

(c)-(d) (No change.)

13:21-15.9 Temporary registrations issued by licensed motor vehicle dealers for vehicles that are to be permanently registered in New Jersey

(a) (No change.)

(b) A temporary registration shall not be issued pursuant to this section if the motor vehicle dealer does not have in [its] **his or her** possession a valid [manufacturers'] **manufacturer's** statement of origin or title for the vehicle and, if applicable, a valid dealer reassignment certificate for the vehicle.

(c)-(g) (No change.)

(h) A temporary registration is not transferable from one motor vehicle dealer to another, nor from one vehicle to another. A temporary registration shall not be lent by a motor vehicle dealer to a customer, [to] another motor vehicle dealer [nor to], **or** any other person or entity. A temporary registration shall not be issued for vehicles titled in the name of the motor vehicle dealer, or for vehicles covered solely by the dealer's insurance policy.

(i)-(r) (No change.)

(s) A motor vehicle dealer who violates any provision of this section shall, upon notice and an opportunity to be heard, have the privilege of issuing temporary registrations suspended. In addition, a motor vehicle dealer who commits such a violation may, upon[,] notice and an opportunity to be heard, have the motor vehicle dealer's license suspended or revoked, or renewal thereof refused, by the Chief Administrator [of the Commission] pursuant to N.J.S.A. 39:10-20.

(t) (No change.)

13:21-15.10 Nonresident temporary registrations issued by licensed motor vehicle dealers

(a) (No change.)

(b) A nonresident temporary registration shall not be issued pursuant to this section if the motor vehicle dealer does not have in [its] **his or her** possession a valid manufacturer's statement of origin or title for the vehicle and, if applicable, a valid dealer reassignment certificate for the vehicle.

(c) (No change.)

(d) An applicant for a nonresident temporary registration pursuant to this section shall present proof to the motor vehicle dealer or authorized signatory of his **or her** out-of-State residence and of the name of the insurance company that is providing liability insurance coverage for the vehicle and the insurance policy number or binder number; such proofs shall be retained with the dealer's copy of the temporary registration.

(e)-(g) (No change.)

(h) A nonresident temporary registration is not transferable from one motor vehicle dealer to another, nor from one vehicle to another. A nonresident temporary registration shall not be lent by a motor vehicle dealer to a customer, [to] another motor vehicle dealer, [nor to] **or** any other person or entity. A nonresident temporary registration shall not be issued for vehicles titled in the name of the motor vehicle dealer [nor] **or** for vehicles covered solely by the dealer's insurance policy.

(i)-(q) (No change.)

(r) A motor vehicle dealer who violates any provision of this section shall, upon notice and an opportunity to be heard, have the privilege of issuing temporary registrations suspended. In addition, a motor vehicle dealer who commits such a violation may, upon notice and an opportunity to be heard, have the motor vehicle dealer's license suspended or revoked or renewal thereof refused by the Chief Administrator [of the Commission] pursuant to N.J.S.A. 39:10-20.

(s) (No change.)

13:21-15.11 Dealer plates

(a) All dealer plates shall be accounted for in a logbook or ledger, for which the following information is listed for each dealer plate:

1. (No change.)

2. [Vehicle identification numbers ([VINs])] of all vehicles to which the plate was assigned, along with dates of assignment; and

3. The location at which the vehicle to which the plate is assigned is garaged (if not on **the** dealer's premises).

(b) The [log] **logbook** or ledger [in] **required pursuant to** (a) above shall be maintained for at least three years.

(c) A motor vehicle dealer who fails upon the demand of the Commission to produce the [log] **logbook** or ledger required pursuant to (a) above shall, upon notice and opportunity to be heard, be subject to suspension or revocation of the motor vehicle dealer's license or the suspension or revocation of the privilege of retaining dealer plates heretofore issued or purchasing additional plates.

(d)-(g) (No change.)

13:21-15.12 New motor vehicle inspection stickers

(a) All new motor vehicle inspection stickers shall be accounted for in consecutive order in a logbook or ledger, for which the following information is listed for each sticker:

1.-2. (No change.)

3. The year, make, and VIN of **the** vehicle to which the sticker was affixed, if applicable; and

4. (No change.)

(b) The [log] **logbook** or ledger [in] **required pursuant to** (a) above shall be maintained for at least five years.

(c)-(d) (No change.)

(e) A motor vehicle dealer who fails upon the demand of the Commission to produce the [log] **logbook** or ledger required pursuant to (a) above or voided stickers retained pursuant to (c) above or who fails to report, or falsely reports, the loss or theft of stickers, as required by (d) above, shall, upon notice and opportunity to be heard, be subject to suspension or revocation of the motor vehicle dealer's license.

13:21-15.14 Hearings

(a)-(b) (No change.)

(c) The hearing request must be in writing, must list all contested issues of material fact, issues of law, and mitigating circumstances that the **applicant or** licensee intends to demonstrate.

(d)-(f) (No change.)

(g) Except in the case of extraordinary circumstances, it shall not be a defense to disciplinary action based on a failure to respond to a Notice of Proposed Disciplinary Action that the **applicant or** licensee [or applicant] was not present at the business address listed in the [MVC] **Commission's** records.

(h) Nothing [herein] **in this subchapter** shall prevent the Chief Administrator from seeking to resolve any disciplinary matters through informal means at any stage of disciplinary proceedings described in this section.

13:21-15.15 Emergency disciplinary action

(a) In the event of an emergent situation, in which ongoing fraud, lack of insurance, destruction or vacation of premises, or other circumstances [that] would jeopardize the integrity of the Commission's title records and the ability to prevent traffic in stolen or fraudulently titled motor vehicles, the Commission may immediately issue a preliminary suspension of the dealer's license.

(b)-(d) (No change.)

(a)

MOTOR VEHICLE COMMISSION REGULATORY AFFAIRS (COMMERCIAL PASSENGER TRANSPORTATION)

Practices and Procedures Before the Office of Regulatory Affairs

Proposed Readoption with Amendments: N.J.A.C. 16:51

Proposed Repeals: N.J.A.C. 16:51-3.8 and 3.9

Authorized By: Motor Vehicle Commission, Raymond P. Martinez,
Chairman and Chief Administrator.

Authority: N.J.S.A. 27:1A-5, 39:4-2.1.a, 48:4-3, 48:4-11, and
52:14D-6; and P.L. 2003 c. 13.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2013-139.

Submit comments by December 6, 2013 to:

Kate Tasch, APO
Regulatory and Legislative Affairs
Motor Vehicle Commission
225 East State Street
PO Box 162
Trenton, NJ 08666-0162

The agency proposal follows:

Summary

The public comment period for this notice of proposal will be 60 days, since the notice is not listed in the agency calendar. This notice of proposal is excepted from the rulemaking calendar requirements pursuant to N.J.A.C. 1:30-3.3(a).

The Motor Vehicle Commission (hereinafter "the Commission") proposes the readoption with amendments and repeals to the provisions of N.J.A.C. 16:51, Practices and Procedures before the Office of Regulatory Affairs, in accordance with N.J.S.A. 52:14B-5.1 and the "sunset" and other provisions of Executive Order No. 66 (1978). The Commission has reviewed these rules pursuant to the Executive Order and has found them to be necessary and required for the purpose for which they were promulgated. However, extensive amendments and two repeals are proposed in order to reduce the regulatory burden by: reducing the application process for the Certificate of Public Convenience and Necessity (CPCN); eliminating the Annual Report; and offering new commercial use-identifying license plates. As the Commission has filed this notice of re adoption with the Office of Administrative Law prior to March 15, 2014, the expiration date of the chapter is extended 180 days to September 11, 2014, pursuant to N.J.S.A. 52:14B-5.1.c(2).

N.J.A.C. 16:51 contains 12 subchapters, which are briefly summarized below, together with proposed amendments and repeals.

The heading of Chapter 51 would be amended to delete the "Office of Regulatory Affairs," which will no longer process CPCN matters in order that the staff of one may be reassigned, and instead Chapter 51 will include the "Division of Inspection Services Bus Unit" in the chapter heading.

Subchapter 1 sets forth the general provisions of Chapter 51.

