

**PROPOSED REGULATION OF THE
TRANSPORTATION SERVICES AUTHORITY OF THE
DEPARTMENT OF BUSINESS AND INDUSTRY**

LCB File No. R071-98

July 17, 1998

EXPLANATION - Matter in *italics* is new; matter in brackets [] is material to be omitted.

AUTHORITY: §§1-4, 6-39,129 and 209, NRS 706.171; §§40-128, NRS 233B.050 and 706.171; §§130-208, NRS 706.171 and §347 of chapter 482, Statutes of Nevada 1997, at page 2024.

Section 1. NAC 703.616 is hereby amended to read as follows:

703.616 1. The division of consumer relations shall attempt to resolve informally any oral complaint made by a customer against a public utility . [, **motor carrier or broker.**] If a customer is not satisfied with the informal resolution of his complaint, the division shall inform him that he has a right to file a written complaint with the division.

2. The division may request the customer to provide a written confirmation of [**any**] *the* oral complaint.

Sec. 2. NAC 703.621 is hereby amended to read as follows:

703.621 1. A customer's written complaint must:

(a) Clearly and concisely state the grounds of the complaint and the facts constituting the alleged wrongful acts or omissions; and

(b) Be accompanied by copies of all supporting documents, such as invoices, bills of lading, canceled checks and statements of account.

2. The division shall maintain a record of each written complaint, including [:], *without limitation*:
 - (a) Each pertinent fact relative to the origin, nature and basis of the complaint;
 - (b) A description of everything the complainant has done or attempted to do [in order] to resolve the complaint;
 - (c) The response of the utility [, carrier or broker] to the complaint, with copies of supporting documents, if any; and
 - (d) Any other information the division deems to be relevant to the understanding and resolution of the complaint.

3. The division shall:

- (a) Within 5 days after receiving a written complaint, send a letter of acknowledgment to the complainant.
- (b) Within 10 days after receiving a written complaint, send a copy of it to the utility [carrier or broker] against which the complaint is made and require the utility [, carrier or broker] to file a response to the complaint with the division in accordance with NAC 703.626.

Sec. 3. NAC 703.626 is hereby amended to read as follows:

703.626 1. A utility [, carrier or broker] against which a complaint is made shall file with the division of consumer relations [its] a written response to the complaint within 15 days after receiving the complaint unless, for good cause shown, the division extends the time for responding.

2. The response must include [:], *without limitation*:

- (a) A statement that the respondent has successfully resolved the complaint; or

(b) A detailed admission or denial of each material allegation of the complaint and a full statement of the facts and matters of law relied upon as a defense.

3. The response must:

(a) Be signed by the respondent or, if represented, by its attorney or other authorized representative.

(b) Include the full name, address and telephone number of the respondent and, if represented, the name, address and telephone number of its attorney or other authorized representative.

4. If the respondent fails to file a response with the division within the prescribed time, the division shall place the matter before the commission for a determination of probable cause. An unexcused failure of the respondent to respond to the complaint within the prescribed time shall be deemed an admission by it of all relevant facts stated in the complaint.

Sec. 4. NAC 703.651 is hereby amended to read as follows:

703.651 1. The commission will directly investigate any complaint other than one filed by a customer pursuant to NAC 703.621.

2. A complaint to be investigated directly by the commission must be in writing and contain:

(a) The name and address of the complainant and, if represented, the name, address and telephone number of his attorney or other authorized representative.

(b) The name of the utility [, motor carrier or broker] against which the complaint is made.

(c) A complete statement of the grounds for the complaint, including whenever possible, reference to each statute or regulation which is alleged to have been violated.

(d) The date of each act or omission complained of.

(e) The nature of the relief sought.

The complaint must be signed by the complainant or, if represented, by his attorney or other authorized representative.

3. Two or more grounds of complaint concerning the same subject may be included in one complaint, but the grounds must be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of action are against the same respondent and deal with substantially the same alleged violation.

4. The complainant shall serve a copy of the complaint on the respondent. Proof of service must be made by affidavit signed by the complainant or, if represented, by his attorney or other authorized representative.

Sec. 5. Chapter 706 of NAC is hereby amended by adding thereto the provisions set forth as sections 6 to 128, inclusive, of this regulation.

Sec. 6. *“Application” means a request for relief filed with the authority as specified in section 62 of this regulation.*

Sec. 7. *“Commissioner” means a member of the authority appointed pursuant to NRS 706.1511.*

Sec. 8. *“Complaint” means a request for relief filed with the authority as specified in section 80, 86 or 119 of this regulation.*

Sec. 9. *“Deputy commissioner” means the deputy commissioner of the authority who is appointed by the chairman of the authority pursuant to section 26 of this regulation.*

Sec. 10. *“Hearing” means any public proceeding that is noticed by the authority in accordance with applicable statutes and regulations.*

Sec. 11. *“Motion” means a request for relief filed with the authority pursuant to section 65 of this regulation.*

Sec. 12. *“Motor carrier” means any person or operator who is supervised, controlled or regulated pursuant to chapter 706 of NRS.*

Sec. 13. *“Party of record” means an applicant, complainant, petitioner, respondent or an intervener whose petition for leave to intervene has been granted, in whole or in part, by the authority.*

Sec. 14. *“Petition” means a request for relief made to the authority pursuant to section 63 of this regulation.*

Sec. 15. *“Pleading” means any application, petition, complaint, answer, protest or motion filed with the authority in any proceeding.*

Sec. 16. *“Presiding officer” means the chairman of the authority or a commissioner designated by the chairman to preside over a hearing.*

Sec. 17. *“Rebuttal” means evidence offered by the applicant, petitioner or complainant which must directly explain, repel, counteract or disprove facts offered in evidence by parties of record opposing the application, petition or complaint.*

Sec. 18. *“Staff of the authority” means persons employed by the authority.*

Sec. 19. *If any provision of NAC 706.013 to 706.395, inclusive, and sections 6 to 125, inclusive, of this regulation or any application thereof to any person, thing or circumstance is held invalid, the authority intends that such invalidity not affect the remaining provisions, or their application, that can be given effect without the invalid provision or application.*

Sec. 20. *The authority will and the presiding officer shall allow deviation from the provisions of NAC 706.013 to 706.395, inclusive, and sections 6 to 125, inclusive, of this regulation if good cause for deviation appears.*

Sec. 21. *Except as otherwise provided by law:*

1. In computing any period prescribed or allowed by any regulation of the authority, the day of the act, event or default from or after which the designated period begins to run is not included. The last day of the period so computed is included, but if it is a Saturday, Sunday or legal holiday, the period runs until the end of the next day which is not a Saturday, Sunday or legal holiday.

2. Whenever an act is required or allowed pursuant to any regulation of the authority, or any notice given thereunder, to be done within a specified period, the period will be extended by the authority for good cause upon a motion made before the specified period expires.

Sec. 22. *A fee or remittance by money order, bank draft or check to the authority must be made payable to the "Transportation Services Authority." A remittance in currency or coin is acceptable but is sent wholly at the risk of the remitter, and the authority assumes no responsibility for the loss of such a remittance. An application fee or other charge required by law must be paid to the authority at the time of filing with the authority.*

Sec. 23. *1. Except as otherwise provided by law, all documents filed with the authority become matters of public record as of the day and time of their filing. The deputy commissioner, within reasonable limits of time and general expediency, shall allow members of the public to examine these public records.*

2. Upon request, copies of public records will be made and a reasonable fee will be charged for the cost of reproduction. Copies of transcripts must first be requested from the court reporter or transcriber who made the transcript.

Sec. 24. A document which is not in compliance with the provisions of NAC 706.013 to 706.395, inclusive, and sections 6 to 125, inclusive, of this regulation or applicable statutes may be rejected. If rejected, that document will be returned with an indication of the deficiencies. The acceptance of a document for filing is not a determination that the document complies with all regulations of the authority and is not a waiver of those regulations.

Sec. 25. A written communication or document is considered officially received by the authority only if it is:

1. Filed at the office of the authority in Las Vegas and addressed to the deputy commissioner; or
2. Presented to the authority during a hearing.

Sec. 26. The chairman of the authority shall appoint a deputy commissioner who shall perform such administrative and other duties as are prescribed by the authority.

Sec. 27. 1. The deputy commissioner has custody of the minutes of the proceedings of the authority, of the regulations and of all other records of the authority, including, without limitation, administrative orders. Orders of the authority will be authenticated or signed by the deputy commissioner or by another person authorized by the authority.

2. The deputy commissioner will maintain a hearing calendar of all scheduled hearings at the office of the authority in Las Vegas. The hearing calendar is available for public inspection at all times.

3. *The deputy commissioner will maintain a docket of all matters pending before the authority and will assign an appropriate docket number to each new matter. The docket is available for public inspection at the office of the authority in Las Vegas.*

Sec. 28. *1. If an authorization, expansion, reduction or curtailment of services, facilities or authority, increase in rates, fares or charges, or any change in regulations is filed by application or tariff filing and the filing is not rejected pursuant to section 24 of this regulation, the deputy commissioner shall cause a notice of the application or tariff filing to be published within 15 working days after acceptance unless circumstances dictate otherwise.*

2. If the deputy commissioner determines that the proposal will have a statewide effect, he shall cause the notice to be published at least once in four or more newspapers of general circulation in this state, no two of which are published in the same county.

3. If the deputy commissioner determines that the proposal will have an effect on a limited number of counties, he shall cause the notice to be published once in a newspaper of general circulation in each county affected. If there is no newspaper published in an affected county, the deputy commissioner shall cause the notice to be published in a newspaper in an adjoining county.

4. The notice must be an advertisement which is reasonably calculated to notify affected persons and must include, without limitation:

(a) The name of the applicant or the name of the agent for the applicant;

(b) A brief description of the applicant's proposal;

(c) The location at which the proposal is on file for the public; and

(d) The date by which persons must file a protest or petition for leave to intervene with the authority.

5. *The deputy commissioner shall cause the notice to be published in the appropriate newspapers not less than 3 working days before the proposal becomes effective.*

6. *The applicant shall pay the cost of the publication.*

Sec. 29. *1. An application for:*

(a) The initial issuance, expansion or modification of a certificate of public convenience and necessity made pursuant to NRS 706.386 to 706.411, inclusive;

(b) A permit to act as a contract carrier made pursuant to NRS 706.421 to 706.436, inclusive; or

(c) The sale and transfer of an interest in:

(1) A certificate;

(2) 15 percent or more of the stock of a corporation that holds a certificate; or

(3) A partnership that holds a certificate,

must, in addition to complying with the provisions of NAC 706.013 to 706.395, inclusive, and sections 6 to 125, inclusive, of this regulation that are applicable to pleadings, contain the data set forth in subsection 2.

2. An application described in subsection 1 must contain the following data, either in the application or as exhibits attached thereto:

(a) The type of service, if any, presently being performed by the applicant, a general description of the service and a reference to the authority pursuant to which the service is being performed.

(b) The type of service proposed, a general description of the service and a reference to the authority pursuant to which the service is to be performed.

(c) The specific authority requested and the statutory provision pursuant to which the certificate is requested.

(d) If the applicant proposes to be a carrier of property, a description of the specific commodities proposed to be transported, and if general commodities with exceptions are proposed to be transported, a statement specifying those exceptions.

(e) The geographical area proposed to be served pursuant to the certificate, including, without limitation, the terminal and other points to be served, the number and location of points where equipment will be located, and a concise, narrative description of the proposed route.

(f) A map or sketch of the route and points to be served, drawn to a suitable scale which is indicated on the map or sketch. The map or sketch must show present and proposed operations by distinctive coloring or marking.

(g) A copy of each proposed contract.

(h) A statement of the rates or fares proposed to be charged and the rules governing service in the form of a tariff prepared pursuant to sections 30 to 39, inclusive, of this regulation.

(i) The type and approximate number of units of equipment to be used in the proposed service and a statement as to which units of equipment are owned by the applicant.

(j) A statement indicating the frequency of the proposed service. If “on-call” service is proposed, the application must set forth the conditions under which the service would be performed.

(k) A statement of the qualifications and experience of the personnel who will manage and operate the proposed service and the proposed operating procedures related to service, safety, maintenance, training of drivers, billing, relations with customers and the keeping of records.

(l) A statement describing the facilities which will be used to provide the proposed service, such as terminals, shops, warehouses or offices.

(m) Facts showing that the proposed operation is or will be required for public convenience and necessity.

(n) If the applicant is a corporation, a copy of its articles of incorporation, certified by the secretary of state, and all effective amendments. If the articles of incorporation have been filed previously with the authority, the applicant need only make a specific reference to that filing.

(o) Evidence that the applicant is financially able to operate the proposed business, including, without limitation:

(1) A statement outlining the extent to which the applicant has been in the motor carrier business before filing the application.

(2) A statement of income for the 12-month period immediately preceding the application.

(3) A pro forma statement of income for the first 12-month period of the proposed operation using the proposed rates.

(4) A balance sheet which was prepared not more than 6 months before the date of the application which:

(I) For a sole proprietorship or partnership, must reflect the personal and business operations of the sole proprietor or each general partner.

(II) For a corporation or partnership, must reflect the entire business operations.

(5) A list of the names and addresses of all transportation entities owned by or under the control of the applicant.

All financial statements must be prepared pursuant to generally accepted accounting principles, except that the personal financial statement of a sole proprietor or general partner may be prepared on the basis of estimated values.

(p) If the applicant is operating under a fictitious name, a copy of the certificate filed pursuant to chapter 602 of NRS. If the applicant has previously filed a copy of the certificate with the authority, the applicant need only make reference to that filing.

(q) Evidence that the applicant can secure the insurance required by NAC 706.191.

(r) If the applicant is proposing to transport household goods and effects, proof that the applicant has the ability to store such goods and effects in a warehouse operated in accordance with the requirements of chapter 712 of NRS. As used in this paragraph, “warehouse” includes, without limitation, any structure used for the reception and storage of household goods and effects.

(s) Additional information as is necessary for a full understanding of the application.

3. If any item required pursuant to this section or by statute is missing or otherwise deficient after acceptance of the application or filing, the authority will notify the applicant of the omission or deficiency, in writing, at the address of the applicant listed on the application or filing. If the applicant does not cure the omission or deficiency within 15 working days after the issuance of that notification, the deputy commissioner shall, at the next regular meeting of the authority, move that the application or filing be dismissed.

Sec. 30. *As used in sections 30 to 39, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 31 and 32 of this regulation have the meanings ascribed to them in those sections.*

Sec. 31. *“Rate” means any charge or fare and any regulation which affects a rate.*

Sec. 32. *“Supplement” or “tariff” means any regulation, classification, exception to a classification, and class, commodity, special and hourly rate under which a motor carrier operates.*

Sec. 33. *The provisions of sections 30 to 39, inclusive, of this regulation govern the filing of an intrastate tariff or supplement, classification or other reference tariff which contains the rates and regulations governing the operation of motor carriers.*

Sec. 34. *1. In addition to the requirements established for pleadings, an application to change the tariff of any motor carrier, issuing agency or agent, including, without limitation, new rates for services authorized under a certificate, and new rules and regulations under a carrier’s tariff, must include as exhibits attached thereto:*

(a) A statement in the form of a tariff showing in full the rates or fares or the regulations desired to be put into effect.

(b) A statement in the form of a tariff showing the rates or fares or the regulations which will be superseded by the proposed tariff.

(c) A complete and accurate statement of the circumstances and conditions relied on as justification for the proposed change, including, without limitation, the following information:

(1) The change in the total amount of intrastate revenue in the State of Nevada that the proposed rates would have produced if the rates had been in effect during the preceding year.

(2) The applicant’s reasons that the proposed rates would be reasonable.

(d) An operating statement for the full 12-month period immediately preceding the date of application, insofar as is practicable.

(e) A balance sheet for the entire operations of the carrier as of the date of the statement required pursuant to paragraph (d).

(f) In any application for any item that has not been included previously in the applicant's tariff, cost data, including, without limitation, a 12-month pro forma income statement, that is sufficient to demonstrate that the proposed rate would be fully compensatory and would not involve an excessive charge.

(g) Such information as the authority or the applicant considers to be necessary or appropriate for a complete understanding of the application.

2. Suggested language for the public notice to be published in accordance with section 28 of this regulation may be submitted by the applicant.

3. The provisions of this section apply to all applications for rate changes made by common and contract motor carriers under the jurisdiction of the authority. The provisions do not apply to applications or tariff filings made by the National Motor Freight Classification or the ATA Hazardous Materials Tariff.

Sec. 35. *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 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 the title page, 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 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) 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 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 address, city, state and zip code number.

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

**See adopting agency for form.*

Sec. 36. *1. Each tariff filing must be accompanied by six copies of a transmittal letter and the appropriate filing fee. To acknowledge receipt of the filing, a copy of the transmittal letter will be dated and returned by the authority to the applicant.*

2. The transmittal letter must state the effect, if any, the filing will have on the currently effective tariffs of the motor carrier and include a reference to those tariffs affected.

