

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska) Rule and Regulation No. 211
Public Service Commission, on)
its own motion, seeking to)
amend Title 291, Chapter 3,) ORDER RELEASING SECOND
Motor Carrier Rules and) PROPOSED RULES, SEEKING
Regulations, to adopt rules) COMMENT, AND SETTING HEARING
modifying driver requirements)
for licensees transporting)
employees of railroad)
carriers.) Entered: June 4, 2024

BY THE COMMISSION:

On January 17, 2024, the Nebraska Public Service Commission ("Commission"), on its own motion, opened the above-captioned docket to amend provisions of the Commission's rule and regulations, Title 291, Chapter 3, to adopt rules modifying driver requirements for licensees transporting employees of railroad carriers.

An initial draft of the regulations was attached to the January 17th Order. Written comments, due February 20, 2024, were submitted and received by the Department.

A hearing was held on March 5, 2024. Greg Walklin appeared on behalf of the Department. No other attorneys appeared on behalf of any of the commenters. The January 17, 2024 Order, four written comments, and notice of hearing were marked and accepted as exhibits 1-6.¹

C O M M E N T S A N D H E A R I N G

1. Review of Written Comments

Written comments were provided to the Commission from Railcrew Xpress (RCX), BNSF Railway (BNSF), SMART TD, and VIP Limousine.

RCX, in their written comments, disfavored most of the proposed regulations. First, RCX noted that they many of their trips cross state lines, and so having different requirements in Nebraska may be ineffective in addressing these rides. RCX also expressed concerns that the proposed regulations, by not including things such as time limitations on the lookback for previous

¹ See Transcript, 5-7.

offenses, or an appeal process for individuals who feel they were improperly denied on account of a past criminal conviction, may run afoul of federal requirements, including the Equal Employment Opportunity Commission's guidance on background checks pursuant to Title VII, and requirements imposed under certain entities by the Federal Credit Reporting Act. RCX further noted that, to comply with the proposed regulations, they would have to immediately terminate approximately 10% of their workforce, which they said would lead to delays and downstream effects with their customers.

One such customer, BNSF, who stated it contracted with RCX for rail crew transportation, also expressed concerns with the regulations. BNSF was concerned with RCX's assertion that the regulations would cause immediate terminations in RCX's workforce, which BNSF wanted the Commission to investigate in detail. BNSF also emphasized its view that RCX had a strong safety record and a dearth of employee complaints about its drivers. BNSF urged the Commission to specifically define a few of the proposed crimes that would, under the proposed regulations, cause automatic disqualification of a driver.

SMART TD, meanwhile, provided written comments focusing on including additional requirements on inspections of vehicles and drug screening for rail crew drivers.

Lastly, VIP Limousine's comments did not specifically address any portions of the proposed regulations, but focused on Commission regulation of other motor carriers, and its background check requirements and drug screening requirements for those carriers.

2. Hearing on March 5, 2024

First, Dillon Keiffer-Johnson testified on behalf of the Department.² Keiffer-Johnson testified that Rule and Regulation No. 211 was initiated as a "direct result of the findings and the information found in PI-247."³

All of the parties who provided written comments also provided testimony, with the exception of VIP Limo.⁴ As well, the Commission

² Transcript, beginning at 8.

³ Transcript, at 8. See also *In the Matter of the Nebraska Public Service Commission, on its own Motion, seeking to investigate background check and hiring practices of Common carriers, Contract carriers, and Licensees*, Order Issuing Findings and Closing Investigation (February 6, 2024)

⁴ RCX and SMART TD had multiple representatives provide testimony.

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heard testimony from two representatives from Union Pacific Railroad; Amber Gadeken-Long, an RCX driver; and Jasmine Harris, the Director of Public Policy and Advocacy for RISE.