N.J.A.C. 16:51-1.1(a) explains that Chapter 51 concerns procedures of the Office of Regulatory Affairs (ORA); proposed amendments in N.J.A.C. 16:51-1.1(a) would eliminate the reference to the ORA. N.J.A.C. 16:51-1.1(b) explains that Chapter 51 also concerns duties of licensed autobus companies and is proposed without change. N.J.A.C. 16:51-1.1(c) explains the use of the Uniform Administrative Procedure Rules and is proposed without change.

N.J.A.C. 16:51-1.2 sets forth that Chapter 51 may be liberally construed; proposed amendments would change references to the ORA with the "Division" to reflect the responsibility of the Division of Inspection Services Bus Unit in carrying out the duties of Chapter 51. This change is made throughout the chapter, along with changing "Commission" to "Division," as appropriate.

N.J.A.C. 16:51-1.3 sets forth definitions; proposed amendments would add definitions for: "Division" (which replaces the definition of "Office"), "omnibus 1 vehicles," and "omnibus 2 vehicles."

N.J.A.C. 16:51-1.4 sets forth methods of communicating with the ORA; technical amendments are proposed as discussed above. In addition, amendments are proposed to include how to submit applications for Omnibus 1 and 2.

N.J.A.C. 16:51-1.5 sets forth matters relative to appearances. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-1.6 sets forth matters relative to proceedings' ethical conduct and ex parte communications. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-1.7 sets forth matters relative to former employees' appearances. Technical amendments are proposed as discussed above.

Subchapter 2 sets forth CPCN pleadings and related processes. Technical amendments are proposed as discussed above.

Subchapter 3 concerns CPCN petitions.

N.J.A.C. 16:51-3.1 describes petitions generally. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-3.2 sets forth rules for petitions. Technical amendments are proposed as discussed above. Further amendments to subsection (a) explain that the CPCN application form is for both Omnibus 1 and Omnibus 2 applicants, except charter bus operations, that the application form is required prior to vehicle registration, and new subsection (e) explains that an Motor Vehicle Commission (MVC) number will be issued to each motor carrier.

N.J.A.C. 16:51-3.3 sets forth rules for CPCN modifications. Technical amendments are proposed as discussed above. A further amendment changes "autobus utility" to "autobus company" and is proposed throughout the chapter, as appropriate.

N.J.A.C. 16:51-3.4 sets forth rules for CPCN transfers, mergers, and consolidations.

N.J.A.C. 16:51-3.5 sets forth procedures for CPCN transfers or consolidations. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-3.6 sets forth rules for ex parte or emergency relief. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-3.7 sets forth procedures for complaints. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-3.8 sets forth rules for the sale or lease of personal property of an autobus company. This section is proposed for repeal to reflect the reduced regulatory burden.

N.J.A.C. 16:51-3.9 sets forth rules for the transfer of capital stock of an autobus company. This section is proposed for repeal to reflect the reduced regulatory burden.

Recodified N.J.A.C. 16:51-3.8 sets forth rules for the discontinuance of service by an autobus company. Technical amendments are proposed as discussed above.

Recodified N.J.A.C. 16:51-3.9 sets forth the rules for joint pleadings. Technical amendments are proposed as discussed above.

Recodified N.J.A.C. 16:51-3.10 sets forth the rules for tariff filings. Technical amendments are proposed as discussed above.

Recodified N.J.A.C. 16:51-3.11 sets forth the rules for tariff petitions. Technical amendments are proposed as discussed above.

Recodified N.J.A.C. 16:51-3.12 sets forth rules for petitioning to keep books and records outside of New Jersey. This section is proposed for amendment to delete subsection (a) and paragraphs (a)1 through 9 to reflect the reduced regulatory burden and to recodify paragraph (a)10 and 11 as subsections (a) and (b), respectively. Technical amendments are proposed as discussed above. A further proposed amendment would change the heading of the section to "office location and statutory agent."

Recodified N.J.A.C. 16:51-3.13 sets forth rules for notifying the Commission of an autobus company's name change. Technical amendments are proposed as discussed above.

Recodified N.J.A.C. 16:51-3.14 sets forth time lines relative to Subchapter 3 petitions and filings. Technical amendments are proposed as discussed above.

Subchapter 4 pertains to motions and interventions.

N.J.A.C. 16:51-4.1 sets forth rules regarding motions generally. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-4.2 sets forth rules regarding motions in writing. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-4.3 sets forth rules regarding motions and answering papers. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-4.4 sets forth rules regarding disposition of motions.

Subchapter 5 pertains to motions relating to rehearings or reconsideration.

N.J.A.C. 16:51-5.1 sets forth rules regarding motions for rehearing. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-5.2 sets forth rules regarding motions and answers. Technical amendments are proposed as discussed above.

Subchapter 6 consists of one section, which sets forth rules for attorney conferences relative to motions and related actions. Technical amendments are proposed as discussed above.

Subchapter 7 consists of one section, which sets forth rules pertaining to notifying the Commission of autobus accidents. Technical amendments are proposed as discussed above. A further amendment to paragraph (a)2

would add the email address to use to notify the Commission of accidents (in addition to the phone number).

Subchapter 8 sets forth rules pertaining to autobus service operations.

N.J.A.C. 16:51-8.1 provides for commencement of operations within 60 days of receiving a CPCN. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.2 sets forth rules to change an autobus route. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.3 concerns discontinuance of service. Technical amendments are proposed as discussed above. At subsection (b), "utility" is changed to "autobus or trolley company" (rather than just autobus company).

N.J.A.C. 16:51-8.4 sets forth rules regarding interruption of service. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.5 sets forth rules regarding emergency equipment. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.6 sets forth rules regarding grade crossings. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.7 sets forth rules regarding closed doors. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.8 sets forth rules regarding drivers conversing. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.9 regards fuel tanks.

N.J.A.C. 16:51-8.10 sets forth rules allowing for emergency CPCN. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-8.11 sets forth rules regarding autobus leases. Technical amendments are proposed as discussed above. In addition, N.J.A.C. 16:51-8.11(a) is amended to require leases to be filed with the Commission and would add the requirement that the filer affirm that the lease includes all information listed in the subsection. New N.J.A.C. 16:51-8.11(e) would explain that the Commission is not responsible for the implementation, operation, or cancellation of a lease. This new subsection would reflect current Commission practice to not be responsible in such private sector matters.

Subchapter 9 sets forth rules pertaining offices of autobus companies. Technical amendments are proposed as discussed above.

Subchapter 10 sets forth rules for records and reports.

N.J.A.C. 16:51-10.1 requires notification to the Commission of the location of company records. Technical amendments are proposed as discussed above.

N.J.A.C. 16:51-10.2 requires annual reports of financial and other information to be supplied to the Commission. Technical amendments are proposed as discussed above and would not apply the reporting requirement to any person or party who possesses a CPCN.

N.J.A.C. 16:51-10.3 sets forth rules for records that are to be available to the public.

Subchapter 11 sets forth rules regarding fare notices. Technical amendments are proposed as discussed above.

Subchapter 12 sets forth rules pertaining to Commission decisions. Technical amendments are proposed as discussed above.

Social Impact

The rules proposed for readoption and the proposed amendments reflect the Commission's statutory role under Title 48, as transferred to it by P.L. 2003, c. 13, in the regulation of autobus public utilities and services. That role includes its licensing, registry, mediation, route adjudication, safety/economic regulation, inspection, enforcement, and related functions with respect to autobus passenger transportation.

The Commission's activities in this area have a wide social impact throughout the State and elsewhere. The activities of the Commission in this area directly affect the provision of autobus routes and transportation services needed by the public in commerce, tourism, employment, and social services. Such passenger services include commuter bus operations, casino bus routes, special bus operations as part of the State's second largest industry (tourism), and critical mass transit series for the elderly, disabled, and poor whose choice of alternate transportation modes may be limited and who rely upon autobuses to reach employment sites, medical facilities, social service locations, and shopping and commerce centers.

The social effect of the rules, especially as proposed for amendment, and the regulatory environment governing for-hire passenger transportation will have a critical social impact. Changes in social conditions, such as an influx of new immigrants, necessitate greater attention to multi-passenger for-hire transportation services for safe mobility to and from employment sites, which are now often scattered in suburban areas. Changes affecting and occurring in the bus industry further indicate the need for the continuance of Commission regulation in this area in order to assure that bus companies provide safe, adequate, and convenient service to the public.