Sec. 37. *1. Each loose-leaf or bound tariff and any supplement to a bound tariff which exceeds 10 pages, except supplements to rate increases, must have:*

(a) A table of contents, listing in alphabetical order all regulations and rate sections that are included in the filing. The table must state the item number, a brief description of the item and the page number where the item can be found.

(b) If there is more than one carrier to a tariff filing, an alphabetical index of the participating carriers, listing each item number to which each listed carrier is a party.

(c) A list of the certificates of public convenience and necessity in the state that are held by each motor carrier participating in the tariff filing. This list must contain a description of the routes or territory that the motor carrier is authorized to serve under each certificate and a list of the commodities that the motor carrier is authorized to transport under each certificate.

2. The provisions of this section do not apply to the National Motor Freight Classification or the ATA Hazardous Materials Tariff.

Sec. 38. *The filing of any tariff sheet which results in any change in any rate or charge or in a more restrictive condition must be filed as part of the application required pursuant to section 34 of this regulation.*

Sec. 39. *1. Each motor carrier shall post at each of its stations and offices a complete copy of currently available tariff schedules applicable to those stations and offices.*

2. Each motor carrier shall maintain on file at its principal place of business a complete copy of all of its currently effective tariff schedules.

3. This rule does not require the motor carrier to post tariff schedules at locations other than its own offices or terminals.

Sec. 40. *1. Sections 40 to 125, inclusive, of this regulation govern practice before the authority.*

2. To the extent that any action before the authority is not covered by the provisions of sections 40 to 125, inclusive, of this regulation, the authority may, to the extent it deems appropriate, use the applicable rule of the Nevada Rules of Civil Procedure.

Sec. 41. *The provisions of sections 40 to 125, inclusive, of this regulation and any regulations incorporated by reference will be construed by the authority or presiding officer so as to secure a just and speedy determination of the issues.*

Sec. 42. *Proceedings before the authority are investigative on the part of the authority, although the proceedings may be conducted in the form of adversary proceedings.*

Sec. 43. *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 protestant.*

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 sections 71 to 75, inclusive, of this regulation 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. *Any person, including, without limitation, a state or local governmental entity, who objects to an application, petition or other matter and who files a protest pursuant to section 76 of this regulation or makes a statement at a hearing must be styled a “protestant.” The filing of a protest does not make the protestant a party of record.*

7. *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.”*

Sec. 44. *1. The authority will provide notice of the pendency of any matter before the authority to the parties to the matter.*

2. The notice of pendency will specify that the party may, within 10 days after the date of the notice, request a hearing on the matter.

3. If no request for a hearing is received by the authority, it will dispense with a hearing and act upon the matter unless it finds that a hearing is necessary.

Sec. 45. *The staff of the authority may appear, be represented by the attorney general and may otherwise participate in all proceedings before the authority.*

Sec. 46. *1. At any proceeding before the authority, each party of record is entitled to enter an appearance, introduce evidence, examine and cross-examine witnesses, make arguments, make and argue motions and generally participate in the proceeding to the extent allowed by the presiding officer.*

2. The presiding officer shall acknowledge a protestant for the purpose of making a statement.

Sec. 47. *A party may enter an appearance at the beginning of a hearing or at some other time designated by the presiding officer by giving his name and address. If a person is appearing on behalf of a party, he must also identify the party he represents.*

Sec. 48. *1. A party may represent himself or may be represented by an attorney. Any other person who satisfies the authority or presiding officer that he possesses the expertise to render valuable service to the authority, and that he is otherwise competent to advise and assist in the presentation of matters before the authority, may be allowed to appear on behalf of a party or parties.*

2. An attorney at law appearing as counsel in any proceeding must be duly admitted to practice and in good standing before the highest court of any state. If an attorney is not admitted and entitled to practice before the supreme court of Nevada, he must associate with an attorney so admitted and entitled to practice.

Sec. 49. *1. Any representative wishing to withdraw from a proceeding before the authority must make a motion stating the reasons for the requested withdrawal.*

2. The presiding officer may order the representative to serve the motion in writing upon the party whom he represents and upon all other parties of record.

Sec. 50. *1. Any person appearing in a proceeding must conform to recognized standards of ethical and courteous conduct required of practitioners before the courts of this state.*

2. Contumacious conduct by any person at any hearing before the authority is a ground for the exclusion of that person from that hearing and for summary suspension of that person from further participation in the proceedings. The authority will bar any person excluded pursuant to this subsection from attending any further proceedings of the authority unless the authority grants a petition by that person pursuant to subsection 3.

3. Any person excluded from proceedings of the authority pursuant to subsection 2 may petition the authority to rescind the exclusion. The authority will grant the petition if it finds sufficient evidence that the contumacious conduct which led to the exclusion of the person will not reoccur.

4. Smoking is not allowed at any meeting or hearing of the authority.

Sec. 51. *As used in sections 51 to 60, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 52, 53 and 54 of this regulation have the meanings ascribed to them in those sections.*

Sec. 52. *“Information” means any books, accounts, records, minutes, reports, papers and property of a person which are in the possession of, or have been provided to, the authority.*

Sec. 53. *“Person” means a natural person, any form of business or social organization and any other legal entity, including, without limitation, a corporation, partnership, association, trust, unincorporated organization, government, governmental agency or political subdivision of a government.*

Sec. 54. *“Protective agreement” means an agreement pursuant to which a person agrees not to disclose, or otherwise make public, the information requested to be confidential and which specifies the manner in which the confidentiality of the information is to be treated.*

Sec. 55. *The provisions set forth in sections 51 to 60, inclusive, of this regulation apply to all proceedings before the authority or presiding officer.*

Sec. 56. *1. A person who requests that information, which is in the possession of the authority and pertains to that person, not be disclosed shall submit to:*

(a) The deputy commissioner, one copy of the document which contains the information in an unredacted form. The document must be placed in a sealed envelope, and the envelope and each page of the document must be stamped with the word “Confidential.”

(b) The authority, 10 copies of the document which redacts the information for which the confidential treatment is requested.

2. A request that information not be disclosed must be served on the staff of the authority and must:

(a) Describe with particularity the information to be treated as confidential information;

(b) Specify the grounds for the claim of confidential treatment of the information; and

(c) Specify the period during which the information must not be disclosed.

3. Public disclosure of only those specific portions of a filing which contain information for which confidentiality is requested will be withheld or otherwise limited.

4. If the information for which confidentiality is requested is part of an application, petition or other initial filing, the application, petition or filing must comply with the provisions of this section. The initial notice issued by the authority pursuant to section 44 of this

regulation will state that certain information contained in the application, petition or filing has been requested to be treated as confidential information.

5. The authority is responsible for the custody, maintenance and return or disposal of confidential information in the possession of the authority and will:

(a) Maintain the confidential information separate and apart from all other records of the authority; and

(b) Adequately safeguard access to such information and ensure that confidential information is not divulged to unauthorized persons.

6. To determine whether to accord confidential treatment to information pursuant to sections 51 to 60, inclusive, of this regulation, the presiding officer may review the information in camera.

7. A closed hearing held before the presiding officer must be held in accordance with the provisions of NRS 706.1725.

8. Notwithstanding the other provisions of this section, the staff of the authority is entitled to receive information designated as confidential in accordance with sections 51 to 60, inclusive, of this regulation if the staff of the authority, as appropriate, has executed a protective agreement.

Sec. 57. *For information that has been determined to be confidential, the authority will or the presiding officer shall, in addition to the other procedures set forth in sections 51 to 60, inclusive, of this regulation:*

1. Require that the prepared testimony which contains the confidential information not be disclosed except as otherwise specified in a protective agreement or a protective order issued by the authority or presiding officer; or

2. *Unless otherwise agreed upon by the parties involved, require that the portion of the prepared testimony of a person which may address the confidential information be submitted to the party who had requested that the information not be disclosed, before the date on which the prepared testimony is to be submitted to the authority or other parties.*

Sec. 58. *If the authority or presiding officer determines that a protective order should be issued with regard to the information designated as confidential, the authority will or the presiding officer shall, issue a protective order which:*

1. *Describes generally the nature of the confidential information and the procedures to be used to protect the confidentiality of the information.*

2. *Specifies the period during which the disclosure of the information to the public will be withheld or otherwise limited.*

3. *Specifies the procedures to be used by each person during the pendency of the proceedings to ensure the confidentiality of the information.*

4. *Specifies the procedures for handling or returning the confidential information, as appropriate, upon the close of the proceedings or at the end of the period for which the information is to be treated as confidential.*

5. *Requires that the confidential information not be disclosed, except as:*

(a) *May be agreed upon by the parties pursuant to a protective agreement; or*

(b) *Otherwise directed by the authority or presiding officer.*

6. *Specifies the procedures to be used at the time of the evidentiary hearing to protect the confidentiality of the information.*

7. *Requires such other action as the authority or presiding officer deems appropriate under the circumstances.*

Sec. 59. 1. *Any determination by the presiding officer regarding the treatment of confidential information may be appealed to the full authority pursuant to section 101 of this regulation. The information will be subject to public disclosure 3 business days after the date on which the presiding officer issues his order denying the request for confidentiality unless:*

(a) The party who made the request appeals the decision of the presiding officer to the full authority; or

(b) Otherwise required by the order of a court of competent jurisdiction or agreed upon by the parties involved.

2. *If the authority determines that the disclosure of information requested to be treated as confidential information is justified, the authority will:*

(a) Issue an order to that effect; and

(b) Unless otherwise required by the order of a court of competent jurisdiction or agreed upon by the parties involved, continue to protect the information from public disclosure for the next 3 business days after the date on which the order denying the confidential treatment of the information is issued.

Sec. 60. 1. *During the pendency of a proceeding, any person who receives information which has been designated as confidential pursuant to sections 51 to 60, inclusive, of this regulation:*

(a) Shall not disclose the information unless the confidentiality of the information is waived.

The confidentiality of information shall be deemed to be waived if:

(1) The person who requested that the information not be disclosed makes the information available to the public or otherwise authorizes the disclosure of the information; or

(2) The authority or presiding officer enters an order which authorizes the disclosure of the information.

(b) May request, at any time, that the authority or presiding officer make a determination that the disclosure of the information is justified. The person may accompany his request with a sealed copy of the unredacted document or information.

2. The person seeking to have the information protected from disclosure has the burden of proof to demonstrate that the information sought to be disclosed is entitled to that protection.

3. Information which is the subject of an agreement or a protective order will be provided only to the staff of the authority.

4. A person, a party, the legal counsel of a party or the expert designated by a party who:

(a) Violates the procedures of the authority or presiding officer for protecting information;

(b) Fails to obey a protective order issued by the authority or presiding officer;

(c) Violates the terms or conditions of a protective agreement; or

(d) Violates any other prohibition of the disclosure of information designated as confidential pursuant to sections 51 to 60, inclusive, of this regulation, is subject to the penalties and civil remedies prescribed in NRS 706.771.

Sec. 61. *1. Pleadings before the authority must be styled applications, petitions, complaints, answers, motions and protests.*

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, the authority will allow any pleading to be amended or corrected or any omission in the pleading to be cured.

3. The authority will and the presiding officer shall liberally construe the pleadings and disregard any defects which do not affect the substantial rights of any party.

Sec. 62. 1. *A pleading requesting a privilege, right or authority from the authority must be styled an “application.”*

2. *An application must set forth:*

(a) *The full name, mailing address and telephone number of the applicant and the full name, mailing address and telephone number of the authorized representative or attorney of the applicant, if applicable;*

(b) *All material facts that the applicant is prepared to prove and upon which the authority may base a decision to grant the request;*

(c) *Required exhibits and such other exhibits as the applicant deems appropriate;*

(d) *A request for the order, authorization, permission, certificate, relief or permit desired;*
and

(e) *A reference to the particular statutes or regulations requiring or supporting the requested action.*

Sec. 63. 1. *A pleading praying for affirmative relief, other than an application, motion, answer or complaint, must be styled a “petition.”*

2. *If the subject of any desired relief is not readily apparent or specifically covered by NAC 706.013 to 706.395, inclusive, and sections 6 to 125, inclusive, of this regulation, a petition seeking that relief and stating the reasons relied upon may be filed. The petition will be handled in the same manner as other petitions.*

3. *If the authority does not grant, deny or set a petition for further proceedings within 90 days after the date on which the petition is received by the authority, the petition shall be deemed denied.*

Sec. 64. 1. *If a petition requests the adoption of a proposed regulation, it must include, without limitation, the full text of the proposed regulation and the reasons for the requested adoption.*

2. *If a petition requests the amendment or repeal of an existing regulation, it must include, without limitation:*

(a) *The regulation or that portion of the regulation in question and the suggested amendment; and*

(b) *The reason for the amendment or repeal of the regulation.*

3. *The authority will convene to consider each petition submitted in accordance with this section and will notify the petitioner within 30 days after the petition is filed of the disposition of the petition.*

Sec. 65. 1. *Any request for an order by the authority, except for an order to allow intervention or an order to show cause, concerning any matter that has been assigned a docket number but has not been finally decided by the authority must be styled a “motion.”*

2. *A motion must be in writing unless made during a hearing. If a motion is made during a hearing, the motion may be written or oral. Oral motions must be timely made.*

3. *The presiding officer may order the parties to file one or more affidavits in support or contravention of a motion which has been made.*

4. *A motion must include, without limitation, citations of any authorities upon which the motion relies.*

5. *A written motion must be filed with the authority and served upon all parties of record.*

6. *The presiding officer may direct that any motion made at a proceeding be reduced to writing, and filed and served in accordance with this section.*

7. *A motion that involves the final determination of a proceeding, including, without limitation, a motion to dismiss, will be considered by the authority at the time of the final decision and order, unless the presiding officer or authority determines that an expedited ruling would be in the public interest.*

8. *The presiding officer may rule on any motion made at a hearing which does not constitute a final determination of the proceeding.*

9. *A written motion other than one made during a proceeding must be served not later than 10 days before the date set for the hearing unless a different time is specified by the presiding officer.*

10. *Motions filed by different parties of record but involving the same point of law may be set for hearing at the same time.*

11. *For the purpose of this section, “party of record” includes, without limitation, all persons who have filed petitions for leave to intervene which are pending at the time a motion is to be filed or served.*

Sec. 66. 1. *Any party of record against whom a motion is directed may file a response to the motion. A response must be in writing unless made during a hearing. If made during a hearing, a response may be written or oral.*

2. *A written response must be:*

(a) *Served upon each party of record.*

(b) *Filed with the authority no later than 7 days after receipt of service of the motion, unless otherwise directed by the presiding officer.*

Sec. 67. 1. *Pleadings must:*

(a) *Be properly titled.*

(b) Be signed in ink by each party or an authorized person.

(c) Include the name and address of each party and, if represented, the name, address and telephone number of the authorized representative or attorney of the party.

(d) Except an initial pleading, clearly identify the proceeding by title and docket number.

(e) Set forth a clear and concise statement of the matters relied upon as a basis for the action or relief requested and an appropriate prayer.

(f) Be typewritten, printed or reproduced on good quality white paper, which is approximately 8 1/2 by 11 inches in size. Any exhibit or appendix accompanying the pleading must be folded to this size. Information must be presented on only one side of the paper and must be double spaced, except for footnotes or quotations which are indented. All copies must be clear and permanently legible.

2. A pleading initiating a new proceeding must have space for the docket number.

3. Regardless of any error in the designation of a pleading, the authority will accord the pleading its true status in the proceeding in which it is filed.

4. A signature on the pleading constitutes a representation that:

(a) The person signing the pleading has read the pleadings;

(b) To the best of his knowledge, there are good grounds to support the pleading;

(c) The information in the pleading is true to the best of his knowledge and belief; and

(d) The pleading is not filed solely to delay the proceeding.

5. If a person filing a pleading desires a hearing on the matter, a request for a hearing must be stated in the pleading.

Sec. 68. *Except as otherwise provided in this section, the original and nine legible copies of all pleadings must be filed at the office of the authority in Las Vegas. If a written protest is*

made, only the original is required to be filed. The presiding officer may require the parties to file additional copies if needed.

Sec. 69. *1. A party to a proceeding who desires to contest a petition, an order to show cause or a complaint or make any representation about it to the authority may file an answer with the authority.*

2. An answer to an order to show cause or a complaint must:

(a) Be in writing; and

(b) Specifically admit or deny each material allegation and state any new matter constituting a defense. Matters alleged by way of an affirmative defense must be separately stated and numbered.

3. If an amendment or correction to a pleading is filed before the filing of an answer, the time within which to answer will be computed from the date of service of the amendment or correction unless the authority or presiding officer directs otherwise.

4. Except as otherwise ordered by the authority, the facts set forth in an amendment or correction shall be deemed admitted if an answer to the amendment or correction is not filed. If a party does wish to answer an amendment or correction, he must file an answer within 15 days after the service of the amendment or correction unless the authority or presiding officer directs otherwise.

5. Amendments or corrections made after the filing of an answer need not be answered.

6. Failure to file an answer or failure to indicate a jurisdictional defect in an answer does not waive the right to object to a jurisdictional defect.