Andrew Foust, Legislative Director for SMART TD, testified after Director Keiffer-Johnson. Foust noted his concern that the regulations currently allowed rail crew carriers to "hire registered sex offenders" and others convicted of other offenses.⁵ He noted that his organization felt most strongly about the Commission adopting requirements for rail crew carriers to disqualify drivers who had driven under the influence or who were a registered sex offender, as well as the other limitations in the proposed regulations.⁶ Foust did say he supported some limitations on lookback for violent offenses, however.⁷

Foust also expressed a desire for rail crew carriers to have similar requirements as transportation network companies (TNCs) on drug and alcohol screening, background checks, and that inspection requirements for rail crew carriers be beefed up to match requirements for TNCs.⁸

Foust also discussed specific individuals who were registered sex offenders but also, he said, drivers for RCX, and concerns he had over whether requirements for vehicle registration were being adhered to by those individuals under the Sex Offender Registration Act⁹ and other similar laws.¹⁰

Brian O'Hara, the President and Chief Executive Officer of RCX, also testified. O'Hara expressed many concerns with the proposed regulations. O'Hara stated that he expected that, if the regulations were implemented, RCX would have to terminate 25 employees.¹¹ He also stated that all of his hires must go through E-Rail Safe, a certification program that includes background

⁵ Transcript, at 11.

⁶ Transcript, at 11-12

⁷ Transcript at 23.

⁸ Transcript, at 13.

⁹ See Neb. Rev. Stat. §§ 29-4001 et seq.

¹⁰ Transcript, at 14-17.

¹¹ Transcript, at 34-35. O'Hara later stated that they had about 250-300 total drivers employed in the State of Nebraska.

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checks.¹² O'Hara stated that RCX also has restrictions that were more stringent than e-Rail.¹³

O'Hara further noted that an individual had filed a current charge at the Equal Employment Opportunity Commission against RCX, after being terminated from employment based on a previous offense.¹⁴ He conveyed that RCX's concern with the proposed regulations was that they may have a disparate impact on certain protected classes and may cause his company some compliance problems with the Fair Credit Reporting Act.¹⁵

RCX, O'Hara testified, had a good safety record and that they had spent "a ton of money on safety, upgrades to vehicles to keep people safe."¹⁶ BNSF, he provided, has a mechanism for reporting driver and vehicle safety issues to RCX.¹⁷

He stated that he thought Nebraska was currently rail crew carriers most regulated state.¹⁸ O'Hara expressed concern that the rail crew carriers were being singled out and similar provisions were not being applied to other carriers.¹⁹ Overall, he explained that he did not have issues with the regulations imposing some disqualifying offenses, but would like clear time limits imposed.

O'Hara further testified that intrastate Nebraska trips make up about 50% of the trips staffed by RCX employees in the state.²⁰ On questioning from counsel for the Department, he noted that the majority of his drivers are over the age of 50.²¹ Of the 25 he thought would have to be terminated should the regulations be adopted as first proposed, he estimated 8 or 9 were registered sex offenders.²²

¹² See <https://erailsafe.com/usa/>

¹³ Transcript, at 35.

¹⁴ Transcript, at 37.

¹⁵ Transcript, at 39

¹⁶ Transcript, at 41. He later testified these included backup cameras, among other safety features.

¹⁷ Transcript, at 47.

¹⁸ Id.

¹⁹ Transcript, at 48.

²⁰ Transcript, at 48.

²¹ Transcript, at 52.

²² Transcript, at 57.

After RCX, Jeffrey Davis from BNSF Railway testified. Although BNSF relied on multiple companies for their rail crew transportation, BNSF contracts with RCX for a substantial amount of it.²³ Davis expressed concerns principally with the inclusion of property damage, theft, and acts of violence being disqualifying offenses in the regulations.²⁴ Davis also noted that, if RCX was forced to terminate 10 percent²⁵ of its workforce because of regulatory changes, he projected that BNSF would be impacted, and that its operations would be restricted.²⁶ Overall, Davis sought better and more specific definitions of the terms in the regulations, such as limiting disqualifying offenses to felonies, and limitations for how long ago disqualifying offenses occurred.²⁷ Davis also suggested the regulations should include "some mechanism for people who are already driving or seeking to drive to seek approval."²⁸

Davis also noted that he had no issue with defining vehicle inspections in the manner suggested by Foust.²⁹

Hannah Arrieta, Director of Strategic Sourcing for Union Pacific Railroad, and Tonya Eggspuehler, its Assistant Vice President of Human Resources, testified on behalf of the company.