If this chapter is not readopted, the procedures and practices applicable to the licensing and regulation of autobus utilities would lapse and effectively deny the public new and modified bus passenger transportation services and routes. Readopting the chapter with the proposed amendments will simplify procedures to reflect changes in the autobus industry and will make bus transportation more efficient for the utility and more accessible to the customer.

The purpose of the rules proposed readoption with amendments is to reduce the regulatory burden by streamlining the Certificate of Public Convenience and Necessity (CPCN) application process by using the same format for Omnibus 1 and Omnibus 2 applicants, not requiring the Annual Report in all situations but only as directed when MVC determines that an Annual Report or another report may be needed from a person or party who possesses a CPCN, and by offering new commercial use-identifying license plates as requested by the industry and by the MVC Passenger Transportation Advisory Council that was created by the Motor Vehicle Commission Board at its April 2011 Board Meeting.

Economic Impact

The rules proposed for readoption have a direct and indirect impact upon the State's economy in several ways. The autobus industry is affected by the route and rate structures set by statute and this regulatory chapter. The public, particularly users and beneficiaries of bus transportation, are also significantly affected in their employment and commercial efforts, where dependent on convenient, efficient, effective, and reasonably priced public transportation.

The Atlantic City casino industry is highly dependent upon the autobus routes serving its patrons and employees. The bus industry is also an integral part of the State's second largest industry – tourism – which requires special bus operations, as well as, route services to and from transportation hubs, such as airports. Bus routes also affect the economy of the State in facilitating employment and commerce by transporting employees to work sites and the public to shopping and other commercial centers. If the subject chapter is not readopted, no mechanism would be in place to authorize or change bus routes and services. If adopted with amendments, the chapter would become less complex and therefore less expensive to apply for and to operate a bus route. Bus transportation could, therefore, expand, with all of the concomitant benefits described above.

The Commission incurs expenses to operate this program, which expenses are at this time only partially offset by statutory fees. With the adoption of the amendments to the rules, the simplified requirements should generate less administrative work and be more economically efficient for the Commission.

The costs to the autobus operators of the CPCN application process will be reduced, the costs to the autobus operators of the Annual Report process will be eliminated, and the convenience of having commercial use-identifying license plates will be new.

Federal Standards Statement

There are no Federal standards applicable to the subject matter of Chapter 51, so, therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for readoption with amendments directly affect jobs. Through certification of new carriers and services, jobs are created in the for-hire bus transportation industry. Furthermore, jobs in the casino and tourist industries served by bus transportation are bolstered by increased autobus services and routes in support of them. Commuter bus routes are of great importance for employment, particularly for those who do not have other means of transportation. Failure to assure continuity

and reliability in autobus routes and transportation services could adversely affect jobs.

In addition, the proposed amendments to the rules will make it easier for individuals to start bus companies. This will not only allow more individuals to reach more jobs and increase the availability of various forms of entertainment, which will also create job growth in that industry, but will also create jobs in the autobus industry itself.

Agriculture Industry Impact

The rules proposed for re adoption with amendments and repeals do not have any impact on the agriculture industry in this State.

Regulatory Flexibility Analysis

The rules proposed for re adoption with amendments do place reporting, recordkeeping, and compliance requirements on small businesses as the term is defined in the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. Approximately 800 businesses, many of which are small businesses, are directly affected by this chapter. These requirements include initiation of and change in service for the general public, various filings, the conduct of hearings, the means by which the regulated autobus companies must maintain records, and the requirements placed upon the autobus companies for service to the public. Some of the requirements, such as participation in hearings, may require professional services, such as those of an attorney.

The Commission has attempted, in the amendments proposed herewith, to simplify and to reduce the amount and the difficulty of these requirements to the extent possible. The rules are liberally construed to permit the Commission to carry out its statutory functions and to secure just and expeditious determinations of issues properly presented to it, regardless of the size of the business.

The rules proposed for re adoption with amendments will reduce recordkeeping requirements by streamlining the CPCN application process and eliminating the Annual Report requirement. The rules proposed for re adoption with amendments do not necessitate capital expenditures for compliance by small businesses. These requirements are intended to ensure bus routes and insurance for the benefit of the public are maintained. There is no differentiation in compliance based on business size, as all autobus companies are serving the public interest in the provision of safe transportation for those traveling to work, retail establishments, tourist sites, medical facilities, social service locations, commerce centers, entertainment, and other venues.

The Commission has given careful consideration to these matters and has determined that the proposed amendments are necessary to be applied to all autobus operators in order to promote safe, reliable, and financially responsible service.

Housing Affordability Impact Analysis

The rules proposed for re adoption with amendments and repeals will have no impact on housing affordability and there is an extreme unlikelihood that the rules will evoke a change in the average costs associated with housing because the rules pertain to commercial bus operations.

Smart Growth Development Impact Analysis

Aside from the fact that the availability of reliable public transportation offered by autobus operators could be a factor in combatting sprawl, it is not anticipated that the rules proposed for re adoption with amendments and repeals will have an impact on smart growth or evoke a change in housing production in Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan in New Jersey because the rules pertain to commercial bus operations.

Full text of the rules proposed for re adoption may be found in the New Jersey Administrative Code at N.J.A.C. 16:51.

Full text of the rules proposed for repeal may be found in the New Jersey Administrative Code at N.J.A.C. 16:51-3.8 and 3.9.

Full text of the proposed amendments follows (additions indicated in boldface **thus**; deletions indicated in brackets [thus]):

CHAPTER 51

PRACTICES AND PROCEDURES BEFORE THE [OFFICE OF REGULATORY AFFAIRS] DIVISION OF INSPECTION SERVICES BUS UNIT

SUBCHAPTER 1. GENERAL PROVISIONS

16:51-1.1 Scope

(a) [These] **The rules in this chapter** shall govern the filing of all pleadings and the practice and procedure of matters before the [Office of Regulatory Affairs, Division of Legal and Regulatory Affairs,] Motor Vehicle Commission of the State of New Jersey unless otherwise ordered [by the Office in any proceeding].

(b) [These] **The rules in this chapter** set forth operational and administrative duties of licensed autobus companies.

(c) Upon determination that a matter constitutes a contested case, the Uniform Administrative Procedure Rules, N.J.A.C. 1:1[-1 et seq.] shall apply.

16:51-1.2 Construction

(a) [These] **The rules in this chapter** shall be liberally construed to permit the [Office] **Division** to effectively carry out its statutory functions and to secure just and expeditious determinations of issues properly presented to the [Office] **Division**.

(b) In special cases and for good cause shown, the [Office] **Division** may relax or permit deviations from [these rules] **this chapter**.

16:51-1.3 Definitions

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

...
“Autobus company” or “autobus carrier” means any person or party that possesses a valid Certificate of Public Convenience and Necessity to conduct autobus operations, which Certificate has been issued by the [New Jersey Motor Vehicle Commission, or by the New Jersey Department of Transportation] **Division or its predecessors**, or, if issued prior to January 1, 1979, by the State’s Board of Public Utilities, or a valid authority for the conduct of interstate or charter operations, which authority has been issued by the Federal government.

...
“Certificate of Public Convenience and Necessity” means a final administrative order of the [New Jersey Motor Vehicle Commission] **Division** or its predecessors, which certificate grants authority to a person or other legal entity to operate a specific type (or types) of autobus service(s) within the State of New Jersey.

...
“Director” means the Director of the Division of [Legal, Legislative and Regulatory Affairs] **Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680**, or any other person duly authorized by the Chief Administrator to act in such a capacity.

“**Division**” means the **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680**.

“Exception Letter” means the [Commission’s] **Division’s** first correspondence with a petitioner after the [Commission’s] **Division’s** initial review of a filed petition, which letter indicates whether or not the petition is incomplete.

...
“Intervenor” means a movant whose motion to intervene has been granted by the [Commission] **Division**, and who thereby has standing to present testimony to the Office of Administrative Law in contested cases, to file exceptions and replies thereto to initial decisions of the Office of Administrative Law, and otherwise to participate in the matter before the Office of Administrative Law and the [Commission] **Division** in all respects, as if named as a party at the inception of the matter.

...
“Motion to Intervene” means the formal pleading filed by a party by which pleading the said party seeks to be granted leave to intervene in a proceeding before the [Commission] **Division**.