Sec. 70. *An answer to a petition must:*

1. Be in writing;

2. *Be written so as to advise the authority and parties of record fully of the nature of the answer;*
3. *Contain a separate statement and number for each material element of the answer;*
4. *Be signed by the answering party or, if represented, by his attorney or other authorized representative;*
5. *Include the full name, address and telephone number of the answering party; and*
6. *Be filed with the authority within 15 days after service of the petition to which the answer is directed, unless the authority shortens or extends this time.*

Sec. 71. *Any person who can demonstrate a direct and substantial interest in a proceeding and desires to participate in it as an intervener must file a petition with the authority requesting an order allowing the intervention.*

Sec. 72. 1. *A petition for leave to intervene must be in writing and set forth the following:*

(a) *The title and docket number of the proceeding in which leave to intervene is sought.*

(b) *The name and address of the petitioner and, if represented, the name, address and telephone number of his attorney or other authorized representative.*

(c) *A clear and concise statement of the direct and substantial interest of the petitioner in the proceeding, which must include, without limitation:*

(1) *A description of the manner in which the petitioner will be unreasonably and adversely affected by the proceeding;*

(2) *A description of the manner in which the petitioner will be prejudiced by the denial of his petition to intervene; and*

(3) If applicable, citations to relevant statutory and regulatory provisions that the petitioner believes are being violated.

(d) A description of the evidence and witnesses that the petitioner intends to present in the proceeding.

(e) If affirmative relief is sought, a description of the desired relief and the basis for that relief.

2. In a proceeding that is related to an application for a certificate of public convenience and necessity pursuant to section 29 of this regulation, if a petitioner alleges that the granting of the certificate to the applicant would:

(a) Tend to increase or create competition or create some other effect that may be detrimental to the traveling and shipping public or the motor carrier business within this state, in contravention of the principle set forth in:

(1) Paragraph (e) of subsection 1 of NRS 706.151; and

(2) Paragraph (d) of subsection 2 of NRS 706.391; or

(b) Unreasonably and adversely affect other carriers operating in the territory for which the certificate is sought, in contravention of the principle set forth in paragraph (c) of subsection 2 of NRS 706.391,

the petitioner shall be deemed to have a direct and substantial interest in the proceeding if the petitioner demonstrates that he is authorized to provide the same service within the same territory as that which the applicant for the certificate proposes to provide.

Sec. 73. *1. A petition for leave to intervene must be filed with the authority within any applicable period set in the public notice published in accordance with section 28 of this regulation.*

2. *If a petition for leave to intervene is filed after the applicable period, the petition must state a substantial reason for the delay.*

Sec. 74. *1. If a petition for leave to intervene demonstrates that:*

(a) Based upon the contents of the petition required pursuant to section 72 of this regulation, the petitioner has a direct and substantial interest in one or more of the elements of the proceeding; and

(b) The intervention would not unduly broaden the issues, the authority or presiding officer may grant leave for the petitioner to intervene or otherwise to appear in the proceeding with respect to those elements of the proceeding in which a direct and substantial interest is found, subject to such reasonable conditions as may be prescribed by the authority or presiding officer.

2. *If it appears during the proceedings that an intervener has no direct or substantial interest in the proceeding and that the public interest does not require his further participation, the authority will or the presiding officer shall dismiss the intervener from the proceeding.*

Sec. 75. *When two or more interveners have substantially the same interest and positions, the authority or presiding officer may, to expedite the hearing, limit the number of interveners who will be allowed to cross-examine, make and argue motions or make objections during the course of the hearing.*

Sec. 76. *1. Any objection by a person, who is not a party of record, to an application, petition or other matter must be styled a "protest."*

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 of record and 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. A protestant who desires to participate as a party of record 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 of record only to the extent that leave to intervene is granted.*

Sec. 77. 1. *All documents required to be served on a party by any other party may be served in person or by mail. 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.*

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 of record. If a party of record 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. 78. *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, 19.....

.....

Signature

Sec. 79. *1. The staff of the authority shall attempt to resolve informally any oral complaint made by a customer against a motor carrier or broker. If a customer is not satisfied with the informal resolution of his complaint, the staff shall inform the customer that he has a right to file a written complaint with the authority.*

2. The staff of the authority may request that the customer provide a written confirmation of an oral complaint.

Sec. 80. *1. A written complaint must:*

(a) Clearly and concisely state the grounds of the complaint and the facts constituting the alleged wrongful acts or omissions; and

(b) Be accompanied by copies of all supporting documents, such as invoices, bills of lading, canceled checks and statements of account.

2. The staff of the authority shall maintain a record of each written complaint, including, without limitation:

(a) Each pertinent fact relative to the origin, nature and basis of the complaint;

(b) A description of each action that the complainant has taken or attempted to take to resolve the complaint;

(c) The response of the motor carrier or broker to the complaint, with copies of supporting documents, if any; and

(d) Any other information the staff deems to be relevant to the understanding and resolution of the complaint.

3. The staff of the authority shall:

(a) Within 10 days after receiving a written complaint, send a letter of acknowledgment to the complainant.

(b) Within 20 days after receiving a written complaint, send a copy of it to the motor carrier or broker against which the complaint is made and require the motor carrier or broker to file a response to the complaint with the staff pursuant to section 81 of this regulation.

Sec. 81. *1. A motor carrier or broker against which a complaint is made shall file with the staff of the authority a written response to the complaint within 15 days after receiving the complaint unless, for good cause shown, the staff extends the time for responding.*

2. The response must include, without limitation:

(a) A statement that the respondent has successfully resolved the complaint; or

(b) A detailed admission or denial of each material allegation of the complaint and a full statement of the facts and matters of law relied upon as a defense.

3. The response must:

(a) Be signed by the respondent or, if represented, by the attorney or other authorized representative.

(b) Include the full name, address and telephone number of the respondent and, if represented, the name, address and telephone number of the attorney or other authorized representative of the respondent.

4. If the respondent fails to file a response with the staff of the authority within the prescribed time, the staff shall place the matter before the authority for a determination of probable cause. An unexcused failure of the respondent to respond to the complaint within the prescribed time shall be deemed an admission by it of all relevant facts stated in the complaint.

Sec. 82. *1. When the staff of the authority receives a response to a written complaint, it shall examine the complaint, the response and any other information it has obtained which is necessary for the resolution of the complaint.*

2. After completing an investigation of the matter set forth in the complaint, the staff of the authority shall notify all parties of the results of the investigation and shall recommend any actions which the parties should take to resolve the complaint.

Sec. 83. *1. If the staff of the authority cannot resolve a complaint, either because it determines that the complaint cannot be resolved or the complainant is not satisfied with the recommendation of the staff, the staff shall inform all parties that the complaint has been transmitted to the authority for review.*

2. In addition to transmitting the complaint, the results of its investigation and its recommendation to the authority, the staff of the authority shall transmit:

- (a) The reasons for the complaint;*
- (b) The position taken by the respondent; and*
- (c) Any interim action taken by the staff.*

The staff shall send this additional information to the complainant and respondent.

Sec. 84. *If the authority determines that no probable cause exists for a complaint received by the staff of the authority or if the complaint has been settled and the authority has received notice of the settlement, the authority will dismiss the complaint. A copy of the entry in the minutes of the authority showing the dismissal of the complaint by the authority and a short statement of the reasons for the dismissal will be served upon the complainant and respondent.*

Sec. 85. *If the authority determines that probable cause exists for a complaint received by the staff of the authority, it will:*

- 1. Set a date for a public hearing on the complaint.*
- 2. Order appropriate interim relief. If the complaint relates to bills or deposits, the authority, without hearing or formal order and in the absence of unusual circumstances, will, upon such terms and conditions as it deems appropriate, forbid discontinuance of service or the issuance of any notice of discontinuance during the investigation of the complaint.*

Sec. 86. *1. The authority will directly investigate any complaint other than one filed by a customer pursuant to section 80 of this regulation.*

- 2. A complaint to be investigated directly by the authority must be in writing and contain:*
 - (a) The name and address of the complainant and, if represented, the name, address and telephone number of his attorney or other authorized representative.*
 - (b) The name of the motor carrier or broker against which the complaint is made.*
 - (c) A complete statement of the grounds for the complaint, including whenever possible, reference to each statute or regulation which is alleged to have been violated.*
 - (d) The date of each act or omission complained of.*
 - (e) The nature of the relief sought.*

The complaint must be signed by the complainant or, if represented, by his attorney or other authorized representative.

3. Two or more grounds of complaint concerning the same subject may be included in one complaint, but the grounds must be separately stated and numbered. Two or more complainants may join in one complaint if their respective causes of action are against the same respondent and deal with substantially the same alleged violation.

4. The complainant shall serve a copy of the complaint on the respondent. Proof of service must be made by affidavit signed by the complainant or, if represented, by his attorney or other authorized representative.

Sec. 87. *1. If a proceeding appears to involve complex or multiple issues, the presiding officer may hold a prehearing conference to accomplish one or more of the following purposes:*

- (a) Formulate or simplify the issues involved in the proceeding.*
- (b) Obtain admissions of fact or any stipulation of the parties.*
- (c) Arrange for the exchange of proposed exhibits or prepared expert testimony.*
- (d) Identify the witnesses and the subject matter of their expected testimony and limit the number of witnesses, if necessary.*
- (e) Rule on any pending procedural motions, motions for discovery or motions for protective orders.*
- (f) Establish a schedule for the completion of discovery.*
- (g) Establish any other procedure which may expedite the orderly conduct and disposition of the proceedings.*

2. Notice of any prehearing conference will be provided to all parties of record. Unless otherwise ordered for good cause shown, the failure of a party to attend a prehearing

conference constitutes a waiver of any objection to the agreements reached or rulings made at the conference.

3. The action taken and the agreements made at a prehearing conference:

(a) Must be made a part of the record.

(b) Control the course of subsequent proceedings unless modified at the hearing by the presiding officer.

(c) Are binding upon all parties and persons who subsequently become parties to the proceeding.

4. In any proceeding the presiding officer may call all the parties together for a conference before the taking of testimony or may recess the hearing for such a conference to carry out the intent of this section. The presiding officer will state on the record the results of such a conference.

Sec. 88. *1. In addition to complying with the requirements of NRS 233B.121 for a notice of hearing in a contested case, the authority will include the words "notice of hearing" in any such notice.*

2. The deputy commissioner shall file or cause to be filed an affidavit of publication with the authority.

3. The authority will give such a notice by publication in the following manner:

(a) The notice will be published in an advertisement of at least 1 column inch by 3 inches, with a border on all sides, in newspapers selected as follows:

(1) If the deputy commissioner determines that the subject matter of the hearing will have a statewide effect, the notice will be published at least once in four or more newspapers of

general circulation, which are published in this state, no two of which are published in the same county.

(2) If the deputy commissioner determines that the subject matter of the hearing will have an effect on a limited number of counties only, the notice will be published once in a newspaper of general circulation published in each county where affected members of the public reside. If there is no newspaper published in a county where affected members of the public reside, the notice will be published in a county adjacent to the county.

(3) A weekly summary of the newspaper notices will be published in the Sunday edition of a newspaper of general circulation in Carson City. The summary is not a substitute for the notice required by subparagraph (1) or (2).

(b) The authority will also mail a copy of the notice of hearing to the clerk of each county or city where affected members of the public reside and to other interested persons.

4. The authority will serve notice of a hearing on the parties of record and publish the notice at least 10 days before the time set for the hearing.

5. A copy of the notice will be posted at the office of the authority in Las Vegas at least 3 days before the date set for the hearing.

Sec. 89. *The authority or presiding officer may, for good cause, either before or during a hearing, grant a continuance of the hearing for the conveniences of the parties or the authority.*

Sec. 90. *1. If an applicant, petitioner, complainant or intervener fails to appear at the time and place set for hearing, the authority may dismiss the petition, application, complaint or intervention with or without prejudice, or may, upon good cause shown, recess the hearing to a future date to be set by the authority to enable the applicant, petitioner or complainant to attend.*

2. *If an applicant, petitioner, complainant or intervener fails to respond to a request for data from the staff of the authority within 10 working days after the issuance of the request, the manager of transportation shall, at the next regularly scheduled meeting of the authority, move for dismissal of the application, petition, complaint or intervention.*

3. *As used in this section, “manager of transportation” means a person who, when designated as such by the authority, has certain powers of a peace officer pursuant to NRS 289.320.*

Sec. 91. *All testimony to be considered by the authority in a formal hearing must be sworn testimony except for matters of which official notice is taken or matters entered by stipulation. Before testifying, each witness shall declare, under oath or affirmation, that the testimony he is to give at the hearing will be the truth, the whole truth and nothing but the truth.*

Sec. 92. *1. The presiding officer shall:*

- (a) Call a hearing to order and take the appearances of the parties who are present.*
- (b) Hold appropriate conferences before or during the hearing.*
- (c) Receive and rule on the admissibility of evidence.*
- (d) Rule on the admissibility of amendments to the pleadings.*
- (e) Act upon any pending motions or petitions which do not involve a final determination of the proceeding.*
- (f) Make proposed opinions, findings and conclusions of law.*
- (g) Issue appropriate interim orders.*
- (h) Recess the hearing as required.*
- (i) Rule on all procedural matters.*

(j) Set reasonable limits of time for the presentation of oral testimony.

2. At the discretion of the presiding officer, the parties may make opening statements.

Sec. 93. *1. Applicants, petitioners or complainants may present their evidence first at a hearing. Then any parties of record 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) Staff of the authority;

(3) Interveners; and

(4) Rebuttal by the applicant or petitioner.

(b) Upon a complaint:

(1) Complainant;

(2) Respondent;

(3) Staff of the authority;

(4) Interveners; 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 section 74 of this regulation;

(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.

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. 94. *At a hearing on a proposed regulation, the presiding officer may allow the questioning of those persons submitting statements to clarify testimony. The cross-examination of persons who testify is not allowed. The period for comment may be extended by the authority so that written comments on statements of other persons which are offered at the hearing may be submitted to the authority.*

Sec. 95. *1. A request by a party of record for an order for the appearance of a witness at any designated place of hearing or for the production of a book, paper or document must be made in the form of a written motion filed with the authority or presiding officer.*

2. *A motion for an order to compel the production of a book, paper or document must set forth the reasons which support the issuance of the order and must identify, as clearly as possible, the book, paper or document desired.*

3. *If the motion is granted, the authority will issue the order or the presiding officer shall issue the order on behalf of the authority. Where appropriate, the issuance of the order may be conditioned upon an advancement by the moving party of the reasonable cost of the production of books, papers or documents.*

4. *The authority will or the presiding officer shall, upon its or his own initiative or upon a written request by the party to whom the order is directed, quash or modify the order if it is determined to be unreasonable or oppressive.*

5. *The authority or presiding officer may, upon its or his own initiative issue an order requiring the attendance and testimony of witnesses and the production of a book, paper, document or other tangible thing.*

Sec. 96. *1. An objection to the admissibility of evidence may be made by any party of record, and the objection must be ruled on by the presiding officer. When an objection is made to the admission or exclusion of evidence, the grounds relied upon must be stated briefly. The presiding officer shall provide an opportunity for a party of record to respond to an objection raised by any other party regarding the admissibility of evidence. The responses must be brief and state the specific grounds relied upon.*

2. An offer of proof for the record must consist of a statement of the substance of the evidence to which an objection has been sustained.

Sec. 97. *1. At the discretion of the presiding officer, a party to a proceeding shall submit a copy of prepared testimony and accompanying exhibits to be presented at a hearing to*

the authority and to each party of record. If the presiding officer directs any party to submit prepared testimony and accompanying exhibits, the presiding officer shall direct every party of record desiring to present direct testimony at the hearing to submit prepared testimony and accompanying exhibits to the authority and to each party of record to the proceeding before the date of the hearing.

2. An application filed for an adjustment in rates must be accompanied by the prepared testimony of the applicant at the time of filing. If the presiding officer so orders, additional copies of the prepared testimony of the applicant must be provided.

3. After delivery of the prepared testimony to the authority, amendments to the prepared testimony may be made upon approval of the authority or presiding officer.

4. Unless otherwise directed by the presiding officer, prepared testimony must be supported by a signed affirmation by the witness and submitted to the authority as an exhibit. If circumstances so require, prepared testimony may be read into the record by the witness upon direct examination. The admissibility of prepared testimony will be determined pursuant to NAC 706.013 to 706.395, inclusive, and sections 40 to 125, inclusive, of this regulation, which govern oral testimony.

Sec. 98. *1. An exhibit must be limited in size to 8 1/2 by 11 inches when folded, unless otherwise allowed by the presiding officer. All portions of a proposed exhibit must be stapled. The presiding officer shall not accept an exhibit which consists of unstapled pages. A copy of each documentary exhibit must be furnished to each party of record, and 10 copies must be furnished to the authority. 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 be prepared and offered as an exhibit. Other parties of record may examine 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 and to serve on each party of record a copy of these exhibits within a specified time before the hearing to enable the parties of record 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. 99. *1. A properly authenticated resolution of a federal or state agency or division, the governing body of a city, town, county, regional or other municipal corporation or of a chamber of commerce, board of trade, labor union, corporation, commercial, mercantile, agricultural or manufacturing society or other civic organization must be received into evidence if offered by the president, secretary or other proper representative of the corporation or organization.*

2. The resolution will be received subject to rebuttal by adversely affected parties of record as to either the authenticity of the resolution or the circumstances surrounding its procurement.

