~~ *or by electronic transmission*. If the service is by mail, the service is complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail. *If the service is by electronic transmission, service is complete upon transmission, provided that the serving party maintains proof that the transmission occurred.*

2. After the commencement of a proceeding, a copy of each pleading to be filed with the Authority must be served by the pleading party on every other party. If a party is represented by an authorized representative or an attorney, service must be made on that representative or attorney. Service must be made before or concurrently with the filing of the pleading with the Authority.

3. Upon the advance request of another party, a party serving a document shall telephone the requesting party when the document is ready to be served so that it may be accepted personally by the requesting party in lieu of service by mail.

Sec. 11. NAC 706.3972 is hereby amended to read as follows:

706.3972 There must appear on all documents required to be served an acknowledgment of receipt of service or ~~the following certificate:~~

~~I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to)
by mailing a copy thereof, properly addressed, with postage prepaid to
Dated at, this(day) of(month) of(year)~~

~~Signature~~

proof of service in the form of a signed statement by the person who served the document certifying:

- 1. The date and manner of service;*
- 2. The name of each person served; and*
- 3. The mail or electronic mail address of each person served.*

Sec. 12. NAC 706.3987 is hereby amended to read as follows:

706.3987 1. Applicants, petitioners or complainants may present their evidence first at a hearing. Then any parties opposing the application, petition or complaint may present their evidence. The presiding officer shall designate the stage of the proceeding at which each intervener, protestant or member of the staff of the Authority may be heard. Evidence must be received in the following order unless the presiding officer determines that a special circumstance requires a different order:

- (a) Upon an application or petition:

- (1) Applicant or petitioner;
 - (2) Interveners;
 - (3) Staff of the Authority; and
 - (4) Rebuttal by the applicant or petitioner.
- (b) Upon a complaint:
- (1) Complainant;
 - (2) Respondent;
 - (3) Interveners;
 - (4) Staff of the Authority; and
 - (5) Rebuttal by complainant.
- (c) Upon a complaint by the Authority or an order to show cause:
- (1) Staff of the Authority;
 - (2) Respondent;
 - (3) Interveners; and
 - (4) Rebuttal by staff of the Authority.
2. A witness may be cross-examined on issues testified to by that witness by:
- (a) Opposing parties who have been granted leave to intervene pursuant to NAC 706.3968;
 - (b) The Authority;
 - (c) The Attorney General; and
 - (d) The staff of the Authority.
3. ~~If there is more than one applicant, petitioner or complainant, the witnesses of all applicants, petitioners or complainants may present direct testimony on an issue before any of these witnesses may be cross-examined on that issue, unless otherwise ordered by the presiding~~

~~officer.}~~ *The presiding officer shall allow any protestant to enter an appearance and make a statement regarding the subject matter of the hearing.*

4. If two or more matters are set for hearing at the same time and place, the matter having the lowest docket number will be heard first, unless the presiding officer directs a different order for the convenience of the parties.

Sec. 13. NAC 706.3992 is hereby amended to read as follows:

706.3992 1. An exhibit must be limited in size to 8 1/2 by 11 inches , ~~{when folded,}~~ unless otherwise allowed by the presiding officer. A copy of each documentary exhibit must be furnished to each party, and copies of each exhibit must be furnished to the Authority in such number as requested by the staff of the Authority or the presiding officer. The Authority or presiding officer may not request more than ~~{10}~~ *five* copies of each documentary exhibit. ~~{A}~~ *The party offering an exhibit must submit a* copy ~~{must be submitted}~~ to the court reporter or transcriber. If relevant evidence is included in a written or printed statement, book or document of any kind containing other matter not relevant and not intended to be put in evidence, the statement, book or document containing that other matter may not be received or admitted in whole. Counsel or other parties offering the evidence or exhibit shall present, in convenient and proper form for filing, a copy of the relevant portions . ~~{or, at the discretion of the presiding officer, read these portions into the record.}~~ Any documentary evidence offered, whether in the form of an exhibit or introduced by reference, is subject to appropriate and timely objection.

2. If documents are numerous, such as freight bills or bills of lading, and a party desires to offer into evidence more than a limited number of these documents as typical of the others, an orderly abstract of relevant data contained in these documents ~~{may}~~ *must* be prepared and

offered as an exhibit. Other parties ~~may~~ *must be allowed to* examine *and compare* both the abstract and the source document.

3. In a proceeding involving detailed accounting exhibits, the presiding officer shall require each party to file with him or her and to serve on each party a copy of these exhibits within a specified time before the hearing to enable the parties to study the exhibits and to prepare cross-examination with reference to them. An amendment to an exhibit may be made after the exhibit has been filed with the presiding officer if it does not prejudice the rights of any party or if it corrects a clerical or mathematical error.

Sec. 14. NAC 706.4026 is hereby amended to read as follows:

706.4026 “Tow at the request of a law enforcement agency” means the towing *at the request of a law enforcement agency* of a vehicle that is:

1. Impounded after an arrest;
2. Impounded after a traffic crash;
3. Impounded because the vehicle has been abandoned; or
4. A nonconsensual tow . ~~requested by a law enforcement agency.~~

Sec. 15. NAC 706.406 is hereby amended to read as follows:

706.406 Tariffs for tow cars filed with the Authority will be divided into the following categories:

1. CATEGORY A: Towing or removing a vehicle at the request of a law enforcement agency ~~which~~ *if the vehicle to be towed or removed is estimated to weigh less than 10,000 pounds or the tow or removal* requires the use of a tow car with an unladen weight of 15,000 pounds or less.

2. CATEGORY B: Towing or removing a vehicle at the request of a law enforcement agency ~~which~~ *if the vehicle to be towed or removed is estimated to weigh 10,000 pounds or more or the tow or removal* requires the use of a tow car with an unladen weight of more than 15,000 pounds.

3. CATEGORY C: Towing or removing a vehicle at the request of a person other than a law enforcement agency, the owner of the vehicle, his or her agent or the driver of the vehicle.

4. Storage of a vehicle that was towed without the prior consent of the owner of the vehicle, his or her agent or the driver of the vehicle, or at the request of a law enforcement agency inside a secure building, in a secure exterior area enclosed by a fence with a locked gate or in an unsecured, open area under the control of the operator of the tow car.