“Movant” means a person that has filed a motion with the [Commission] **Division**.

“Objector” means a person that has filed with the [Commission] **Division** a written objection to a petition pending before the [Commission] **Division**, but that is not an intervenor.

“Office” means the Office of Regulatory Affairs, Division of Legal, Legislative and Regulatory Affairs, Motor Vehicle Commission, State of New Jersey.]

“Omnibus 1 vehicles” are used for the transportation of passengers for hire, except commuter vans, vehicles used in ridesharing arrangements, and school buses, if the same are not otherwise used in the transportation of passengers for hire. Omnibus 1 vehicles will include regular route buses, charter bus operations, and special bus operations.

“Omnibus 2 vehicles” are motor vehicles operated by a company or individual that provides passenger transportation to a target audience or market that is not in competition with a publicly regulated transit route or does not collect fares from the general public.

The Chief Administrator may authorize Omnibus 2 registrations and license plates, and thereafter Omnibus 2 vehicles will display a plate with the letter “O”, the numeric character “2” and four alpha or numeric characters (O2 ## ##). Omnibus 2 vehicles will also have a separate registration code from Omnibus 1 vehicles. The 10 types of Omnibus 2 vehicles are as follows:

1. Medical livery, which provides transport for ambulatory individual(s) for the purpose of mental health assessment or other non-emergency medical treatment, not including transportation in a mobility assistance vehicle (MAV) or an ambulance;

2. Adult day care transport, which provides transportation to a community-based group program designed to meet the needs of functionally or cognitively impaired adults;

3. Adult community transport, which provides transportation to senior citizens or other special needs individuals from an aged restricted community, municipality, or other jurisdiction to various services, such as medical appointments, stores, and recreational activities;

4. Car rental transport, which provides service to and from a transportation hub, such as a train station, airport, or marine terminal and rental car facility to clients of a specific rental car company;

5. Collegiate transport, which provides shuttle or transportation service to the student body or faculty to move within the college or university community or school-related activities;

6. Hotel complimentary transport, which is a service provided by a business concern to transport clients from one property owned by the business to another property owned by the same business at no additional cost other than the possibility of continued patronage;

7. Farm labor transport, which moves farm workers to and from a muster zone or agriculture center or between agriculture centers;

8. Day labor transport, which carries temporary employees to and from a muster zone and place of employment or work site(s);

9. Recreational transport, which shuttles clients from a recreational provider or outfitter, to and from the customer parking lot and the service area; and

10. Time share transport, which provides services, by a real estate broker or developer, to transport prospective clients to and from assets for sale, lease, or for other financial arrangements.

“Party” means a person that is a participant in an action or proceeding before the [Office] **Division**.

“Petition” means the pleading filed to initiate a proceeding and invoking the jurisdiction of the [Commission] **Division**.

“Petitioner” means a person who has filed a petition with the [Office of Regulatory Affairs, New Jersey Motor Vehicle Commission] **Division** or, in the case of a petition for transfer, the person that is the proposed certificate holder.

“Regular route” or “regular route bus operation” means and includes the operation of an autobus between fixed termini, on a regular schedule, and with a provision for convenient one-way fare/transportation in either

direction, and shall also include all existing regular route operations to and from any casino licensed under the Casino Control Act, P.L. 1977, c. 110 (N.J.S.A. 5:12-1 et seq.) unless that operation to and from casinos has been determined by the [Commissioner] **Division** to be other than a regular route operation.

“Regular route in the nature of special bus operation” means and includes the operation of an autobus to or from any casino licensed under the Casino Control Act, P.L. 1977, c. 110 (N.J.S.A. 5:12-1 et seq.) unless that operation has been determined by the [Commission] **Division** to be a regular route bus operation.

“Reply” means the pleading filed by a party in response to an answer upon the request or order of the [Commission] **Division**.

“Service Area” means that area that is described by and included within a one and one-quarter mile radius from any pickup or drop off point on the regular route that is the subject of the petition or action before the [office] **Division**.

16:51-1.4 Communications

(a) All pleadings, correspondence, and other papers shall be addressed to the [Office of Regulatory Affairs,] Division of [Legal and Regulatory Affairs] **Inspection Services Bus Unit**, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box [162] **680**, Trenton, NJ 08666-[0162]**0680**, and shall include the appropriate docket number if assigned.

(b) (No change.)

(c) Except as otherwise stated in this [Chapter] **chapter**, all such pleadings and correspondence shall be deemed to be officially received when delivered to the [Office of Regulatory Affairs] **Division**.

(d) All applications for Omnibus 1 shall be addressed to the **Division of Inspection Services Bus Unit**, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680.

(e) All applications for Omnibus 2 shall be delivered in person to any of the Commission’s motor vehicle agencies located throughout the State of New Jersey.

16:51-1.5 Appearance

(a) No person or party [as defined in N.J.A.C. 16:51-1.3], except an individual appearing on his or her own behalf, shall be permitted to participate in any proceeding before the [Office] **Division**, unless such person or party is represented by an attorney of this State in good standing. Any attorney from any other jurisdiction and in good standing there may, at the discretion of the Director or the Director’s designee, be admitted pro hac vice to participate in a proceeding in the same manner as an attorney of this State; provided, however, that all pleadings, briefs, and other papers filed with the [Office] **Division** may be required to be signed by an attorney of record authorized to practice in this State, which attorney shall be held responsible for them.

(b) Any attorney wishing to withdraw from a proceeding before the [Office] **Division** shall, in writing, immediately notify the Director or the Director’s designee, the party whom he or she represents, and all other parties of record of his or her request to do so. The request may be denied if, in the discretion of the Director, it is necessary to prevent duplication, delay, or disruption of the proceedings.

(c) Any person appearing before or transacting business with the [Office] **Division** in a representative capacity may be required by the [Office] **Division** to file evidence of his or her authority to act in such capacity.

16:51-1.6 Ethical conduct and ex parte communications

(a) After the filing of a complaint, motion, or petition in a contested proceeding and prior to the issuance of a formal order thereon, no parties to the proceeding, or their counsel, shall discuss the merits of such matter or proceeding with any member of the Commission, the Director, or with any member or employee of the [Office] **Division**, unless reasonable notice is given to all parties who have appeared therein to enable such parties to appear at the conference or otherwise to participate in the discussion. When, after the filing of a complaint or petition and prior to the issuance of a final order thereon, letters are addressed to the [Office]

Division or to any member of its staff, copies of such letters shall be mailed to all parties of record and proof of such service furnished upon request.

(b) (No change.)

16:51-1.7 Former employees

Except with the written permission of the Chief Administrator, no former member or employee of the [Office] **Division** or member of the Attorney General's staff assigned to the [Office] **Division** may appear in a representative capacity or as an expert witness on behalf of other parties at any time within six month after severing his or her association with the [Office] **Division** nor may he or she appear after said [six month] **six-month** period in any proceeding wherein he or she previously took an active part when associated with the [Office] **Division**.

SUBCHAPTER 2. PLEADINGS

16:51-2.1 Pleadings generally

Pleadings before the [Commission] **Division** shall be in the form of petitions, motions, answers, and replies.

16:51-2.2 Formal requirements for pleadings

(a)-(b) (No change.)

(c) There shall be included at the head of the pleading or on a title page a caption setting forth the name of the [Commission] **Division**, the title of the action, the docket number, if known, and the designation of the nature of the pleading.

(d) (No change.)

(e) Designation of persons to whom communications should be sent is as follows:

1. Petitions or other pleadings filed with the [Commission] **Division** by or on behalf of any person shall state the name, title, and address of the agent to whom correspondence or communications concerning the matter are to be sent.

2. (No change.)

(f) Attestation and verification shall be as follows:

1. All pleadings initiating a proceeding or otherwise seeking affirmative relief shall be verified, except for those matters brought upon either the [Commission's] **Division's** own motion or the motion of the Attorney General of the State of New Jersey.

2.-4. (No change.)

(g) Unless otherwise required by the [Commission] **Division**, there shall be filed with the [Commission] **Division** an original and copy of every pleading.

16:51-2.3 Time for filing

(a) Unless otherwise provided in [these rules] **this subchapter** or ordered by the [Commission] **Division**, a petition must be filed in its entirety and in accordance with [these rules] **this subchapter** within 90 days of the date of the [Commission's] **Division's** exception letter to petitioner; petitions that are incomplete as of that date shall be subject to dismissal.