Recitals of fact contained in a resolution will only be received for the limited purpose of showing the expression of the official action of the resolving body on the matters under consideration in the proceeding.

Sec. 100. *1. At the hearing, the presiding officer may order the presentation of further evidence on any issue. Upon agreement of the parties, the presiding officer shall authorize the filing of specific documentary evidence as a part of the record within a fixed time after submission of the evidence. The presiding officer shall reserve exhibit numbers for exhibits which are filed late.*

2. After the hearing and before the entry of a final decision and order, the authority or presiding officer may issue an order requesting the submission of additional exhibits. Such an order must:

- (a) Specifically delineate the subject matter to be addressed.*
- (b) Specify the date by which the exhibits must be submitted.*
- (c) Require service of the exhibits upon all parties of record.*

A party of record may respond to or comment upon such exhibits.

Sec. 101. *1. All rulings made by the presiding officer regarding the admissibility of evidence are subject to review by the authority. Any pending petition or motion that involves a final determination of the proceeding must be referred to the authority for determination.*

2. In extraordinary circumstances, when a prompt decision by the authority is necessary to promote substantial justice, the presiding officer shall refer the matter to the authority for determination and may recess the hearing pending the determination.

Sec. 102. *1. The authority may consolidate two or more dockets in any one hearing when it appears that the issues are substantially the same and that the rights of the parties will not be prejudiced by a consolidated hearing.*

2. At a consolidated hearing the presiding officer will determine the order in which the parties introduce their evidence and the general procedure to be followed during the course of the consolidated proceeding.

3. The presiding officer will apportion the costs of the hearing among the parties in a manner not contrary to statute.

4. Unless the authority orders otherwise, the deputy commissioner will place the same date of issuance and the same effective date, if applicable, on all orders made by the authority in relation to a consolidated hearing.

Sec. 103. *1. With the approval of the presiding officer, the parties may stipulate as to any fact in issue, either by written stipulation introduced in evidence as an exhibit or by an oral statement made upon the record. This stipulation is binding only upon the parties so stipulating and is not binding upon the authority.*

2. The stipulation may be considered by the authority as evidence at the hearing. The authority or presiding officer may require proof of the facts stipulated to by independent evidence, notwithstanding the stipulation of the parties. A stipulation without additional proof is not binding on the authority in the determination of the matter.

Sec. 104. *The authority or presiding officer may, in the course of a proceeding and before entering a decision or a recommended decision, issue an appropriate written interim order. An interim order is not subject to exceptions or petitions for rehearing, reconsideration or*

reargument, but any party of record aggrieved by the interim order may file a written motion to set aside, stay or modify the order.

Sec. 105. *The authority or presiding officer may take official notice of the following matters:*

- 1. Rules, regulations, official reports, decisions and orders of the authority and any other agency of the state.*
- 2. Contents of decisions, orders, certificates and permits issued by the authority.*
- 3. Matters of common knowledge and technical or scientific facts of established character.*
- 4. Official documents, if pertinent and properly introduced into the record of formal proceedings by reference. A proper and definite reference to a document must be made by the party offering the document, and the document must be generally circulated to each party of record.*

Sec. 106. *In a hearing, the presiding officer may order briefs to be filed within a reasonable time. The original and 10 copies of each brief must:*

- 1. Be filed with the authority;*
- 2. Contain all legal authority cited therein as exhibits; and*
- 3. Be accompanied by an acknowledgment of or an affidavit showing service on each party of record.*

Sec. 107. *The authority may, following the filing of briefs or upon contested motions, set the matter for oral argument upon 10 days' notice to each party of record, unless the authority considers a shorter time advisable.*

Sec. 108. *Unless otherwise specifically ordered, a matter stands submitted for decision by the authority at the close of the hearing.*

Sec. 109. *At any time after the conclusion of a hearing and before the issuance of a final order, the authority or presiding officer, on its or his own motion, may reopen the proceedings for the taking of additional evidence.*

Sec. 110. *1. The presiding officer may require any party of record to file proposed findings of fact and conclusions of law at the close of the proceeding. The presiding officer will fix the period within which these proposed findings and conclusions must be filed. No decision, report or recommended order may be made until after the expiration of this period.*

2. Each proposed finding of fact and conclusion of law must be clearly and concisely stated and numbered. Each proposed finding of fact must specifically show by appropriate references to the transcript, the testimony which supports the statement.

3. An original and 10 copies of proposed findings of fact and conclusions of law, accompanied by a certificate of service, must be filed by each party with the authority, and one copy must be served upon each party of record.

4. Any party of record may petition the authority for an extension of time in which to file proposed findings of fact and conclusions of law.

Sec. 111. *1. The date of the issuance of an order is the day on which the deputy commissioner signs and verifies the order and affixes the seal of the authority on the order. The deputy commissioner will mail or deliver copies of the order to the parties of record no later than one day following the date of issuance. The date of issuance of an order may or may not be the day on which the authority makes the decision. The deputy commissioner will clearly indicate on each order the date of its issuance.*

2. Unless otherwise specifically provided in the order, an order of the authority is effective as of the date of its issuance.

Sec. 112. *Any party may obtain a copy of the transcript of a hearing before the authority from the official reporter upon payment of the fees fixed therefor. The original and one copy of each transcript must be provided to the authority by the initiating party within 15 business days after the close of the hearing unless otherwise ordered by the presiding officer.*

Sec. 113. 1. *Any interested person may petition the authority for a declaratory order or an advisory opinion as to the applicability of any statutory provision or any regulation or decision of the authority.*

2. *Hearings will be held by the authority, if needed, to obtain information necessary or useful in formulating a declaratory order or advisory opinion.*

Sec. 114. *As used in sections 114 to 125, inclusive, of this regulation, unless the context otherwise requires, the words and terms defined in sections 115, 116 and 117 of this regulation have the meanings ascribed to them in those sections.*

Sec. 115. *“Administrative proceeding” means a proceeding to impose an administrative fine pursuant to subsection 2 of NRS 706.771.*

Sec. 116. *“Hearing officer” means a person designated pursuant to subsection 2 of NRS 706.1514 to conduct an administrative proceeding.*

Sec. 117. *“Respondent” means a person against whom an administrative proceeding is initiated.*

Sec. 118. 1. *An administrative proceeding must be initiated by the staff of the authority as provided in section 119 of this regulation. The staff may terminate an administrative proceeding at any time before hearing without prejudice to the initiation of another administrative proceeding based upon the same set of facts.*

2. *An administrative proceeding must be conducted pursuant to the provisions of chapter 233B of NRS and those provisions of chapter 706 of NRS which do not conflict with the provisions set forth in chapter 233B of NRS regarding notice to parties and the opportunity of parties to be heard.*

3. *The provisions of sections 40 to 113, inclusive, of this regulation apply to an administrative proceeding, as if the hearing officer were the authority or presiding officer, to the extent that those provisions do not conflict with the provisions of sections 114 to 125, inclusive, of this regulation.*

4. *No person may intervene in an administrative proceeding.*

Sec. 119. 1. *The staff of the authority may initiate an administrative proceeding by:*

(a) *Serving a copy of a complaint upon the respondent by personal delivery or by mailing by certified mail, return receipt requested, to the last known address of the business or residence of the respondent; and*

(b) *Filing the complaint with the authority.*

2. *The complaint must be signed by a member of the staff of the authority and contain:*

(a) *The name of the respondent;*

(b) *A concise statement of the facts upon which the imposition of a fine is allegedly grounded;*

(c) *The amount of the fine requested; and*

(d) *Any other matter required by law.*

3. *The respondent may file with the authority an answer to the complaint no later than 15 days after it is served.*

Sec. 120. *1. The staff of the authority may enter into an agreement with a respondent for the settlement of an administrative proceeding. The agreement must be signed by the staff and the respondent, and state that the respondent consents to the imposition of a fine in a specific amount.*

2. Upon entering into such an agreement:

(a) The staff of the authority shall submit the agreement to the authority; and

(b) The respondent shall deposit with the authority a cashier's check or money order, payable to the authority, for the amount of the agreed fine. The authority will maintain the amount in an interest-bearing trust account until it enters a final order in the administrative proceeding.

3. The agreement is not effective unless approved by the authority. If the authority approves of the agreement, it will enter an appropriate final order. If the authority does not approve of the agreement, the administrative proceeding must be set for a hearing.

4. Upon termination of the administrative proceeding, the authority will return to the respondent the amount deposited pursuant to subsection 2 which exceeds the amount of any fine imposed, together with the accrued interest on that unused amount.

Sec. 121. *1. A hearing officer shall:*

(a) Subscribe to the constitutional oath of office before exercising any of the powers or performing any of the duties of his office.

(b) Conduct a fair and impartial hearing in accordance with the law.

(c) Conduct the entire hearing on the record and require each party or his counsel to identify himself before he presents evidence.

(d) Establish the order of presentation of the evidence by each party.

(e) Ensure that the hearing proceeds with reasonable diligence and the least delay practicable.

(f) Prepare a proposed decision for review by the authority.

(g) Deliver the record of the hearing and the proposed decision to the authority.

2. If not otherwise prohibited by law and if substantial rights of the parties will not be prejudiced, a hearing officer may allow amendment of the complaint and answer before conducting a hearing.

Sec. 122. *1. Any party to an administrative proceeding conducted by a hearing officer may appeal a ruling of the hearing officer on any procedural matter to the authority by filing a request for further consideration with the hearing officer within 15 days after the ruling is made, or within the period prescribed by the hearing officer. The request must include, without limitation, grounds for review of the ruling by the authority.*

2. The hearing officer shall transmit:

(a) The request for further consideration and any response to the request;

(b) His ruling on the procedural matter; and

(c) A memorandum which explains those parts of his ruling which are the subject of the appeal,

to the authority no later than the time he delivers the proposed decision pursuant to section 121 of this regulation.

3. Except as otherwise provided in subsection 4, the authority will enter a decision on the appeal at the same time it rules upon the proposed decision of the hearing officer received pursuant to section 121 of this regulation.

4. *If the hearing officer finds that a ruling on the appeal is necessary to prevent detriment to the public interest or irreparable harm to any person, the authority may enter a decision on the appeal before it rules on the proposed decision of the hearing officer received pursuant to section 121 of this regulation.*

Sec. 123. *1. The authority will review the decision of a hearing officer and enter a final order affirming, modifying or setting aside the decision.*

2. If a respondent fails to appear at the time and place set for an administrative proceeding, the authority may impose a fine for the violations alleged in the complaint.

3. In determining the amount of a fine to be imposed pursuant to an administrative proceeding, the authority may consider:

(a) The seriousness of the violations alleged in the complaint which were demonstrated to have been committed by the respondent;

(b) Any hazard to the health or safety of the public resulting from those violations;

(c) Any economic benefit received by the respondent as a result of those violations;

(d) Any mitigation or aggravation by the respondent of the effects of those violations;

(e) The extent to which the respondent demonstrates his good faith;

(f) Any previous history of violations by the respondent;

(g) The amount necessary to deter future violations; and

(h) Any other appropriate matter.

Sec. 124. *A fine imposed pursuant to an administrative proceeding is due and payable within 20 days after the final order of the authority imposing the fine.*

Sec. 125. *The provisions of sections 114 to 125, inclusive, of this regulation do not preclude the commencement or pursuit of any additional remedies for the commission of the acts upon which an administrative proceeding is based.*

Sec. 126. *“Authority” has the meaning ascribed to it in NRS 706.018.*

Sec. 127. *“Operator of a tow car” means the owner, manager, employee or agent of a company operating a tow car which holds a certificate of public convenience and necessity issued by the authority.*

Sec. 128. *“Staff of the authority” has the meaning ascribed to it in section 18 of this regulation.*

Sec. 129. NAC 706.010 is hereby amended to read as follows:

706.010 As used in NAC 706.013 to 706.395, inclusive, *and sections 6 to 125, inclusive, of this regulation*, unless the context otherwise requires, the words and terms defined in NRS [706.016] *706.013* to 706.146, inclusive, and NAC 706.013 to 706.119, inclusive, *and sections 6 to 18, inclusive, of this regulation*, have the meanings ascribed to them in those sections.

Sec. 130. NAC 706.019 is hereby amended to read as follows:

706.019 “Authorized carrier” means a person authorized by the [commission] *authority* to engage in the intrastate transportation of property or passengers as a common or contract motor carrier.

Sec. 131. NAC 706.030 is hereby amended to read as follows:

706.030 “Certificate” means a certificate of public convenience and necessity issued by the [commission.] *authority*.

Sec. 132. NAC 706.105 is hereby amended to read as follows:

706.105 “Regular route” means a fixed route between specific points served according to a schedule authorized by the [commission.] *authority*.

Sec. 133. NAC 706.143 is hereby amended to read as follows:

706.143 [Every] A private carrier who is engaged in the transportation by motor vehicle of property sold, or to be sold, or used in furtherance of a private commercial enterprise, and who does not haul any property for hire, applying for the [commission’s] approval *of the authority* for licensing must provide the [commission] *authority* with an affidavit of private carriage before a license will be approved . [by the commission.]

Sec. 134. NAC 706.145 is hereby amended to read as follows:

706.145 In determining whether a person is a private motor carrier, the [commission] *authority* will consider the following:

1. The ownership or bailment of the property transported.
2. A preexisting order of the customer or shipper.
3. The extent of the intermediate use of a warehouse.
4. The difference between the price charged the carrier and the carrier’s charge to the customer, and whether it appears that this difference is roughly equivalent to a charge for transportation.
5. The extent of the carrier’s transportation for other persons.
6. The nature of any advertising used.
7. The extent of the carrier’s investment in facilities and equipment for transportation.
8. The control exerted by the shipper over the transportation.
9. The burden assumed by the shipper for the costs of the transportation.
10. The status of the transportation as incidental to a business or as a secondary business.

11. The nature and extent to which the carrier uses the highways of the state.

Sec. 135. NAC 706.147 is hereby amended to read as follows:

706.147 1. The [commission] *authority* will consider a provider of free shuttle service to passengers who may or may not have baggage to be a common motor carrier unless all of the following conditions are met:

(a) The provider's business is not the transportation of property or passengers and any transportation furnished is incidental to its business.

(b) The provider indicates in any advertisement including information on free transportation that the transportation will only be furnished to its customers. Such information must be incidental to an advertisement of the business.

(c) The provider effectively limits the provision of transportation to its customers.

(d) Transportation is furnished only if the provider's place of business is the point of origin or the point of destination of the customer's trip.

(e) Each customer's trip is between a place of business owned by the provider and one other point.

(f) The driver is prohibited from soliciting gratuities, either directly or indirectly, or from placing a container for gratuities in the vehicle. The driver may accept unsolicited gratuities.

(g) The driver is not compensated based upon the number of persons transported in a given period.

2. The [commission] *authority* will not consider the placement of the name of the business on the side of the vehicle as an advertisement for transportation.

Sec. 136. NAC 706.149 is hereby amended to read as follows:

706.149 1. After receiving a certificate or permit, every common or contract motor carrier shall maintain an investment of not less than 20 percent equity capital in his operations and include proof that he meets this requirement in his annual report filed with the [commission.]

authority

2. A carrier who does not meet the requirement of subsection 1 shall, within 3 months after receiving notice from the [commission] *authority* of that failure, file a plan proposing the specific steps he will take to meet that requirement within the next 12 months.

3. Within 15 months after receiving notice from the [commission] *authority* that he does not maintain adequate equity capital, a carrier must have an investment of not less than 20 percent equity capital in his operations.

4. The certificate or permit of a motor carrier who does not comply with this section may be revoked by the [commission.] *authority*.

Sec. 137. NAC 706.152 is hereby amended to read as follows:

706.152 1. The burden of proof lies with the applicant to satisfy the [commission] *authority* of its financial ability to perpetuate a continuous service, as applied for, consistent with the public interest. The background of an applicant may be considered by the [commission] *authority* before granting any privilege. In determining an applicant's financial ability, the [commission] *authority* may consider:

(a) Equity capital sufficient to acquire the necessary property and equipment, but not less than that required by NAC 706.149;

(b) The reasonableness of rates to be charged;

(c) The applicant's current ratio of assets to liability;

(d) The financial condition of the principals if the applicant is a partnership;

- (e) The requirements for capital for the first 12 months of operations;
- (f) The reasonableness of any estimates for the operation; and
- (g) Any other evidence the [commission] authority deems relevant.

2. The [commission] authority will make an investigation before the issuance of a certificate or permit.

3. An application that does not comply with [NAC 703.165] *section 29 of this regulation* may be dismissed by the [commission] authority without prejudice on the motion of a party to the proceeding. Such a motion must be in writing and filed before the commencement of any hearing on the application.

Sec. 138. NAC 706.155 is hereby amended to read as follows:

706.155 1. If an application for a certificate or permit is filed with the [commission,] authority, notice will be given to the public [in order] so that any affected person will have an opportunity to state his position before the issuance of the certificate or permit.