(b) The date of filing shall mean the date upon which the pleading is received by the [Office of Regulatory Affairs] **Division**.

16:51-2.4 Amendments

(a) Pleadings will be liberally construed in the interest of justice. The [Commission] **Division** may disregard errors or defects in pleadings, which deficiencies do not affect the substantial rights of the parties, or may in its discretion before or after the conclusion of any proceedings it conducts allow any pleadings to be amended or corrected or any omission therein to be supplied upon such terms as may be lawful and just, provided such amendment, correction, or addition does not prejudice a substantial right of any party.

(b) (No change.)

(c) The filing of [such] **an** amendment **under this section** shall not be considered a new filing as of the date of its filing unless otherwise ordered or permitted by the [Commission] **Division**.

16:51-2.5 Service and notice of proceedings

(a) Unless otherwise provided by statute or by [these rules] **this chapter**, or unless otherwise ordered or permitted by the [Commission] **Division**, the following provisions shall govern service of pleadings[.];

1. A filed and docketed petition shall be served by personal service or by certified mail by such petitioner or its agent or attorney upon each respondent named in such petition and on such other parties or persons as required by statute or elsewhere in [these rules.] **this chapter**;

2. All pleadings other than initial petitions, including all motions, answers, replies, briefs, and other papers, shall be served by the party filing same on all other parties of record concurrently with or prior to the filing of such pleading[.];

3. Except as otherwise provided elsewhere in this chapter, proof of service shall be by affidavit, by certificate of counsel, or by acknowledgement of service; in every such case such proof shall indicate the parties served and the method and date of service. Such proof of service shall be filed at the time of service of the pleading; all original receipts from the post office, from a courier, or from a process server shall be forwarded upon receipt thereof by the petitioner[.];

4. Whenever public notice is required, it shall be at the expense of the party directed to give such notice; and proof of public notice shall be made and filed in accordance with (a)3 above[.];

5. Service of pleadings other than initial petitions, notices, decisions, orders, and other papers shall be deemed valid if made by delivering one copy to each party appearing in the proceeding (or his **or her** attorney of record) in person, by certified mail, or by depositing it in the United States mail first class, postage prepaid, directed to the party (or his **or her** attorney of record) at his **or her** post office address[.];

6. Unless otherwise provided, when any party has appeared by attorney, service upon such attorney shall be deemed valid service upon the party for all future pleadings, until notice of withdrawal or dismissal of such attorney is served on all parties of record to the proceeding[.]; **and**

7. Whenever a party has the right or is required to respond within a prescribed period after the serving of a notice or other paper upon him **or her**, and notice or paper is served upon him **or her** by mail, three days from the date of mailing shall be added to the service period prescribed for the response.

16:51-2.6 Withdrawal of petition or dismissal of proceeding

(a) A petition may be withdrawn without order of the [Commission] **Division** by filing a notice of withdrawal at any stage of the proceedings prior to the issuance of the [Commission's] **Division's** decision on the petition or other final disposition of the proceeding. A proceeding may also be terminated on the approval of the [Commission] **Division** by filing a stipulation signed by all parties who have appeared in the proceeding prior to the entry of the [Commission's] **Division's** decision or order disposing of the proceeding.

(b) The [Commission] **Division** may on its own motion, or upon motion of any party to a proceeding, dismiss the proceeding for good cause shown.

SUBCHAPTER 3. PETITIONS

16:51-3.1 Petitions generally

(a) All petitions shall conform to N.J.A.C. 16:51-2, Pleadings, shall clearly and concisely state the facts and relief sought, shall state by appropriate reference the statutory provision or other authority under which the [Commission's] **Division's** action is sought, and shall contain the following information:

1. A statement as to petitioner's qualifications and standing to operate and maintain the proposed service or seek relief from the [Commission] **Division**, as the case may be;

2.-8. (No change.)

16:51-3.2 Petitions for the granting of Certificates of Public

Convenience and Necessity to Conduct Autobus Operations

(a) **The Certificate of Public Convenience and Necessity (CPCN) application form is for both Omnibus 1 and Omnibus 2 applicants, except charter bus operations. The CPCN application form is required to be submitted to the Division before registration of the**

first vehicle in the fleet. In addition to the information required pursuant to N.J.A.C. 16:51-3.1(a)1 through 7 **and the application form**, all petitions for the granting of [certificates of public convenience and necessity to conduct autobus operations] **Certificates of Public Convenience and Necessity to Conduct Autobus Operations** shall include the following:

1.-6. (No change.)

(b)-(c) (No change.)

(d) In addition to the information included in (a) above, the following information shall be included in all petitions for the granting of a [certificate to conduct special autobus operations] **Certificate of Public Convenience and Necessity to Conduct Autobus Operations**:

1.-3. (No change.)

4. In the event that a restriction is embodied in a contract that provides for closed-door or door-to-door service between or among pickup and drop-off locations, any of which are controlled by the contractor, the petitioner may omit the information required pursuant to (a)5i and ii above with regard to those locations, provided, however, that petitioner shall provide such information if required by the [Commission] **Division**.

(e) An identifying number or "MVC Number" will be issued to the motor carrier which must be displayed on each vehicle operated by the motor carrier as an Omnibus 1 or 2.

16:51-3.3 Petition for the approval of modification of a [certificate of public convenience and necessity] **Certificate of Public Convenience and Necessity to Conduct Autobus Operations**

(a) Petitions for the approval of the modification or removal of operating restrictions contained in a [certificate] **Certificate**, and petitions whose purpose is to extend or enlarge upon operating authority granted by the [Department] **Division**, shall conform to the provisions of N.J.A.C. 16:51-2, [(Pleadings)], to the extent applicable, and shall in the body thereof, or attached thereto, also provide the information required by this [Section] **section**.

(b) (No change.)

(c) The [Department] **Division** may impose restrictions as public convenience and necessity requires.

(d) The [Commission] **Division** may, in its discretion, approve without the necessity of a filed petition a minor modification of a route, if the modification is necessitated by a change in route or pickup or drop-off location of less than 1,000 feet, which change is required by a municipality, or other circumstances beyond the control of the operator, and the change will not adversely affect any other autobus [utility] **company**.

1. For approval of a minor modification without filing a petition, the autobus [utility] **company** seeking the modification shall request the same by letter to the [Commission] **Division**, in which letter the minor modification is set forth.

2. In the event that the [Commission] **Division** does not deem the change to be a minor modification, the [Commission] **Division** will advise the [utility] **autobus company** to file a petition for modification.

16:51-3.4 Petitions for approval of the transfer, including merger, or consolidation, of a [certificate of public convenience and necessity for autobuses] **Certificate of Public Convenience and Necessity to Conduct Autobus Operations**

(a) Petitions for approval of the transfer, merger, or consolidation of a [certificate] **Certificate** shall conform to the requirements of N.J.A.C. 16:51-2, Pleadings, to the extent applicable, and shall in the body thereof or in the attached exhibits, also provide the information required by this section.

(b) (No change.)

(Agency Note: The text of N.J.A.C. 16:51-3.5 below includes deleted text shown in braces {thus}, as the permanent text contains the use of brackets.)

16:51-3.5 Procedure upon filing of petitions for granting, modification, or transfer of Certificates of Public Convenience and Necessity

(a) Except as provided in (b) and (c) below, upon receipt of a completed petition accompanied by the appropriate fee, the

{Commission} **Division** will assign and advise the petitioner of the docket number and will provide the petitioner with a service list of entities to be served pursuant to N.J.A.C. 16:51-2.5 with a copy of the entire petition, including the docket number and including all attachments, exhibits, schedules, and amendments, but not including a copy of the check or money order by which fees were remitted to the {Commission} **Division**, as follows:

1.-4. (No change.)

(b) In the event that the information submitted in the petition is incomplete or unsatisfactory, the {Commission} **Division** will issue an exception letter to the petitioner and in lieu of the information set forth in (a) above, processing of the petition will not continue until the information sought in the exception letter is provided.

(c)-(d) (No change.)

(e) Within 30 days of the receipt of the service list as set forth in (a) **above**, all petitioners shall publish the following public notice once in the newspapers indicated in the service list, as follows:

PLEASE TAKE NOTICE _____
(petitioner's name)

has filed with the **Division of Inspection Services Bus Unit**, New Jersey Motor Vehicle Commission, **225 East State Street, PO Box 680, Trenton, NJ 08666-0680** a petition for a [modification/transfer of a] Certificate of Public Convenience and Necessity

for _____ autobus operations using
(type of operation)

_____. Pickup and drop-off service
(type of equipment)

will be provided in

_____.
(municipalities if regular route/counties if special)

Objections and other comments may be submitted within thirty days to the {Office of Regulatory Affairs, P.O. Box 162, Trenton, NJ 08666-0162} **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680** and to

this petitioner at _____ under
(petitioner's address)

Docket No. _____
(docket number)

(f) Original green certified receipt cards and an affidavit of publication shall be forwarded by the petitioner to the {Commission} **Division** upon receipt and shall be deemed proof of service; in the event that a certified mailing is returned undeliverable, the entire sealed envelope with green card shall be forwarded to the {Commission} **Division**.

16:51-3.6 Ex parte or emergency relief

(a) If a petitioner seeks ex parte action granting emergency relief, pending either the [Commission's] **Division's** petition review process, receipt of notice by interested parties and the public, or a full hearing, it shall particularize the necessity for emergency action. The request must be supported by affidavits sufficient to make a prima facie case that the public interest will be subject to irreparable harm if the requested emergency relief is not granted.

(b) Upon receipt of the emergency application accompanied by the appropriate fee, the [Commission] **Division** will forward to the petitioner a service list.

(c)-(d) (No change.)

16:51-3.7 Complaint petitions

(a) In addition to the information required pursuant to N.J.A.C. 16:51-3.1, all complaint petitions shall include the following statement appended thereto:

"PLEASE TAKE NOTICE that, if an answer to the within petition is not filed with the [New Jersey Motor Vehicle Commission Office of Regulatory Affairs] **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680** within twenty days of your receipt of this petition, the [Commission] **Division** may, in its discretion, enter an Order granting the relief requested herein."

(b) Upon receipt of a completed petition accompanied by the appropriate fee, the [Commission] **Division** will assign and provide a docket number pursuant to N.J.A.C. 16:51-2.5 with instructions to serve the petition pursuant to N.J.A.C. 16:51-2.5 upon all interested parties.

16:51-[3.10]3.8 Petitions for discontinuance of service

(a) A petition for discontinuance of service pursuant to N.J.S.A. 48:2-24 shall conform to the provisions of N.J.A.C. 16:51-2.7 and 3.1 to the extent applicable, and shall in the body thereof or in attached exhibits, also provide the following information:

1.-3. (No change.)

4. Proof of service of the petition upon the clerks of all municipalities and counties in which the petitioner proposes to discontinue service as well as publication of the following notice in newspapers of general circulation in all areas in which petitioner provides service:

PLEASE TAKE NOTICE that _____

(petitioner)

has filed with the **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680** a petition for a discontinuance of the following _____ operations:

(type of operations)

(if regular or casino route: route number and pickup and drop-off points)

(if special, special number and counties) currently provided in _____.

(type of equipment)

Objections and other comments may be submitted within thirty days to the [Office of Regulatory Affairs, P.O. Box 162, Trenton, N.J. 08666-0162] **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680** and to

this petitioner at _____.

(petitioner's address)

(b) No petitions for discontinuance of service shall be granted before the expiration of 30 days from the filing of the petition unless the petitioner can demonstrate to the satisfaction of the [Commission] **Division** that another autobus [utility] **company** in good standing is ready and able to assume operations of the service during the pendency of the petition.

(c) Discontinuance of service prior to or without the approval of the [Commission] **Division** may result in an order to continue service and may also result in the revocation of, or disqualification for, any other Certificate within the jurisdiction of the [Commission] **Division**.

16:51-[3.11]3.9 Joinder of requests for relief

(a) (No change.)

(b) The [Commission] **Division** may in its discretion sever matters so joined for hearing and determination or take such other action as may be in the public interest.

16:51-[3.12]3.10 Tariff filings that do not propose increases in charges to customers

(a) Except as provided in N.J.A.C. 16:53D, tariff filings for the purpose of making effective revisions, changes, or alterations of existing tariffs and that are not filed because of the need for additional revenue from products or services covered by existing tariffs and that do not propose increases in charges to customers shall conform to the provisions of N.J.A.C. 16:51-2, Pleadings, and 16:51-3.1 to the extent applicable and shall, in the body thereof or in attached exhibits, also provide the following information:

1.-3. (No change.)

4. Proof of posting of notice containing the following information in every terminal and bus affected by this filing and proof of publication thereof in a newspaper of general circulation within the area served by the routes affected by this filing:

i. (No change.)

ii. Notice that objections and comments may be submitted within 15 days to the [Office of Regulatory Affairs] **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680** and to the [utility] **autobus company**.

(b) If within 25 days after the tariff filing, the [Commission] **Division** determines that the filing is in the public interest and will not adversely affect the ability of [utility] **autobus company** to render service, a copy of the filing will be returned with the [Commission's] **Division's** approval noted thereon; however, if the [Commission] **Division** should determine that the filing is not in the public interest or would compromise the ability of the [utility] **autobus company** to render the service, the [utility] **autobus company** will be notified that the [Commission] **Division** will withhold its approval pending the filing of a petition pursuant to N.J.A.C. 16:51-[3.13]3.11.

16:51-[3.13]3.11 Tariff petitions that propose increases in charges to customers

(a) Except as provided in N.J.A.C. 16:53D, filings for the purpose of making revisions, changes, or alternations of existing tariffs that propose to increase any rate, fare, toll, rental, or charge or to alter any classification, practice, rule, or regulation so to result in such an increase (other than filings to effectuate the operation of an existing fuel adjustment clause) shall be by petition and shall conform to the provisions of N.J.A.C. 16:51-2 and 3.1 to the extent applicable and shall, in the body thereof or in attached exhibits, contain all applicable information and data set forth in N.J.A.C. 16:51-[3.12]3.10. Tariff filings that do not propose increases in charges to customers, and in addition shall contain the following:

1.-8. (No change.)

9. An itemized schedule showing all payments or accruals to affiliated companies or organizations and to those who own in excess of five percent of the [utility's] **autobus company's** capital stock regardless of the form or manner in which such charges are paid or accrued and an explanation of the service performed for such charges.

(b) (No change.)

(c) In addition to the notice required pursuant to (a) above, each [utility] **autobus company** that makes a filing under (a) above shall, unless otherwise ordered or permitted by the [Commission] **Division**, give notice thereof as follows:

1.-2. (No change.)

16:51-[3.14]3.12 [Petitions for permission to keep books and records outside the State of New Jersey] **Office location and statutory agent**

[(a) Petitions for authority to keep books, records, accounts, documents and other writings, outside the State of New Jersey, as required under N.J.S.A. 48:3-7.8, shall conform to the provisions of N.J.A.C. 16:51-2 and 3.1 to the extent applicable, and shall in the body thereof or in attached exhibits also provide the following information:

1. Complete description of the specific books, records, accounts, documents and other writings proposed to be kept outside the State of New Jersey;

2. The exact location where the books and records will be kept;

3. If all books and records will not be kept outside the State, what remaining records will be kept at the New Jersey location;

4. The reason for proposing to keep its books and records at a location outside the State;

5. The availability of adequate required space, facilities and experienced personnel at the new location;

6. The cost to the petitioner of maintaining the books and records at the new location as compared with that of maintaining the records at the New Jersey location;

7. The extent of the financial advantage to the customers and other benefits to the public utility which will result from keeping the books and records outside the State;

8. A statement that the books and records that will be kept at the location outside the State will be, on notice in writing of the Commission, produced at such time and place within the State as the Commission may designate;

9. A statement that the petitioner will pay to the Commission any reasonable expenses or charges incurred by the Commission for any investigation or examination thereby if the Commission grants said permission;

[10.] (a) The location where the petitioner will continue to maintain an office within the State of New Jersey for the convenience of its customers to pay bills, file complaints, and conduct other business with the [utility;] **autobus company**.

[11.] (b) (No change in text.)

16:51-[3.15]**3.13** Filing that proposes a change of name

(a) Filings solely for the purpose of changing the name of an existing autobus [public utility] **company** shall provide the following information at least 20 days prior to the change of name:

1.-2. (No change.)