2. If the [commission receives] authority:

(a) *Receives* a valid petition for leave to intervene [,] ; and

(b) *Grants leave to intervene pursuant to section 74 of this regulation,*

a hearing will be held unless all petitioners withdraw before the time set for hearing, and the [commission] authority has sufficient information on which to establish that the applicant is financially fit and otherwise capable of providing safe transportation.

Sec. 139. NAC 706.164 is hereby amended to read as follows:

706.164 1. Unless otherwise authorized by the [commission,] authority, each applicant for a certificate or a permit, or the transfer of a certificate or permit, whose application has been

granted, [shall] *must* commence operations within 30 days [from] *after* the date on which the certificate or permit was issued, or forfeits the rights granted.

2. No applicant may start operating until he has complied with all requirements of the law and the regulations of the [commission,] *authority*, unless otherwise ordered by the [commission.] *authority*.

Sec. 140. NAC 706.167 is hereby amended to read as follows:

706.167 No carrier may use any trade name or any fictitious name unless the name is authorized for the carrier's use by order of the [commission.] *authority*.

Sec. 141. NAC 706.170 is hereby amended to read as follows:

706.170 1. Common or contract motor carriers operating in intrastate commerce, when traversing the highways of this state, shall have the name of the person operating the vehicle firmly attached to each side of the unit having motive power in letters not less than 2 inches high in sharply contrasting colors which are legible from a distance of at least 50 feet.

2. Private carriers operating in intrastate commerce, when traversing the highways of this state, shall have the name of the person operating the vehicle firmly attached to each side of the unit having motive power in the manner, size and style prescribed in subsection 1, except single unit motor vehicles with an unladen weight of 10,000 pounds or less.

3. Except as otherwise provided in subsections 4, 5 and 6, every common or contract motor carrier operating under the [authority] *jurisdiction* of the [commission] *authority* shall have the symbols "CPC A" and the number of his certificate, or the symbols "MV" and the number of his permit if he is operating under a permit for a contract motor carrier, painted or affixed upon each side of the unit having motive power, in the manner, size and style prescribed in subsection 1.

4. If the name of the operator of a limousine is exhibited on the vehicle by means of a symbol, printed sign or any other manner that is readily visible, the name is not required to be displayed as prescribed in subsection 1. The number of his certificate and symbols “CPC A” must be not less than 2 inches high and must be placed on either the rear bumper or at the rear of the vehicle.

5. After July 1, 1990, all authorized carriers shall use the symbols “PSC #” and the number of his certificate or permit on any vehicle in service.

6. A lessee operating a unit having motive power pursuant to a short-term or long-term lease shall have his name and number painted or affixed on the vehicle.

7. Any removable sign or placard must be made of a durable material such as wood, plastic or metal. Each device must bear a serial number in the carrier’s own series and the carrier must keep a proper record of each number.

Sec. 142. NAC 706.190 is hereby amended to read as follows:

706.190 Every common or contract motor carrier who collects the purchase price of goods sold by the shipper to the consignee shall file with the [commission] authority a surety bond in the amount of \$1,000.

Sec. 143. NAC 706.192 is hereby amended to read as follows:

706.192 1. A common or contract motor carrier may apply to operate under a program of self-insurance in lieu of or in addition to the insurance required by NAC 706.191.

2. The application must include , *without limitation*, the following:

(a) A certificate of self-insurance issued by the department of motor vehicles and public safety pursuant to NRS 485.380.

(b) A letter requesting approval of the program of self-insurance and stating that the applicant understands the provisions of this section.

(c) A proposal setting forth the proposed surety and an explanation of how it corresponds to the requirements of NAC 706.191.

(d) A copy of the carrier's application to the department of motor vehicles and public safety for the certificate of self-insurance and a copy of all attachments accompanying the application.

(e) A letter from an adjusting company stating that it has agreed to handle any claims against the carrier if the program of self-insurance is approved by the [commission.] authority.

(f) Any other information that the applicant considers relevant to the application or the [commission] authority may request.

3. A common or contract motor carrier may apply for self-insurance at the time of [its] an application for a certificate, permit or license or at any time after the granting of a certificate, permit or license. If a carrier applies after the initial issuance of a certificate, permit or license, that carrier [shall] must maintain the insurance effective for that certificate, permit or license until [its] the program of self-insurance is approved.

4. A common or contract motor carrier may combine a contract of insurance and another surety in proposing its guarantee. The carrier must arrange for an adjusting company to handle any claims that may arise under the surety.

5. Before the [commission] authority grants approval of a program of self-insurance, the common or contract motor carrier must satisfy the [commission] authority that the total surety proposed meets the minimum required pursuant to NAC 706.191

6. The common or contract motor carrier shall, at all times, ensure that any change in its financial position or other circumstances does not jeopardize the surety or the protection of the public.

7. Exemption from the coverage of the insurance of materials and commodities having a low value may, upon specific application by a carrier, be authorized by the [commission.] *authority*. An authorized carrier may apply for this exemption whether it is self-insured or otherwise meets the requirements of NAC 706.191.

Sec. 144. NAC 706.193 is hereby amended to read as follows:

706.193 1. Before a certificate or permit will be issued, the applicant shall:

(a) File with the [commission] *authority* evidence of the necessary insurance for each vehicle to be operated by the applicant on the form entitled “Bodily Injury and Property Damage (BI/PD) Form E,” and on the form entitled “Cargo Form H” when applicable;

(b) Satisfy the requirements of NAC 706.192 for self-insurance; or

(c) File with the [commission] *authority* a certificate of self-insurance obtained from the department of motor vehicles and public safety pursuant to NRS [706.3054 or 706.3056.] *485.380*.

2. The forms required pursuant to paragraph (a) of subsection 1 are available from an insurance agent or from Uniform Printing and Supply [Company, P.O. Box 820,] *Incorporated, 132 Flatbush Avenue*, Kingston, New York 12401, or Kohnke Printing Company, 375 Fremont Street, San Francisco, California 94105.

Sec. 145. NAC 706.194 is hereby amended to read as follows:

706.194 No driver, agent, or representative of a carrier may interfere with, refuse, deny or hinder the [commission] authority or its appointed representatives from making any inspection, investigation or examination of any carrier's vehicle, record or documents.

Sec. 146. NAC 706.197 is hereby amended to read as follows:

706.197 Any bid to provide service as a contract motor carrier must state that the person submitting the bid is authorized by the [commission] authority to provide that service or, if he is not so authorized, that the submission of the bid is conditioned upon the granting of that authority by the [commission.] authority.

Sec. 147. NAC 706.200 is hereby amended to read as follows:

706.200 1. Every common or contract motor carrier shall submit a bill of charges for his services to a customer within 30 days after the rendition of services.

2. A carrier shall require all accounts to be paid in full within 45 days after the rendition of services unless another period is approved by the [commission] authority in the carrier's tariff.

3. A carrier shall not submit more than one bill of charges to a customer for the same services without making a reference to the first bill on any subsequent bill.

Sec. 148. NAC 706.203 is hereby amended to read as follows:

706.203 1. An authorized carrier operating motor vehicles within this state shall maintain a centralized accounting system and the records required by the [commission] authority in a designated headquarters.

2. All records required to be maintained by the [commission] authority must be maintained by the authorized carrier for at least 3 years and are subject to inspection or audit by the [commission] authority or its designated agent at any time during the business hours of the day.

Sec. 149. NAC 706.206 is hereby amended to read as follows:

706.206 1. All common and contract carriers operating within this state under the jurisdiction of the [commission] *authority* shall notify the [commission] *authority* of any changes in address, officers of the corporation, or an intended sale, transfer, lease or discontinuance of operations under *the* authority granted them in their certificate or permit.

2. Any carrier, before the purchase or sale of the corporate control, must have the prior approval of the [commission.] *authority*.

Sec. 150. NAC 706.208 is hereby amended to read as follows:

706.208 1. Except as otherwise provided in subsection 2 and NAC 706.375, an authorized carrier may lease equipment for his own use, with or without a driver, on the basis of a long-term lease.

2. An authorized carrier may lease for his own use, with or without a driver, on the basis of a short-term lease:

(a) A dump truck for use in a construction project, on an hourly or daily basis, for not more than 48 hours.

(b) A bus from an authorized carrier, on an hourly basis, for not more than 48 hours.

(c) Any equipment which is not specified in paragraphs (a) and (b) of this subsection, from an authorized carrier.

3. An authorized carrier who operates a bus pursuant to paragraph (b) of subsection 2:

(a) May use his own insurance or that of the lessor to meet the insurance requirements of NAC 706.191.

(b) Must have a copy of the lease on file at his office within 48 hours after the commencement of the lease.

4. Except for carriers operating pursuant to paragraph (b) of subsection 2, leased equipment may only be used in an operation authorized by the lessee's certificate or permit and must be identified as operated by the lessee. A copy of the lease must be carried with the equipment during the period of the lease.

5. Work may not be performed pursuant to an expired lease.

6. An authorized carrier may lease restored theme or antique vehicles without complying with the requirements of subsection 2 if the [commission] *authority* approves the lease before its commencement. The [commission] *authority* will approve the lease if:

(a) The leased vehicle is used only for special occasions; and

(b) Arrangements to lease the vehicle are made at least 7 days before the commencement of the lease.

7. Every lease of equipment by an authorized carrier must be in writing, dated and signed by the parties thereto or an authorized agent or employee of the parties.

8. The leased equipment must be under the control and direction of the authorized carrier.

9. The leased equipment must be operated within the scope of the authorized carrier's authority and in conformance with the authorized carrier's tariff.

10. The driver of a leased vehicle must be under the complete control and direction of the authorized carrier. The authorized carrier must be free to enforce rules regarding working and driving.

11. The authorized carrier may not avoid liability for any damages arising out of the negligent operation of the equipment through the terms of the lease.

12. The terms of any lease of equipment pursuant to this section must include , *without limitation*, a provision that the equipment must be insured in accordance with the provisions of

NAC 706.191. A lessee may use his insurance or the lessor's insurance to satisfy the requirements of NAC 706.191.

13. The compensation to be paid for any leased equipment must be fixed at the inception of the lease and may:

(a) Include a specific sum or formula for calculating the compensation for the duration of the lease; or

(b) Be based on a division or percentage of the applicable rate for the transportation of a commodity in the equipment during the period of the lease.

14. A vehicle leased pursuant to this section must be identified in accordance with NAC 706.170 as operated by the lessee.

Sec. 151. NAC 706.209 is hereby amended to read as follows:

706.209 1. An authorized carrier of property or passengers may lease equipment on a one-for-one basis to supplement its fleet up to the entire amount of similar equipment owned and currently operated by the carrier under its certificate or permit. Equipment that is owned by the carrier and used in the services of intrastate transportation in this state must be used to determine what constitutes similar equipment.

2. An authorized carrier shall not lease any kind of equipment to provide transportation if the carrier does not currently own similar equipment.

3. The [commission] authority may approve the lease of equipment in a manner that does not comply with the requirements of subsections 1 and 2 if:

(a) The authorized carrier files a petition for waiver of those requirements; and

(b) The lease is found to be in the public interest.

The [commission] authority will issue a public notice of the receipt of such a petition.

4. For the purposes of this section, equipment leased pursuant to a bona fide capital lease, as defined by generally accepted accounting principles, shall be deemed equipment owned by the authorized carrier. The provisions of this section do not apply to such leases.

5. As used in this section, “similar equipment” means equipment designed and used to transport:

- (a) Cargo of the same specific class of commodities; or
- (b) Passengers in the same type of motor vehicle.

Sec. 152. NAC 706.212 is hereby amended to read as follows:

706.212 1. Common and contract carriers authorized by the [commission] authority shall not rent or lease vehicles to a shipper or consignee, with or without drivers.

2. An authorized carrier shall not lease or rent to any person its authority to engage in the intrastate transportation of property or passengers. An authorized carrier is responsible for and shall monitor its daily operation.

3. An authorized carrier shall not authorize any person to sell its transportation services other than:

- (a) Its employees; or
- (b) A person who manages its business [under] pursuant to an agreement entered into pursuant to NAC 706.250.

Sec. 153. NAC 706.218 is hereby amended to read as follows:

706.218 1. Every common or contract motor carrier shall keep an accurate record [his] of the revenues from his operations in this state, operating and other expenses and other required information and include such information in its annual report covering the yearly period fixed by the [commission,] authority, unless otherwise provided by law. The [commission] authority will

prescribe the character of the information to be embodied in the annual report and furnish a blank form for the report.

2. Every common or contract motor carrier shall keep and render to the [commission,] *authority*, in the manner, form and detail prescribed by the [commission,] *authority*, uniform and detailed accounts of all business transacted.

3. The accounts of every common or contract motor carrier must be closed annually on the basis of either a calendar or fiscal year and the annual report must be filed not later than April 15 for reports based on a calendar year or not later than 105 days after the end of the fiscal year for reports based on a fiscal year.

4. The [commission] *authority* will call for information omitted from reports or not provided for therein, when in its judgment additional information is necessary.

Sec. 154. NAC 706.221 is hereby amended to read as follows:

706.221 Each bus operated over a regular route or between fixed destinations must have attached to the front of the bus a sign with letters or figures not less than 3 inches in height designating the destination of the vehicle or service provided by the vehicle, unless otherwise ordered by the [commission.] *authority*. The sign may not be attached to the windshield of the bus.

Sec. 155. NAC 706.224 is hereby amended to read as follows:

706.224 No vehicle to which the provisions of this section are applicable may be operated on any time schedule other than that approved by the [commission.] *authority*. Nothing contained in this section may be construed to prohibit the operation, in addition to the service described in the schedule in effect at the time, of special or extra trips over the route, or any part

thereof, during rush hours or other extraordinary circumstances to care for additional business occasioned by an unusual condition.

Sec. 156. NAC 706.227 is hereby amended to read as follows:

706.227 The [commission] authority reserves the right after investigation and hearing to arrange or rearrange schedules so as to prevent congestion and competition which is injurious to public welfare or to make connections with other transportation agencies. The schedule changes will be made by first giving 10 days' notice to the carrier affected.

Sec. 157. NAC 706.228 is hereby amended to read as follows:

706.228 1. A motor carrier who has been issued a certificate or his employee shall not solicit passengers.

2. A motor carrier or his employee may:

(a) Answer questions posed by a potential passenger if the conversation is initiated by the potential passenger;

(b) Advertise on the side of a vehicle or on permanently located signs;

(c) Provide brochures in permanently mounted racks or stands;

(d) Establish booths in airports, hotels or other locations;

(e) Advertise in the media or through direct mailing; or

(f) Conduct any other marketing activity which has been determined not to be solicitation by the [commission.] authority.

3. As used in this section, "solicit" includes , *without limitation*, inducing or attempting to induce persons by communication or other action to be transported. The term includes [:], *without limitation*:

(a) Initiating conversation with potential passengers;

(b) Shouting information;

(c) Waving signs;

(d) Waving arms or hands;

(e) Flashing lights;

(f) Ringing bells;

(g) Blowing horns;

(h) Blocking access to other motor carriers; or

(i) Except as otherwise [permitted] *provided* by subsection 2, any other activity designed to attract passengers,

unless the passenger has arranged for the transportation by reservation or the driver is seeking a specific passenger who has requested that the driver's vehicle be dispatched to the location.

Sec. 158. NAC 706.232 is hereby amended to read as follows:

706.232 A contract motor carrier shall not:

1. Operate between fixed terminals, provide service over a regular route or operate over the same route or to the same points so frequently as to constitute a regularly scheduled route or service, unless approved by the [commission;] *authority*;

2. Operate in such a manner that would interfere with the operation of a common motor carrier;

3. Conduct any operation as a common motor carrier; or

4. Except as otherwise provided in NAC 706.274, provide transportation pursuant to more than five contracts or for more than five shippers. Neither the total number of contracts nor the total number of shippers may exceed five.

Sec. 159. NAC 706.239 is hereby amended to read as follows:

706.239 1. Special services may be provided only by a common motor carrier authorized to provide such service, in connection with a special event, occasion or other purpose for which the carrier or a person on his behalf intends to provide transportation on the basis of individual fares. The rate for special services may include charges for items in addition to transportation, such as fees for admission, but the portion attributable to transportation must be specifically designated as such in the filed tariff.

2. A common motor carrier authorized to provide special services shall file with the [commission] authority a tariff showing the per capita fares, minimum number of persons required for special services and the particular geographical points of origin and destination.

3. A common motor carrier offering special services shall not render the service until a report has been prepared by the carrier, stating:

- (a) The point of origin;
- (b) The destination;
- (c) The route or routes to be traversed;
- (d) The approximate mileage to be traveled;
- (e) The name of the person, group or organization to be served on the trip; and
- (f) The dates when the service is proposed to be rendered.

One copy of the report must be carried in the vehicle making the trip, and one copy must be retained in the carrier's files for 3 years. The carrier's forms for reporting must be sequentially numbered.

4. A carrier may not operate over the same route or to the same points so frequently as to constitute a regular or scheduled service, unless otherwise specified by the [commission.] authority.

5. A common motor carrier authorized to provide special services shall not charter equipment to provide those services. He shall ensure that the use of his vehicles complies with the provisions of this chapter.