(b) In the event that the name to be assumed by the autobus [utility] **company** is so similar to a name used by another [utility] **autobus company** as to create confusion in the public, prior to the expiration of the 20-day period, the [Commission] **Division** will withhold approval of the change of name pending the filing of a petition.

(c) In the event that no objection from the [Commission] **Division** is received within 20 days after notification of the proposed name change, the [utility] **autobus company** shall, upon filing the notification with the municipal and county clerks in the areas in which pickup and drop-off service is provided, assume the new name.

(d) In the event that the change of name is incidental to a change in ownership or control, a change in business structure, or any other change that may affect operations, the [utility] **autobus company** must request the name change by petition.

16:51-[3.16]**3.14** Procedure upon completion of filing and service or petition or notice of filing

(a) If no response, objection, or comment is received to a petition or notice of filing within the time set forth in the petition or in [these rules] **this chapter**, the [Commission] **Division** may, in its discretion, accept the allegations in the petition or filing as true and may grant the relief requested.

(b)-(c) (No change.)

SUBCHAPTER 4. MOTIONS: INTERVENTION

16:51-4.1 Motions; generally

(a) Where a party other than a petitioner seeks an order of the [Commission] **Division**, the party shall apply by motion.

1.-2. (No change.)

(b)-(d) (No change.)

16:51-4.2 Motions in writing with no oral argument, generally; time limits

(a) (No change.)

(b) The moving papers shall establish a submission date at least 20 days from the date of service upon the opposing party, when the matter will be submitted to the [Commission] **Division** for disposition. Proof of service shall be filed with the moving papers or promptly thereafter. No motion shall be submitted for disposition until proof of service has been provided.

(c)-(f) (No change.)

(g) A motion to intervene against a petition for approval, modification, or transfer of a Certificate must be filed with the [Commission] **Division** no later than 30 days after the date of service of the petition upon the movant or 30 days after the date of publication[,] of the notice pursuant to N.J.A.C. 16:51-3.5(e), whichever is later.

(h) The time requirements of the rule may be modified in the discretion of the [Commission] **Division** for good cause.

(i) In the event that an immediate order of the [Commission] **Division** is necessary to prevent irreparable harm, the movant shall set forth the nature of the emergency in [this] **his or her** moving papers.

1. Upon delivery of the motion to the [Commission] **Division** and to the respondent, the movant shall schedule a conference call with the respondent and a representative of the [Commission] **Division**.

2. In the event that a conference call cannot be scheduled within two working days, the [Commission] **Division** may, in its discretion, issue an Order granting interim relief.

16:51-4.3 Affidavits, briefs, and supporting statements

(a) (No change.)

(b) In the discretion of the [Commission] **Division**, a party or parties may be required to submit briefs or supporting statements pursuant to the schedule established in N.J.A.C. 16:51-4.2 or as ordered by the [Commission] **Division**.

SUBCHAPTER 5. REHEARING OR RECONSIDERATION

16:51-5.1 Motions for rehearing or reconsideration

(a) A motion for rehearing or reconsideration of a proceeding may be filed by any party within 10 days after the issuance of any final decision or order by the [Commission] **Division**.

1. Such motion shall state in separately numbered paragraphs the alleged errors of law or fact relied upon and shall specify whether reconsideration, rehearing, or further hearing is requested and whether the ultimate relief sought is reversal, modification, vacation, or suspension of the action taken by the [Commission] **Division**, or other relief.

2. (No change.)

(b) The [Commission] **Division** at any time may order a rehearing or reconsideration on its own motion and extend, revoke, or modify any decision or order made by it.

16:51-5.2 Motions and answers on rehearing

(a) A copy of the motion shall be served by the moving party upon all other parties or their attorneys of record; forthwith upon the filing hereunder the moving party shall also give such notice as the [Commission] **Division** may direct of the filing of the motion to all other persons to whom notice of the original proceeding had been given.

(b) (No change.)

(c) Any motion hereunder, which is not granted or otherwise expressly acted upon by the [Commission] **Division** within 60 days after the filing thereof, shall be deemed denied.

(d) The filing or granting of any motion under this [rule] **section** shall not operate as a stay of the [Commission's] **Division's** decision or order. A stay will be granted only for good cause shown.

SUBCHAPTER 6. CONFERENCES

16:51-6.1 Purpose[s]

(a) (No change.)

(b) Unaccepted proposals of settlement and proposed stipulations not agreed to shall not be taken into account in the [Commission's] **Division's** disposition of a petition or other pleading.

SUBCHAPTER 7. REPORTING ACCIDENTS

16:51-7.1 Procedures

(a) Accidents resulting from the operations, use, or maintenance of autobuses shall be reported as follows:

1. Report by mail to the [Commission's Commercial Bus] **Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, P.O. Box 680, Trenton, NJ 08666-0680**, on the

form prepared for this purpose within 48 hours of the occurrence of the accident. (Forms may be obtained from the [Commercial Bus] **Division of Inspection Services Bus Unit**); and

2. Notify the Unit immediately by telephone [between 8:30 A.M. and 4:30 P.M. and at all other times notify one of the persons listed in the Commission's Autobus Accident Contact Persons List (available from the Commercial Bus Inspection Unit) immediately by telephone] **or email at CBIU@dot.state.nj.us**, in the case of any of the following:

i.-v. (No change.)

(b) (No change.)

(c) The autobus company shall not take corrective measures prior to the inspection, **by an employee of the Division trained to perform post-accident autobus inspection**, of said [utility's] **autobus company's** vehicle involved in the accident [by an employee of the Commission trained to perform post accident autobus inspection], if the accident is of a type described in [N.J.A.C. 16:51-7.1](a)2 **above**.

SUBCHAPTER 8. PROVISION OF SERVICE

16:51-8.1 Commencement of operations

(a) The operation of a route that has been approved by the [Commission] **Division** shall be inaugurated within 60 days from the date of said approval. Failure to do so shall terminate the [Commission's] **Division's** approval and make the same inoperative and void.

(b) (No change.)

16:51-8.2 Change of route

There shall be no deviation from the approved route without the approval of the [Commission] **Division** except in emergency, in which case the [Commission] **Division** shall be promptly notified of such change. The approved route must be resumed immediately upon removal of the cause for temporary rerouting.

16:51-8.3 Discontinuance of service

(a) No autobus or trolley [utility] **company** shall discontinue the operation of a route or routes, or a portion thereof, without first filing a petition with the [Commission] **Division** pursuant to N.J.A.C. 16:51-3.10**3.8**.

(b) Should any [utility] **autobus or trolley company** discontinue operation without the permission of the [Commission] **Division**, the [Commission] **Division** may summarily invoke the sanctions provided by law.

16:51-8.4 Interruption of service

Where service on a route or routes has been interrupted and such interruption appears likely to continue for a period in excess of four hours, a report shall be made to the [Commission] **Division** by the speediest means of communication available, with a full statement of the cause and probable duration. The public along the route or routes shall be promptly notified of service interruptions by such means as are feasible and practicable including announcements and notices at terminals and ticket offices, if any, and notification to news disseminating agencies and municipalities affected. Telephone reports shall be promptly confirmed by a telefacsimile, an electronic mail, or a written report.

16:51-8.5 Emergency equipment

(a) All autobus [utilities] **companies** shall maintain sufficient reserve equipment to ensure the reasonable maintenance of the established routes and fixed time schedules.

(b) Autobus [utilities] **companies** may share reserve equipment with other [utilities] **autobus companies**, provided that the equipment is so reported by the owner or lessee as available to lend to other [utilities] **autobus companies** in an emergency as follows:

1. (No change.)

2. The report must include the names of other [utilities] **autobus companies** to which the equipment will be made available; and

3. (No change.)

16:51-8.6 Stops before grade crossings

All autobus [utilities] **companies** shall have their vehicles come to a full stop before crossing the tracks of any railroad at grade: such stop to be made not less than 15 feet nor more than 50 feet from the nearest rail,

the stopping point to be determined by the physical conditions at the crossing, which conditions permit a view of approaching trains from the near rail of the tracks before proceeding from stop position.

16:51-8.7 Doors to be closed

All autobus [utilities] **companies** shall keep the doors of the vehicles closed when the vehicles are in motion.