Sec. 160. NAC 706.245 is hereby amended to read as follows:

706.245 1. A vehicle operated under a certificate for the transportation of passengers or property over a regular route or between fixed terminals may not be operated for hire over any route other than that specifically authorized under the certificate. If any portion of a route is temporarily closed for construction, repair or other reason, the vehicle may operate over the most direct and practicable detour, and the operation must be conducted [**under**] *pursuant to* the same regulations as the original route. If the detour or deviation extends or is expected to extend for more than 10 days, the carrier shall notify the [**commission**] *authority* either in writing or by telegram indicating the probable duration and the cause of the detour.

2. Unless otherwise provided in a certificate, authority for a regular route includes service to points or territory 1 mile on either side of the highway designated in the certificate or permit, but will not be construed to mean 1 mile beyond the designated terminals. If the term “city” or “town” is used in a certificate or permit, it means the boundaries of the city or town.

3. Transportation over a regular route must be offered:

- (a) To the general public;
- (b) For a per capita fare only;
- (c) According to a published schedule; and
- (d) Only by a common motor carrier authorized to provide that service.

Sec. 161. NAC 706.247 is hereby amended to read as follows:

706.247 1. The department and the [commission] *authority* hereby adopt by reference the regulations contained in 49 C.F.R. Parts 383, 387, 390 to 393, inclusive, [section 394.15, Parts] 395 to 397, inclusive, and [appendices D, E and G,] *appendix G of 49 C.F.R. Ch. III, Subch. B*, as those regulations exist on November 1, 1991, with the following exceptions:

(a) References to the Department of Transportation, the Federal Highway Administration and the Office of Motor Carrier Safety are amended to refer to the department and the [commission.] *authority*.

(b) References to the Federal Highway Administrator and to the Director are amended to refer to the director of the department and the chairman of the [commission.] *authority*.

(c) Section 391.11(b)(1) applies only to drivers operating in interstate transportation and drivers of vehicles transporting passengers for hire or transportation of hazardous material of a type or quantity that requires the vehicle to be marked or placarded in accordance with [Section 177.823 of Title 49.] *49 C.F.R. § 177.823*.

(d) References to special agents in appendix B of [subchapter B] *49 C.F.R. Ch. III, Subch. B* are amended to include personnel of the department and the [commission.] *authority*.

(e) The definition of “motor carrier” in 49 C.F.R. § 390.5 is amended to read:

“Motor carrier” includes , *without limitation*, interstate and intrastate common, contract and private carriers of property and passengers, including , *without limitation*, their agents, officers and representatives.

(f) The definition of “commercial motor vehicle” in 49 C.F.R. § 390.5 is amended to read:

“Commercial motor vehicle” means any self-propelled or towed vehicle used on public highways in:

1. Interstate commerce to transport passengers or property if the vehicle:

(a) Is designed to transport more than 15 passengers, including , *without limitation*, the driver;

(b) Is used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued by the Secretary pursuant to the Hazardous Materials Transportation Act [(49 U.S.C. App. §§ 1801 to 1813, inclusive);], *49 U.S.C. §§ 5101 et seq.*; or

(c) Has a gross vehicle weight rating or gross combination weight rating of 10,001 or more pounds.

2. Intrastate commerce to transport passengers or property if the vehicle:

(a) Is one described in paragraph (a) or (b) of subsection 1;

(b) Has a gross vehicle weight rating or gross combination weight rating of 26,001 or more pounds; or

(c) Is owned or operated by a motor carrier subject to the jurisdiction of the [commission,] *authority*, except that any vehicle so owned or operated is subject only to the provisions of 49 C.F.R. §§ 391.51, 392.2, 392.4, 392.5, 392.9 and 396.3(b)(2) and 49 C.F.R. Parts 390, 393 and 397 if the vehicle is not one described in paragraph (a) or (b) of this subsection.

2. To enforce these regulations, enforcement officers of the department and the [commission] *authority* may, during regular business hours, enter the property of a carrier to inspect its records, facilities and vehicles, including , *without limitation*, space for cargo.

3. The volume containing 49 C.F.R. Parts 325 to 399, inclusive, is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at the price of [~~\$21.~~] *\$43.*

Sec. 162. NAC 706.248 is hereby amended to read as follows:

706.248 1. The [commission] *authority* hereby adopts by reference the regulations contained in 49 C.F.R. Parts 27, 37 and 38, as those regulations existed on September 6, 1991.

2. A common or contract motor carrier of passengers shall comply with the regulations set forth in 49 C.F.R. Parts 27, 37 and 38 if any provision of the regulations applies to the operation of the motor carrier in this state.

3. The volume containing 49 C.F.R. Parts 27, 37 and 38 is available from the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402, at the price of [~~\$20.~~] *\$31.*

Sec. 163. NAC 706.250 is hereby amended to read as follows:

706.250 1. An authorized carrier may, with the prior approval of the [commission,] *authority*, enter into an agreement with a person who is not his employee to manage his business. The agreement may be for a period of not more than 1 year, but may be renewed.

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

- (a) Be filed with the [commission,] *authority*;
- (b) Specify the compensation paid to the manager; and
- (c) Specify the term of the agreement.

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

4. 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.

5. A background investigation of the manager selected by the carrier may be conducted by the [commission] authority as part of its process in determining whether to grant approval.

Sec. 164. NAC 706.254 is hereby amended to read as follows:

706.254 The [commission] authority hereby adopts by reference [the regulations contained in 32 C.F.R. Part 177,] *Department of Defense Directive 3005.7*, Emergency Requirements, Allocations, Priorities and Permits for Department of Defense Use of Domestic Civil Transportation . [, as those regulations exist on June 15, 1962. 32 C.F.R. Part 177] *Department of Defense Directive 3005.7* is available from [the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at the price of \$13.] *National Technical Information, 5285 Port Royal Road, Springfield, VA 22161.*

Sec. 165. NAC 706.257 is hereby amended to read as follows:

706.257 1. A complete copy of any agreement between or among two or more common carriers relating to rates, fares, classifications, divisions, allowances or charges, including , *without limitation*, charges between carriers and compensation paid or received for the use of facilities and equipment, or regulations pertaining thereto, including , *without limitation*, procedures for the joint consideration, initiation or establishment thereof, must be filed with the [commission] authority and must comply with the requirements relating to such agreements set forth in NAC 706.257 to 706.269, inclusive.

2. Failure to comply with the requirements will result in the rejection of the agreement without prejudice. The agreement must then be refiled when compliance with the requirements has been met.

Sec. 166. NAC 706.260 is hereby amended to read as follows:

706.260 The [commission] *authority* will not accept for filing any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that [under] *pursuant to* the agreement there is accorded to each party the free and unrestrained right to take independent action either before, during or after any determination arrived at through that procedure.

Sec. 167. NAC 706.263 is hereby amended to read as follows:

706.263 Each agreement filed with the [commission] *authority* must provide:

1. A list of all carriers initially anticipated to participate in the agreement.
2. The name and address of the agency, tariff bureau, rate conference or association that will implement the proposals approved [under] *pursuant to* the agreement, administer the docketing and notification procedures and publish, file and distribute the tariffs issued pursuant to the agreement.
3. That only carriers executing the agreement may participate in an intrastate multicarrier common motor carrier tariff issued by the administering agency.
4. That each participating common carrier will have full and equal privileges [under] *pursuant to* the agreement, including , *without limitation*, notice of all docket bulletins relating to rate proposals, meetings and dispositions.
5. That each multiple common carrier tariff will be governed by a rate committee consisting of one representative from each participating carrier in the tariff.
6. That each common carrier will have one vote in making determinations [under] *pursuant to* the agreement.

7. That a simple majority (more than 50 percent) of the participating carriers will be required to approve any proposal considered [under] *pursuant to* the agreement.
8. That only participating common carriers in the affected tariff may vote and that noncarriers and personnel of the administering agency may not vote.
9. A designation of those eligible to participate in the agreement.
10. Specific procedures for processing proposals relating to fares, rates, classifications, divisions, allowances and charges, including , *without limitation*, charges between common carriers and compensation paid or received for the use of facilities and equipment. These procedures must prescribe the method of submitting proposals, provide for notifying all tariff participants of proposals received and of their ultimate disposition, allow a reasonable time for response to the proposals and provide for processing proposals and responses by bulletin through the United States mail where warranted and by meeting, upon request of participating common carriers.
11. A procedure for handling instructions for independent action received from a participating common carrier.
12. A description of any matters which do not require processing through bulletins or meetings of common carrier participants.
13. A procedure for the withdrawal from the agreement by any common carrier desiring to do so, for the cancellation of a common carrier's processing and implementing proposals [under] *pursuant to* the agreement and for the continuation of its participation in the affected tariff.
14. That the agreement may be amended subject to approval by a majority vote of the participating common carriers, but that amendments will not become effective until filed with and approved by the [commission.] *authority*.

15. That each party to the agreement with the tariff bureau and all other carriers to the agreement shall comply fully with the terms and conditions of the agreement.

Sec. 168. NAC 706.269 is hereby amended to read as follows:

706.269 Each conference, bureau, committee or other organization established or continued pursuant to any agreement filed with the [commission under the provisions of] *authority pursuant to* NAC 706.257 to 706.269, inclusive, shall, for a period of not less than 3 years, maintain records, files and memoranda pertaining to all proposals considered by it.

Sec. 169. NAC 706.272 is hereby amended to read as follows:

706.272 1. A subsequent contract will be approved for an applicant with an existing permit to act as a contract motor carrier without notice and hearing under the following conditions:

(a) If the approval is granted, the applicant will have no more than the number of contracts authorized pursuant to NAC 706.232 or 706.274.

(b) Each contract to be approved must take the place of an existing previously approved contract.

(c) Each contract to be approved must state the duration of the contract and must be for no less than 3 months.

(d) Each contract to be approved must be identical to the previously approved contract in the following ways:

- (1) The type of service to be provided;
- (2) The geographical description of the service territory;
- (3) The rates, fares or charges; and

(4) The type of equipment and the method by which the equipment will be dedicated to the contract.

(e) The contract must provide that the service will be rendered directly by the carrier to the shipper.

(f) The shipper is not a broker of transportation services.

2. For contracts approved pursuant to subsection 1:

(a) The name of the shipper for whom the services are being performed must be displayed on the unit having motor power. The name of the shipper must be in letters not less than 2 inches in height and readable from a distance of at least 50 feet. A removable sign or placard may be used if made of durable material such as wood, plastic or metal. The carrier displaying the name of the shipper must also display the name of the operator as required by NAC 706.170.

(b) The rights, duties and obligations of the shipper must not be assigned to any other shipper without the approval of the [commission] authority pursuant to subsection 1. An assignment made or an assignment attempted without the approval of the [commission] authority will be treated as a new contract requiring a permit.

Sec. 170. NAC 706.274 is hereby amended to read as follows:

706.274 1. A carrier who obtains a contract permit on or after January 1, 1988:

(a) May have a contract containing not more than three shippers or not more than three contracts, but neither the total number of contracts nor the total number of shippers may exceed three; and

(b) Must present sufficient evidence to the [commission] authority that either the number of contracts held by the contract carrier does not exceed the number of vehicles owned by the contract carrier and that at least one vehicle is dedicated to each individual shipper, or, when the

number of vehicles owned by the carrier is less than the number of shippers in a single contract, the contract carrier must explain in the contract how the exclusive use will be provided to the shipper for a continuing period.

2. The provisions of paragraph (a) of subsection 1 also apply to a carrier who obtained a contract permit before January 1, 1988, if:

(a) The carrier was not authorized to provide transportation pursuant to four or five contracts or with four or five shippers; or

(b) The carrier has subsequently ceased operations pursuant to four or five contracts or with four or five shippers.

Sec. 171. NAC 706.278 is hereby amended to read as follows:

706.278 1. The [commission] *authority* hereby adopts by reference the regulations contained in 49 C.F.R. Part 27, Subparts [A, C and E], *A and C*, as those regulations existed on October 1, 1989.

2. A common motor carrier that receives money from the Urban Mass Transportation Administration shall comply with the regulations set forth in 49 C.F.R. Part 27, Subparts [A, C and E] *A and C*, if any provision of the regulations applies to the operation of the motor carrier in Nevada.

3. A copy of 49 C.F.R. Part 27, Subparts [A, C and E] *A and C*, may be obtained from the office of the [public service commission of Nevada] *transportation services authority* at the price of \$7.75. The volume containing Subparts [A, C and E] *A and C* is available from the Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402, (202) 783-3238, at the price of [\$14.] *\$31*.

Sec. 172. NAC 706.302 is hereby amended to read as follows:

706.302 1. A tariff of rates and fares for common motor carriers which are filed with the [commission] authority must be numbered consecutively, beginning with number 1, and show:

- (a) The name and address of the motor carrier.
- (b) The number of the page of the tariff canceled thereby.
- (c) All points to which service is rendered.
- (d) The distance between all points named in the tariff, where applicable.
- (e) The date issued.
- (f) The effective date.
- (g) All joint, through or local rates, fares or charges, or rates, fares or charges for a particular commodity or class of passengers or commodities.
- (h) The names of participating carriers if joint rates are named.
- (i) Regulations governing the tariff.
- (j) A full explanation of the marks and technical abbreviations used in the tariff.

2. Contract motor carriers must enter into written bilateral contracts which must be submitted to the [commission] authority for approval before operating and must contain:

- (a) The name and address of the motor carrier.
- (b) The date the contract was issued.
- (c) The effective date.
- (d) All minimum rates, fares or charges.

Sec. 173. NAC 706.305 is hereby amended to read as follows:

706.305 The [commission] authority may on its own motion or on the filing of a sufficient protest by any person or persons affected, order a tariff withdrawn, modified or suspended.

Sec. 174. NAC 706.311 is hereby amended to read as follows:

706.311 1. Except as otherwise provided in NRS 706.351, an authorized carrier shall not:

(a) Charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or for any service in connection therewith than the rates, fares or charges applicable to the transportation as specified in its tariffs filed and in effect at the time.

(b) Refund or remit in any manner or by any device any portion of the rates, fares or charges so specified except upon orders of the courts or [commission,] authority, nor extend to the shipper or person any privilege or facility in the transportation of passengers or property except as specified in the tariffs.

(c) Submit a bid to provide services in any form or manner which is not in conformance with the certificate he holds.

(d) Use any artifice or subterfuge, or billing or accounting practice in lieu of an authorized commission. The fare or rate charged to the passenger or shipper may not be greater than or different from the fare or rate specified in the tariffs in effect at the time because of the authorized commission.

2. An agent arranging or providing transportation on the vehicles of any certificated motor carrier shall not charge, demand, collect or receive a greater, lesser or different compensation for the transportation of persons or property or any service in connection therewith than the rates, fares or charges specified in the motor carrier's tariffs.

3. All tickets issued by a carrier or its agent must identify the charge to the passenger for the service or transportation purchased. That charge may not be different from the tariff on file with the [commission.] authority.

Sec. 175. NAC 706.312 is hereby amended to read as follows:

706.312 1. A common motor carrier of household goods must, if requested by the shipper after a visual inspection of the goods, give to the shipper a written estimate of the charges. The original must be delivered to the shipper and a copy maintained by the carrier in his record of the shipment.

2. The estimate must be based upon the carrier's tariff filed with the [commission.] authority. The final charge for transporting the goods may not exceed the estimate by more than 10 percent. If the final charge is less than the estimate, the carrier shall only collect the actual charge for the service.

Sec. 176. NAC 706.314 is hereby amended to read as follows:

706.314 1. All tariffs submitted must be accompanied by a transmittal letter with an explanation of the purposes and intent of the tariff.

2. If any change is proposed in any rate, the proposed change must be plainly indicated on the new tariff filed with the [commission] authority by a mark immediately preceding or following the new tariff.

Sec. 177. NAC 706.323 is hereby amended to read as follows:

706.323 Common or contract carriers who are on call must not establish a definite schedule that would indicate a regular route service, or establish any schedules between fixed destinations, except carriers of household goods, operators of dump trucks or as otherwise ordered by the [commission.] authority.

Sec. 178. NAC 706.327 is hereby amended to read as follows:

706.327 1. A common or contract motor carrier of commodities shall carry in the unit having motive power a manifest containing:

(a) A description of the shipment, including , *without limitation*, the number of pieces and the net weight of the shipment.

(b) The names of the consignees.

(c) The names of the consignors.

(d) The points of origin and destination of the shipment.

(e) The route of the shipment.

(f) A statement that the carrier's rates and regulations are subject to approval by the [commission.] *authority*.

2. A copy of the manifest must be kept on file in the principal office of each carrier involved in the transport of the shipment for 3 years after the shipment has been made.

Sec. 179. NAC 706.333 is hereby amended to read as follows:

706.333 1. A claim by a shipper or consignor against a common or contract motor carrier for lost or damaged freight or baggage must be submitted to the carrier within 7 days after the loss or damage is discovered.

2. Within 14 days after receipt of the claim, the carrier shall:

(a) Compensate the shipper or consignor; or

(b) Deliver to the shipper or consignor a written denial of the claim.

3. A denial of a claim may be appealed by the shipper or consignor to the [commission.] *authority*.

Sec. 180. NAC 706.335 is hereby amended to read as follows:

706.335 1. Upon the completion of a shipment of freight, the authorized carrier shall present to the person paying for the shipment the original bill for payment.

2. The bill must show:

- (a) The name and address of the carrier.
- (b) The names of the consignor and consignee.
- (c) The points of origin and destination.
- (d) The date and time the shipment was received by the carrier.
- (e) The date of arrival of the shipment at its destination.
- (f) The date of the bill.
- (g) The weight of the shipment, if applicable.
- (h) The route over which the freight was transported, the name of the point of transfer and the name of each carrier participating in the transportation.
- (i) The numbers of the vehicles which transported the freight.
- (j) An adequate description of the property transported, including the number of packages and a listing of the commodities carried.
- (k) The rate charged for the service.
- (l) Any other charge incident to the transportation.
- (m) A statement that the carrier's rates are subject to regulation by the [commission.]
authority.
- (n) Any other information required by the [commission.] *authority.*

Sec. 181. NAC 706.345 is hereby amended to read as follows:

706.345 1. A common motor carrier authorized to conduct scenic tours shall file with the [commission] *authority* a tariff showing both per capita fares and hourly rates for each tour offered.

2. A common motor carrier authorized to conduct scenic tours who uses limousines is not required to file tariffs showing hourly rates.

3. A common motor carrier authorized to conduct scenic tours shall not render the service until an order has been prepared by the carrier stating:

- (a) The name of the person or group who contracted for the service;
- (b) The date and time when the service is to be rendered;
- (c) The route to be traversed; and
- (d) The points of interest to be visited.

4. A copy of the order must be carried on the bus for inspection during the period of the service and maintained in the files of the carrier for 3 years.

Sec. 182. NAC 706.356 is hereby amended to read as follows:

706.356 1. Except as otherwise provided in subsection 3, a common motor carrier who is subject to the provisions of NAC 706.010 to 706.395, inclusive, *and sections 6 to 125, inclusive, of this regulation*, shall not interrupt any service established pursuant to the provisions of NRS 706.011 to 706.791, inclusive, for more than 48 hours in any 180-day period without filing a petition and obtaining an order granting the petition from the **[commission. The commission]** *authority. The authority* will give public notice and, if a protest is filed, hold a hearing on the petition before granting the petition. The **[commission]** *authority* may hold a hearing on the petition if no protests are filed. If the **[commission]** *authority* does not act on the petition within 45 days after its filing, the petitioner may temporarily suspend operations until a final order is entered by the **[commission.]** *authority.*

2. A carrier who interrupts such service for less than 48 hours must provide notice to the **[commission]** *authority* if the service being interrupted is the transportation of passengers. A notice required pursuant to this subsection must include , *without limitation*, the justification for the interruption of service. Financial or economic hardship may not be used to justify such an

interruption. An interruption of less than 48 hours may not be renewed or extended unless the carrier files a petition and obtains an order in accordance with [the provisions of] subsection 1.

3. If an interruption of service for more than 48 hours is caused by an unforeseeable event which is beyond the control of the carrier, the carrier must provide written notice to the [commission] authority within 24 hours after the event. If service is not resumed within 10 days after such an interruption, the carrier must file a petition in accordance with [the provisions of subsection 1.]

4. An order of the [commission] authority granting the temporary interruption of service expires 180 days after the date *on which* the petition was filed. If the carrier has not resumed service on a permanent basis upon the expiration of such an order, the staff of the [commission] authority shall, within 30 days after the expiration of the order, forward a recommendation to the [commission] authority stating whether the [commission] authority should issue an order to show cause why the contract permit or certificate of public convenience and necessity of the carrier should not be revoked.

Sec. 183. NAC 706.359 is hereby amended to read as follows:

706.359 1. A temporary transfer of operating rights may be approved if the [commission] authority finds it is in the public interest.

2. Applicants who seek approval of a temporary transfer of operating rights for a limited period, whether by lease, operating contract or otherwise, must state in their application the circumstances which makes the transfer necessary, the specified period for which the transfer is sought, the consideration for the transfer, the time and method of payment and that the applicants have agreed in writing that all operating rights involved in the transaction revert to the transferor at the expiration of the term, or upon a discontinuance of operations by the transferee at any time

before the expiration of the term. In case of reversion, the transferor shall give immediate notice to the [commission.] authority. It must be further stipulated by the applicants that the transferee will be responsible for furnishing all reports required by the [commission.] authority.

3. Unless unusual circumstances are involved, an application for the transfer of operating rights for a limited time will not be approved for a period of less than 30 days, nor longer than 2 years, during which time the parties will be expected to consider and determine whether they want to enter into a permanent transaction of sale and purchase of the rights. Nothing in this section may be construed as approving a sale and purchase of operating rights in advance of an application.

Sec. 184. NAC 706.3615 is hereby amended to read as follows:

706.3615 The annual fee charged by the [commission] authority pursuant to NRS 706.471 will be \$36 for each taxicab operated.

Sec. 185. 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 [commission] 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 which the carrier is authorized to operate under its certificate must be painted on each side of a taxicab. A trade name may not be used unless it is first approved by the [commission.] authority.

Sec. 186. NAC 706.368 is hereby amended to read as follows:

706.368 A holder of a certificate to operate a taxicab shall not direct any driver to serve any specific area different from the territory authorized under that certificate and for which a tariff has been filed with and approved by the [commission.] *authority*.

Sec. 187. NAC 706.375 is hereby amended to read as follows:

706.375 1. A common motor carrier authorized to operate a taxicab or limousine shall not lease any vehicle which it uses as a taxicab or limousine without prior approval by the [commission.] *authority*.

2. The lease will be approved by the [commission] *authority* if:

- (a) The vehicle is leased for not more than 14 days;
- (b) The vehicle will be used only in an operation authorized by the lessee's certificate;
- (c) Not more than one-half of the carrier's vehicles are leased vehicles; and
- (d) The driver of the leased vehicle is an employee of the motor carrier and has no interest as an owner in the vehicle.

3. A copy of the lease must be carried in the vehicle during the period of the lease.

4. The carrier shall not lease vehicles on more than 45 days in any calendar year.

5. The provisions of this section do not apply to a lease agreement entered into pursuant to NRS 706.473.

Sec. 188. NAC 706.3753 is hereby amended to read as follows:

706.3753 1. Each lease agreement entered into by a holder of a certificate to operate a taxicab and an independent contractor pursuant to NRS 706.473 must:

- (a) Be maintained by the holder of the certificate.
- (b) Be in writing and in a form approved by the [commission.] *authority*.

(c) Identify the use to be made of the taxicab by the independent contractor and the consideration to be received by the holder of the certificate. The use to be made of the taxicab must conform to the authority granted by the certificate to operate the taxicab.

(d) Be signed by each party, or his representative, to the agreement.

(e) Specifically state that the independent contractor is subject to all laws and regulations relating to the operation of a taxicab which have been established by the [commission] authority and other regulatory agencies and that a violation of those laws and regulations will breach the agreement.

(f) Specifically state that the holder of the certificate is responsible for maintaining:

(1) All required insurance associated with the taxicab and the service which is the subject of the agreement in accordance with NAC 706.191;

(2) A file which contains the qualifications of the independent contractor to drive the taxicab; and

(3) A file for records concerning the maintenance of the taxicab.

(g) Specifically state that the lease agreement does not relieve the holder of the certificate from any of his duties or responsibilities set forth in this chapter and chapter [703 of NAC and chapters 703 and] 706 of NRS.

(h) Specifically state that the taxicab provided pursuant to the lease agreement:

(1) Will be painted with the name, insignia and certificate number of the holder of the certificate; and

(2) Is in a good mechanical condition that will meet the requirements for operating taxicabs set forth by this state or the county or municipality in which the taxicab will be operated.

(i) Contain any other provision which the [commission] authority may determine to be necessary for the protection of the health and safety of members of the public.

2. The [commission] authority may, for good cause and after a hearing, revoke or suspend the authority of a holder of a certificate to operate a taxicab to enter into a lease agreement pursuant to NRS 706.473.

Sec. 189. NAC 706.3757 is hereby amended to read as follows:

706.3757 If the [commission] authority has reason to believe that any provision of NAC 706.3753 or 706.3755 is being violated, the [commission] authority may, after a hearing:

1. Impose an administrative fine pursuant to NRS 706.771; or
2. Order the holder of the certificate to operate a taxicab or the independent contractor to cease and desist from any action taken in violation of NAC 706.3753 or 706.3755.

Sec. 190. NAC 706.377 is hereby amended to read as follows:

706.377 1. The department and the [commission] authority hereby adopt by reference the regulations contained in 49 C.F.R. Parts 107, 171 [to 173, inclusive,], 172, 173, 177, 178 and 180, as those regulations exist on November 1, 1991.

2. To enforce these regulations, enforcement officers and inspectors of the department and [commission] authority may, during regular business hours, enter the property of a shipper or carrier to inspect his records, facilities and vehicles, including , *without limitation*, space for a cargo.

3. The volume containing Parts 107 to [177, inclusive, and the volume containing Parts 178 to 199, inclusive, are] 180, inclusive, is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, at the price of [\$27 and \$22, respectively.] \$50.

Sec. 191. NAC 706.379 is hereby amended to read as follows:

706.379 1. A common or contract motor carrier authorized to operate a taxicab, limousine, bus or other vehicle shall regularly inspect each vehicle operated and keep a record of the inspection as required pursuant to subsection 5 of NAC 706.381.

2. Each vehicle must be maintained in conformance with the following standards:

(a) The steering mechanism must be in good mechanical condition. If, upon inspection, any loose knuckles, bolts or gear trains are found, the vehicle must be taken out of service until the necessary repairs are completed.

(b) All hinges and latches on doors must be in good mechanical condition and must operate freely and close securely.

(c) Any interior exterior advertising must not obscure the driver's view in any direction.

(d) All windows must be clear and free from cracks or chips in excess of 3 inches in length. Damaged glass must be replaced within 7 days after discovery of the damage.

(e) The brakes must be in good mechanical condition.

(f) The system for exhaust, including , *without limitation*, gaskets, tailpipes and mufflers must be in good condition and fumes must not penetrate into the interior of the vehicle.

(g) The speedometer must be maintained in good condition and exposed to view.

(h) The interior of the vehicle must be clean and free from torn upholstery, damaged or broken seats and other broken features.

(i) The head lamps, tail lamps, stop lamps and turn signals must be in working condition and the head lamps properly aligned.

(j) The horn and windshield wipers must be in good working condition.

(k) The taximeter, where applicable, must be connected and working properly, have its covers and gears intact and conform to a tolerance of plus or minus two percent on the device for recording fares.

3. If an employee of the [commission] authority does not withdraw a vehicle from service pursuant to NAC 706.381, but the carrier knows or should have reason to know the vehicle does not conform to the standards prescribed in subsection 2, the carrier shall withdraw the vehicle from service at the end of the operating day and the vehicle may not be placed back into service until any defective condition has been corrected and the vehicle is in compliance with subsection 2. If the vehicle does not conform to the standards prescribed in subsection 2 and the carrier knows or should have reason to know the vehicle poses an immediate and substantial threat to the safety of the public or passengers of the vehicle, the carrier shall immediately withdraw the vehicle from service until any defective condition has been corrected and the vehicle is in compliance with subsection 2 and no longer poses an immediate and substantial threat to the safety of the public or passengers. Failure of the carrier to take these actions may result in the suspension or revocation of the carrier's permit or certificate. Notice of repair of the vehicle must be made pursuant to NAC 706.381 before the vehicle may be operated.

Sec. 192. NAC 706.381 is hereby amended to read as follows:

706.381 1. A taxicab, limousine or bus of a common or contract motor carrier may be inspected at any time during business hours by an authorized employee of the [commission.] authority.

2. If the authorized employee of the [commission] authority finds that a vehicle is in a condition which violates any provision of subsection 2 of NAC 706.379 and does not pose a threat to the safety of the public or passengers of the vehicle, he shall remove the vehicle from

service effective at the end of the operating day and place a sticker on the windshield indicating that the vehicle is so removed from service.

3. If the authorized employee of the [commission] authority finds that a vehicle is in a condition which violates any provision of subsection 2 of NAC 706.379 and poses an immediate and substantial threat to the safety of the public or passengers of the vehicle, he shall immediately remove the vehicle from service by placing a sticker on the windshield indicating the vehicle is immediately removed from service. If passengers are aboard, the passengers must be safely unloaded and provided safe shelter until the driver of the vehicle obtains a substitute vehicle to transport the passengers to the original destination. A substitute vehicle must be provided immediately by the carrier. The driver must also contact the carrier so that the vehicle may be towed to the carrier's facility or another facility for repair. If passengers are not aboard the vehicle, the driver shall remove the vehicle from the road to a safe location and contact the carrier so that the vehicle may be towed to the carrier's facility or another facility for repair.

4. A vehicle removed from service pursuant to subsections 2 and 3 must remain out of service until the defect is repaired and a notice of repair is filed by the carrier with the [commission] authority on a form provided by [the commission's representative.] a representative of the authority.

5. An authorized carrier shall maintain current records for each driver and of the inspection, maintenance and repairs of each vehicle. Each driver's record must contain all citations and other matters relevant to his performance and his record of training. These records must be maintained and made available for inspection by the [commission] authority pursuant to NAC 706.203.

Sec. 193. NAC 706.386 is hereby amended to read as follows:

706.386 The [commission] *authority* will consider a transfer of operating rights to a person who is the holder of operating rights which duplicate in part or in whole, those to be transferred, but in no case will a person be [permitted] *allowed* to hold duplicate authority over the same routes, in the same territory or for the transportation of identical commodities.

Sec. 194. NAC 706.389 is hereby amended to read as follows:

706.389 1. Except as otherwise provided in subsection 2, an application for the transfer of operating rights will not be approved if there has been a cessation of operations by the transferor without appropriate authority of the [commission] *authority* even if the application was submitted before the operations ceased.

2. Approval may be obtained if the cessation of operations was caused by circumstances over which the holder of the operating rights had no control or the transfer would be in the public interest.

Sec. 195. NAC 706.395 is hereby amended to read as follows:

706.395 1. No transfer of any operating right is effective except upon full compliance with these regulations and until after the [commission] *authority* has approved the transfer as provided in this section. The mere execution of a chattel mortgage, deed of trust or other similar document, does not constitute a transfer. A proposed transfer of operating rights by means of the foreclosure of a mortgage or deed of trust or other lien upon such rights, or by an execution in satisfaction of any judgment or claim against the holder is not effective without compliance with these regulations and the prior approval of the [commission.] *authority*.

2. A proposed transfer of operating rights will not be approved if the [commission] *authority* finds that the transferee does not intend to, or would not, engage in bona fide motor carrier operations under the operating rights, or if the [commission] *authority* finds that the

transferor acquired the operating rights to profit therefrom and has not engaged in bona fide motor carrier operations under the operating rights.

3. An application for the transfer of operating rights by sale and purchase will not be approved if the:

(a) [Commission] Authority considers and determines that the purchase price to be paid would be excessive and contrary to the public interest.

(b) Transfer would tend to create an unfair competitive operation and is not consistent with the public interest.

Sec. 196. NAC 706.402 is hereby amended to read as follows:

706.402 As used in NAC 706.402 to 706.448, inclusive, [*“operator of a tow car” means the owner, manager, employee or agent of a company operating a tow car which holds a certificate of public convenience and necessity issued by the commission.*] *and sections 126, 127 and 128 of this regulation, unless the context otherwise requires, the words and terms defined in sections 126, 127 and 128 of this regulation have the meanings ascribed to them in those sections.*

Sec. 197. NAC 706.404 is hereby amended to read as follows:

706.404 The annual fee charged by the [commission] authority pursuant to NRS 706.451 will be \$36 for each tow car operated.

Sec. 198. NAC 706.406 is hereby amended to read as follows:

706.406 Tariffs for tow cars filed with the [commission] authority will be divided into the following categories:

1. CATEGORY A: Towing or removing a vehicle at the request of a law enforcement agency, the owner of the vehicle, his agent or the driver of the vehicle which requires the use of a tow car with an unladen weight of 9,000 pounds or more.

2. CATEGORY B: Towing or removing a vehicle at the request of a law enforcement agency, the owner of the vehicle, his agent or the driver of the vehicle which does not require the use of a tow car with an unladen weight of 9,000 pounds or more.

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 agent or the driver of the vehicle.

4. Storage of a vehicle 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 tow car operator.

Sec. 199. NAC 706.408 is hereby amended to read as follows:

706.408 1. The operator of a tow car shall include on a bill for towing only those rates and charges approved by the [commission] authority in the operator's tariff.

2. The rates and charges for Category C must be based upon a flat rate. The flat rate may vary for the time of day *at which* the vehicle is towed, but may not vary according to the time required to tow the vehicle, the distance or the equipment used, except that a rate for mileage similar to the rate for mileage for Category A or B may be charged for a tow of more than 10 miles. An operator authorized to operate a tow car with an unladen weight of 9,000 pounds or more and to operate a tow car with an unladen weight of less than 9,000 pounds may file a separate schedule of rates and charges for Category C for each of the two certificates.