16:51-8.8 Drivers conversing

Autobus [utilities] **companies** shall not allow the drivers of any autobus to engage in any unnecessary conversation with the passengers.

16:51-8.10 Certificate of [public convenience and necessity] **Public Convenience and Necessity** of limited duration for emergencies

(a) Certificates of [public convenience and necessity] **Public Convenience and Necessity** authorizing autobus operations by private or public entities or carriers for a specified period of limited duration may be granted by an order of the [Commission] **Division** for purposes of assuring that the transportation needs of the public are met with respect to emergency, extraordinary, unusual, or very rare events. Because of the emergent or extraordinary transportation needs of the public, the provisions of such order may supersede for the period of its limited duration the autobus [regulations] **rules** of the [Commission] **Division** or portions thereof.

(b) The order of the [Commission] **Division** shall include the duration and extent of its applicability and controlling application, and shall establish such conditions and restrictions as the [Commission] **Division** deems necessary to protect the public interest. Conditions and restrictions specified in the order of the [Commission] **Division** shall include the following:

1.-6. (No change.)

7. Any other condition, requirement, or limitation deemed necessary by the [Commission] **Division** for the public interest.

(c) (No change.)

(d) The order may be issued by the [Commission] **Division** for the public interest, with or without a request or petition [therefore] **therefor**.

16:51-8.11 Autobus leases

(a) [Autobus leases filed by any autobus company shall] **Any autobus company filing an autobus lease with the Division shall affirm under penalty of perjury that the lease contains the following information:**

1. (No change.)

2. The name, address, and telephone number of the authorized carrier/autobus company (lessee);

3. The [Commission] **Division** Docket Number and the charter number, special number, or route file number of the autobus company (lessee) or the FHWA/USDOT number of the autobus company (lessee)[.];

4.-7. (No change.)

8. A cancellation/amendment clause including provisions regarding the following:

i. The duty of parties to notify the [Commission Office of Regulatory Affairs] **Division** within five days of the cancellation and/or amendment of a lease;

ii. (No change.)

iii. The duty of parties to present vehicle to the [Commission] **Division** for removal of inspection sticker and for return of certificate of inspection;

9. The fleet number, make, model, year, Vehicle Identification Number, seating capacity and [Commission's] **Division's** vehicle number (if known) of each vehicle covered by the lease; and

10. (No change.)

(b)-(d) (No change.)

(e) The Division shall not be responsible for the implementation, operation, or cancellation of a lease.

SUBCHAPTER 9. OFFICES

16:51-9.1 Location

(a) Each [utility] **autobus company** shall maintain in, or within reasonable proximity of, its service area an office (that is, in addition to

any post office box) where application for service, complaints, service inquiries, bill payments, and so forth, will be received. The [utility] **autobus company** shall furnish the street address and telephone number of the office and any changes thereto to the [Commission] **Division**.

(b) Each [utility] **autobus company** shall furnish the [Commission] **Division** with the current street address (not post office box) and telephone number and any changes thereto of the offices where maps and records covering the various service areas are available to supply, upon reasonable request, information to customers, governmental bodies, and other [utilities] **autobus companies** and contractors.

16:51-9.2 Personnel to be available

(a) Each [utility] **autobus company** shall furnish to the [Commission] **Division** and keep current a list of names, addresses, and telephone numbers of responsible officers or employees to be available in connection with routine matters during normal working hours.

(b) Each [utility] **autobus company** shall also furnish to the [Commission] **Division** and keep current a list of names, addresses, and telephone numbers of responsible officers or employers who will be available in the event of emergency during other than normal working hours.

16:51-9.3 Emergency telephone numbers

[(a)] Each public [utility] **autobus company** shall maintain a listed emergency number in appropriate telephone directories, and file same with police departments, fire departments, municipal clerks, and other appropriate governmental agencies.

SUBCHAPTER 10. RECORDS

16:51-10.1 Location and examination

Each [public utility] **autobus company** shall notify the [Commission] **Division**, upon request, of the office or offices at which various records are kept. These records shall be open for examination by the [Commission's] **Division's** inspectors.

16:51-10.2 Periodic reports

(a) Every [utility] **autobus company** shall file with the [Commission] **Division** on or before March 31 of each year a summary of its finances and operations for the preceding calendar year on forms prescribed and furnished by the [Commission] **Division**; **this does not apply to any person or party who possesses a valid Certificate to conduct autobus operations**. In special instances, [utilities] **autobus companies** may be required to submit reports quarterly and monthly as directed by the [Commission] **Division**. Other periodic reports shall be filed on or before the due date noted on the report form.

(b) In the event that any report required pursuant to (a) above cannot be filed within time, an extension of time for good cause may be granted by the [Commission] **Division**, provided that the extension is requested prior to the expiration of time within which the report is due.

SUBCHAPTER 11. NOTICE REGARDING CHANGES IN FARES OR OPERATING SCHEDULES

16:51-11.1 Notice regarding fares

(a) In order that adequate and proper notice may be given to the public of any hearing, change in schedule, or fares, or any matter in which the [Commission] **Division** may require that public notice be posted, every [public utility] **autobus company** owning, operating, managing, or controlling any bus service operation for public use within the State of New Jersey by the approval of the [Commission] **Division** shall post such notices in the vehicles and places required by the [Commission] **Division**, so as to be plainly visible to the public.

(b)-(d) (No change.)

16:51-11.2 Notices regarding operating schedules

(a) In order that adequate and proper service may be continuously assured, every [public utility] **autobus company** owning, operating, managing, or controlling any autobus operation for public use within the State of New Jersey with approval of the [Commission] **Division**, shall, not less than 30 days before putting into effect any change or alteration in any existing operating schedule that would result in a reduction of service

or change or alter headways and the arriving or leaving time of the vehicle, comply with the following:

1. File with the [Commission] **Division**, by mailing to the [office] **Division** or by delivery thereto a copy of the notice setting forth therein the proposed change or alteration;

2. File with the clerk of each municipality served and affected by the proposed changes or alteration, two copies of the aforesaid notice; **and**

3. Post the notice of its intent to change or to alter its schedule in the vehicles operated by it. Such notice shall contain the following information:

i.-ii. (No change.)

iii. The date on which the notice has been filed with the [New Jersey Motor Vehicle Commission] **Division** and that comments and objections may be addressed to the [utility] **autobus company** and to the [Commission] **Division** within 20 days of the posting of the notice.

(b) Unless denied by the [Commission] **Division** pending the receipt of a petition, the [public utility] **autobus company** may, 30 days after the posting of the aforesaid notice, place the change or alteration into effect and shall immediately notify the [Commission] **Division** in writing whether or not the proposed schedule change is being effectuated.

SUBCHAPTER 12. COMPLIANCE WITH ORDERS AND DECISIONS

16:51-12.1 Extension of time limits

In instances where the [Commission's] **Division's** decision or order contains a specific time or date of compliance, and the petitioner desires extension of such time limit, petition to the [Commission] **Division** shall be made in writing at least five days before the expiration of the time limit.

16:51-12.2 Answers to communications

Unless otherwise specified, any letter, [or] telefacsimile, or other written communication from the [Commission] **Division** directing investigation of any matter under its jurisdiction must be complied with by the autobus company and a report received by the [Commission] **Division** within 15 days from the date of the letter. If circumstances prevent compliance with this [rule] **section**, the autobus company must advise the [Commission] **Division** in writing, within the above prescribed period, of its inability to comply and the reasons therefor.

(a)

DIVISION OF MULTIMODAL SERVICES

Airport Safety Fund Program

Proposed Readoption with Amendments: N.J.A.C. 16:56

Proposed Recodifications with Amendments:

N.J.A.C. 16:56-1.2, 5.1, 5.2, 5.3, 5.4, and 5.5 as 2.1, 7.1, 7.2, 7.3, 6.1, and 6.2, respectively

Proposed New Rules: N.J.A.C. 16:56-1.2 and 6.3

Proposed Repeals: N.J.A.C. 16:56-2.6 and 6

Authorized By: James S. Simpson, Commissioner, Department of Transportation.

Authority: N.J.S.A. 6:1-29, 6:1-44, 6:1-89 et seq., 27:1A-5, 27:1A-6, and 27:1B-1 et seq.

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2013-141.

Submit written comments by December 6, 2013 to:

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