3. An operator of a tow car shall include in his tariff a specific reduction in the flat rate charged for releases of a vehicle if the owner of the vehicle or his agent arrives at the scene of the tow before the vehicle is towed.

4. The distance for which a rate is charged must be determined by the shortest practical route. A fraction of a mile must be rounded to the nearest mile. The operator of a tow car may

use another route only at the request of the owner of the vehicle, his agent or the driver of the vehicle.

Sec. 200. NAC 706.412 is hereby amended to read as follows:

706.412 1. The operator of a tow car shall maintain at all times a copy of the tariff approved by the [commission] authority and a copy of NAC 706.402 to 706.448, inclusive, in each location where requests for towing are received and in each tow car.

2. A notice stating that a copy of the tariff is available in the tow car for inspection by the public must be placed on each side of the tow car. The notice must be at least 24 inches wide and 4 inches in height, and the lettering must have a stroke of at least one-quarter of an inch. The text of the notice must be:

Notice: A copy of the applicable charges is available for public inspection within this vehicle.

3. A notice must be prominently posted at a facility where vehicles are stored after towing which states that stored vehicles will be released only after arrangements for payment of all charges have been made between the operator of the tow car and the owner, driver or authorized representative of the owner or driver of the vehicle. The notice must contain the telephone number of the operator of the tow car or a person authorized to make the arrangements for payment.

Sec. 201. NAC 706.414 is hereby amended to read as follows:

706.414 If a governmental agency requires an operator of a tow car to acquire a special permit to tow a particular vehicle, the operator may, in addition to the charges included in the

tariff approved by the [commission,] *authority*, charge the owner or driver of the vehicle for the cost of the special permit if the amount charged is:

1. Equal to the cost of obtaining the special permit; and
2. Itemized on the bill for towing and supported by written statements attached to that bill.

Sec. 202. NAC 706.416 is hereby amended to read as follows:

706.416 1. The operator of a tow car shall specifically itemize on the bill for towing any fee charged by the department of motor vehicles and public safety for processing a lien on a towed vehicle and identify it as a charge not subject to regulation by the [commission.] *authority*.

2. In addition to the charges included in the tariff approved by the [commission,] *authority*, an operator of a tow car may charge for any administrative costs associated with the sale of a vehicle or the processing of any lien on a towed vehicle.

Sec. 203. NAC 706.422 is hereby amended to read as follows:

706.422 1. The forms to be used for billing must be preprinted and numbered. The operator shall account for each such numbered form.

2. A copy of the bill for towing must be given to the person paying the rates and charges. The operator of the tow car shall retain a copy of each bill for 3 years. The operator shall, upon request, open his files for inspection and audit by the [commission] *authority* during normal business hours.

Sec. 204. NAC 706.426 is hereby amended to read as follows:

706.426 The operator of a tow car shall give the person paying a bill for towing information on procedures for filing complaints, including , *without limitation*, the name and address of the

[division of consumer relations of the commission.] *authority*. This information may be printed on:

1. The bill for towing if it is in a prominent place on the bill in 12 point or larger type; or
2. An informational card of a design and wording established by the [commission.]

authority.

Sec. 205. NAC 706.427 is hereby amended to read as follows:

706.427 1. Except as otherwise provided in subsection 7, an operator of a tow car shall not tow a vehicle from private property at the request of the owner or person in lawful possession of the property, or a designated agent of the owner or person in lawful possession of the property, unless a sign is displayed on the property in accordance with the provisions of NRS 487.038, any applicable municipal and county ordinances and subsection 6.

2. In residential complexes, reserved parking spaces and areas in which parking is prohibited must be clearly marked.

3. The staff of the [commission] *authority* will, upon request by the operator of a tow car:

(a) Verify by inspection a map of each property from which tows may be made which is submitted by the operator; and

(b) Send a letter to the operator describing the size, color, number and placement of the sign or signs on each property and stating whether the sign or signs are in compliance with this section.

4. If a sign is removed, destroyed or damaged it must be replaced or repaired within a reasonable time.

5. The [commission] *authority* may grant a waiver from any of the provisions of this section if, upon application of the operator of a tow car or the owner or person in lawful possession of the property from which tows are made, it determines that a waiver is in the public interest.

6. A sign or signs displayed on a parking lot pursuant to subsection 1 must:

(a) Be printed with contrasting background and lettering;

(b) Use readable lettering;

(c) Be placed on the parking lot in such a manner that it is in the field of view of all drivers entering the lot;

(d) Be of sufficient quantity to notify all users of the lot of [its] *the* parking restrictions; and

(e) Include the name and telephone number of the local law enforcement agency which is to be notified of a tow.

7. This section does not apply:

(a) If the owner or person in lawful possession of private property, or the designated agent of the owner or person in lawful possession of the property, has entered into a written contract with the owner of the vehicle which describes the circumstances under which a vehicle may be towed;

(b) If the owner or person in lawful possession of private property, or the designated agent of an owner or person in lawful possession of the property, requests that the vehicle be towed because it is parked in a “no parking” area, such as a marked fire lane, red zone, travel lane of a roadway, driveway, lawn or any other area commonly recognized as a “no parking” area;

(c) To the towing of a vehicle at the direction of a peace officer; or

(d) To the towing of a vehicle from an unimproved area or an area where no sign is displayed if a notice has been posted on the vehicle for not less than 24 hours.

Sec. 206. NAC 706.436 is hereby amended to read as follows:

706.436 1. The weight of the vehicle to be towed includes , *without limitation*, the weight of any load the vehicle is carrying. To determine the weight, the tow car operator may consider any manifest of the contents of the load.

2. An operator of a tow car who has been granted authority by the [commission] *authority* to operate a tow car of less than 9,000 pounds may use the tow car to tow or transport a vehicle with a gross weight of up to 14,000 pounds, except that:

(a) A tow car which is rated by the manufacturer to carry a load of 1,500 pounds or less may not be used to tow or transport a vehicle weighing more than the gross weight of the tow car; or

(b) A tow car which is rated by the manufacturer to carry a load of 1 ton may not be used to tow or transport a vehicle weighing more than the gross weight of the tow car plus 2,000 pounds.

Sec. 207. NAC 706.444 is hereby amended to read as follows:

706.444 The operator of a tow car shall file a disclosure with the [commission] *authority* detailing any business interest he or his employees, family members or partners in other businesses may have in any:

1. Facility for the repair of vehicles.
2. Parking facility.
3. Business which manages property.
4. Business providing parking services.

Sec. 208. NAC 706.446 is hereby amended to read as follows:

706.446 A copy of any written agreement between an operator of a tow car and any person that the person will periodically use the services of the operator must be filed with the [commission] *authority* within 7 days after the agreement is signed. A copy of the agreement must be on file in the operator's office.

Sec. 209. NAC 703.060, 703.165, 703.215, 703.335, 703.340, 703.345, 703.350, 703.355, 703.360, 703.365 and 703.370 are hereby repealed.

TEXT OF REPEALED SECTIONS

703.060 “Motor carrier” defined. “Motor carrier” means any person or operator who is supervised, controlled or regulated pursuant to chapter 706 of NRS.

703.165 Applications. An application for a certificate of public convenience and necessity made pursuant to NRS 706.386 to 706.411, inclusive, or for a permit to act as a contract carrier made pursuant to NRS 706.421 to 706.436, inclusive, must, in addition to complying with the provisions of this chapter applicable to pleadings, contain the following data, either in the application or as exhibits attached thereto:

1. The type of service, if any, presently being performed by the applicant, a general description of the service and a reference to the authority under which the service is being performed.
2. The type of service proposed, a general description of the service and a reference to the authority under which the service is to be performed.
3. The specific authority requested and the statutory provision under which the certificate is requested.

4. If the applicant proposes to be a carrier of property, a description of the specific commodities proposed to be transported, and if general commodities with exceptions are proposed to be transported, a statement specifying those exceptions.
5. The geographical area proposed to be served under the certificate, including the terminal and other points to be served, the number and location of points where equipment will be located, and a concise, narrative description of the proposed route.
6. A map or sketch of the route and points to be served, drawn to a suitable scale which is indicated on the map or sketch. The map or sketch must show present and proposed operations by distinctive coloring or marking.
7. A copy of each proposed contract.
8. A statement of the rates or fares proposed to be charged and the rules governing service in the form of a tariff prepared pursuant to NAC 703.335 to 703.370, inclusive.
9. The type and approximate number of units of equipment to be used in the proposed service and a statement as to which units of equipment are owned by the applicant.
10. A statement indicating the frequency of the proposed service. If “on-call” service is proposed, the application must set forth the conditions under which the service would be performed.
11. A statement of the qualifications and experience of the personnel who will manage and operate the proposed service and the proposed operating procedures related to service, safety, maintenance, drivers’ training, billing, relations with customers and the keeping of records.
12. A statement describing the facilities which will be used to provide the proposed service, such as terminals, shops, warehouses or offices.

13. Facts showing that the proposed operation is or will be required for public convenience and necessity.

14. If the applicant is a corporation, a copy of its articles of incorporation, certified by the secretary of state, and all effective amendments. If the articles of incorporation have been previously filed with the commission, the applicant need only make a specific reference to that filing.

15. Evidence that the applicant is financially able to operate the proposed business, including:

(a) A statement outlining the extent the applicant has been in the motor carrier business before filing the application.

(b) A statement of income for the 12-month period immediately preceding the application.

(c) A pro forma statement of income for the first 12-month period of the proposed operation using the proposed rates.

(d) A balance sheet which was prepared not more than 6 months before the date of the application which:

(1) For a sole proprietorship or partnership, must reflect the personal and business operations of the sole proprietor or each general partner.

(2) For a corporation or partnership, must reflect the entire business operations.

(e) A list of the names and addresses of all transportation entities owned by or under the control of the applicant.

All financial statements must be prepared pursuant to generally accepted accounting principles, except that a sole proprietor's or general partner's personal financial statement may be prepared on the basis of estimated values.

16. If the applicant is operating under a fictitious name, a copy of the certificate filed pursuant to chapter 602 of NRS. If the applicant has previously filed a copy of the certificate with the commission, the applicant need only make reference to that filing.

17. Evidence that the applicant can secure the insurance required by NAC 706.191.

18. If the applicant is proposing to transport household goods and effects, proof that the applicant has the ability to store such goods and effects in a warehouse operated in accordance with the requirements of chapter 712 of NRS. As used in this subsection, “warehouse” includes any structure used for the reception and storage of household goods and effects.

19. Additional information as is necessary for a full understanding of the application.

703.215 Application.

1. In addition to the requirements established for pleadings, an application for a change in rates or fares made by or on behalf of any motor carrier, issuing agency or agent must include as exhibits attached thereto:

(a) A statement in the form of a tariff or reference showing in full the rates or fares or the regulations desired to be put into effect or the general relief requested.

(b) A statement in the form of a tariff or reference showing the rates or fares or the regulations which will be superseded by the proposed tariff.

(c) A complete and accurate statement of the circumstances and conditions relied on as justification for the proposed change, including the following information:

(1) The total amount of intrastate revenue in Nevada the proposed rates would have produced if the rates had been in effect during the test year.

(2) The applicant’s reasons that the operating ratio resulting from the application of the proposed rates would be reasonable.

(3) If the applicant's operations are seasonal, a list of the months of the year during which it operates.

(d) A record of action taken by the commission, if any, in any prior proceeding relative to the existing or proposed rates.

(e) An operating statement for the full 12-month period immediately preceding the date of application, insofar as is practicable. This statement must show the amounts of revenue and expense for each account for the intrastate operations in Nevada in separate columns. Other amounts of revenue and expense for each account for operations in other states or in interstate commerce may be combined in a separate column. The total amount of revenue and expenses must be shown by account in a "Total" column indicating the total operations of the company.

(f) A balance sheet for the entire operations of the carrier as of the date of the statement required in paragraph (e).

(g) An explanation of the financial statements showing:

(1) The procedures used to allocate amounts of expense between intrastate operations in Nevada and other intrastate or interstate operations.

(2) Whether records are kept on a daily or monthly basis to determine basic data from which the criteria for allocation were developed.

(3) If any item of the data required in paragraphs (e) to (g), inclusive, and subsections 2 and 3 is not furnished with the application, the full and specific reasons why it was omitted.

(h) Such information as the commission or the applicant considers to be necessary or appropriate for a complete understanding of the application.

2. In any application to be filed by or on behalf of a group of motor carriers as parties to a single regional or statewide tariff, the following information must be included:

(a) A statement listing all the carriers which are parties to the tariff and for which relief is sought and the date on which each became a party to that tariff.

(b) An operating statement, balance sheet and explanation of the financial statements, as required in paragraphs (e) to (g), inclusive, of subsection 1, for each participating carrier or for each carrier being used as a representative of the group.

(c) A consolidated statement showing the intrastate operating revenues and expenses in Nevada for the participating or representative group of carriers. This statement must show the intrastate operating ratio in Nevada for each participating or representative carrier and a composite operating ratio for the participating or representative carriers.

3. In any application for a single rate applying to a specific commodity that has not previously been included in the applicant's tariff, sufficient cost data to demonstrate that the proposed rate would be fully compensatory and would not involve an excessive charge may be substituted for the requirements of paragraphs (e) and (f) of subsection 1.

4. Suggested language for the public notice to be published in accordance with NAC 703.160 may be submitted by the applicant.

5. The provisions of this section apply to all applications for rate increases made by common and contract motor carriers under the jurisdiction of the commission. The provisions do not apply to applications or tariff filings made by the National Motor Freight Classification or the ATA Hazardous Materials Tariff.

703.335 Definitions. As used in NAC 703.335 to 703.370, inclusive, unless the context otherwise requires:

1. "Rate" means any charge or fare and any regulation which affects a rate.

2. “Supplement” or “Tariff” means any regulation, classification, exception to a classification, and class, commodity, special and hourly rate under which a motor carrier operates.

703.340 Scope.

1. The provisions of NAC 703.335 to 703.370, inclusive, govern the filing of an intrastate tariff or supplement, classification or other reference tariff which contains the rates and regulations governing the operation of motor carriers.

2. No request for an increase in rates may be made under NAC 703.335 to 703.370, inclusive, except for the filing of a tariff seeking approval of a motor carrier’s participation in a tariff bureau’s rates and tariffs.

703.345 Form of tariffs and supplements.

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 Interstate Commerce Commission and the Interstate Commerce Commission permits a size or format different from that specified by the commission, that different size will be accepted by the commission.

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 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 the title page, must have:

(1) In the upper right-hand corner, the number of the commission assigned to that tariff by 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) 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 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 commission 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 commission.

(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 address, city, state and zip code number.

(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 shall 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:

P.S.C.N. No. 2

 cancels

P.S.C.N. No. 1

Tariff No. 1-A

 cancels

Tariff No. 1

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

*See adopting agency for form.

703.350 Transmittal letter.

1. Each tariff filing must be accompanied by six copies of a transmittal letter and the appropriate filing fee. To acknowledge receipt of the filing, a copy of the transmittal letter will be dated and returned by the commission to the applicant.

2. The transmittal letter must state what effect, if any, the filing will have on the motor carrier's currently effective tariffs and include a reference to those tariffs affected.

703.355 Index required for tariff.

1. Each loose-leaf or bound tariff and any supplement to a bound tariff which exceeds 10 pages, except supplements to rate increases, must have:

(a) A table of contents, listing in alphabetical order all regulations and rate sections that are included in the filing. The table must state the item number, a brief description of the item and the page number where the item can be found.

(b) An alphabetical index of commodities included in the filing, showing the item numbers of each commodity listed.

(c) If there is more than one carrier to a tariff filing, an alphabetical index of the participating carriers, listing each item number to which each listed carrier is a party.

(d) A list of the certificates of public convenience and necessity in the state that are held by each motor carrier participating in the tariff filing. This list must contain a description of the routes or territory that the motor carrier is authorized to serve under each certificate and a list of the commodities that the motor carrier is authorized to transport under each certificate.

2. The provisions of this section do not apply to the National Motor Freight Classification or the ATA Hazardous Materials Tariff.

703.360 Tariff with change of condition. The filing of any tariff sheet which results in any increase in any rate or charge or in a more restrictive condition must be filed as part of the application required under NAC 703.215.

703.365 Posting of tariffs.

1. Each motor carrier shall have posted, at each of its stations and offices, a complete copy of currently effective tariff schedules applicable to those stations and offices.

2. Each motor carrier shall maintain on file at its principal place of business a complete copy of all of its currently effective tariff schedules.

3. This rule does not require the motor carrier to post tariff schedules at other than its own offices or terminals.

703.370 Participation in rates by tariff bureau.

1. Nothing in NAC 703.335 to 703.370, inclusive, will be construed to preclude a motor carrier, issuing agency or agent from filing a tariff under NRS 706.321 requesting the approval of the commission on 10 days' notice of that carrier's participation in a tariff bureau's rates which have previously been filed with and approved by the commission.

2. The provisions of this section do not apply to the National Motor Freight Classification or the ATA Hazardous Materials Tariff.