Arrieta testified that the proposed regulations "could have serious operational impacts to the railroad and Nebraska shippers and communities."³⁰ Arrieta said that the rule was too restrictive.³¹ She said that a reduction in employees for rail crew carriers would mean slower railroad freight movement and an increase in stopped trains and blocked crosses, especially during

²³ Transcript, at 75.

²⁴ Transcript, at 72.

²⁵ RCX stated that 25 people, or approximately 10% of its work force, would be impacted by the regulations.

²⁶ Id. See also Transcript, at 75.

²⁷ Transcript, at 73.

²⁸ Id.

²⁹ Transcript, at 74.

³⁰ Transcript, at 82.

³¹ Id.

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adverse weather.³² Arrieta testified that UP contracts with RCX for transportation.³³

Eggspuehler noted that written comments discussed initiatives at Union Pacific, including its second chance hiring program, and was testifying in response.³⁴ Eggspuehler testified that approximately one in four Americans possess a criminal record, and expressed concern that these Americans may be completely excluded from the workforce.³⁵ She said that Union Pacific's second chance hiring program involved the consideration of individuals who may have a criminal record but could still be safely employed at their company.³⁶ Eggspuehler said the proposed regulations were "unnecessarily burdensome" and "inflexible," in that they would prevent the employer from considering specific circumstances regarding an individual's criminal history, including factors such as the duration of time between criminal acts, or between the criminal act and the time employment is being sought, and whether the individual has taken any steps to be rehabilitated.³⁷ Eggspuehler provided some additional testimony on Union Pacific's process when considering applicants who have had a criminal violation in the past.³⁸

The Commission also heard testimony from Amber Gadeken-Long, who is currently serving as a driver for RCX. Gadeken-Long testified about her own background, and her general opinion that sex offenders should not be penalized and removed from jobs they have because of legal restrictions.³⁹ She noted that the vehicles she drives have cameras and emergency buttons installed, and that there is a process for crews to make complaints about drivers.⁴⁰ Gadeken-Long stated that there are not usually situations where a single rail crew member is a car with any RCX driver.⁴¹

³² Id.

³³ Transcript, at 86.

³⁴ Transcript, at 92.

³⁵ Transcript, at 93.

³⁶ Id.

³⁷ Transcript, at 94.

³⁸ Transcript, at 99-100.

³⁹ Transcript, at 104.

⁴⁰ Transcript, at 104-105. See also Sandy Walker's testimony at Transcript 139-140.

⁴¹ Transcript, at 110.

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Jasmine Harris, Director of Public Policy and Advocacy at RISE, testified next, noting she was opposed to the proposed regulations.⁴² Harris testified about RISE's rehabilitative programs, which assists incarcerated and previously incarcerated individuals.⁴³ Harris said that what should be taken into consideration in looking at individuals' backgrounds is what specifically relates to the responsibilities of the occupation itself.⁴⁴ She stated she was concerned with the proposed regulations not having any limit to how far they look back on previous offenses.⁴⁵ She testified that stricter laws and requirements have not, in her opinion, shown an increase in public safety.⁴⁶ Harris said the Commission should specifically look at time periods in terms of how many years post-conviction, instead of post incarceration.⁴⁷ Harris did not express concern with the traffic or driver-related offenses.⁴⁸ She stated a general preference for a lookback of three years on most other offenses.⁴⁹ She also noted that requirements preventing individuals from being hired for having certain criminal offenses in their background may have a disparate impact on certain protected classes, such as African-Americans, Latinx, and Native Americans.⁵⁰

The Commission also heard testimony from Sonny Fankhauser, who testified about an incident that had happened with a RCX driver in 2022.⁵¹

Sandy Walker, Vice President of Risk Management for RCX, testified on behalf of her company. Walker testified about the E-Rail Safe program, which includes background checks for all of their hires, as well as RCX policies and procedures in hiring, which include looking at whether an individual has a drug or

⁴² Transcript, at 112.

⁴³ Transcript, at 112-115.

⁴⁴ Transcript, at 115.

⁴⁵ Transcript, at 118.

⁴⁶ Transcript, at 119.

⁴⁷ Transcript, at 120.

⁴⁸ Transcript, at 123.

⁴⁹ Transcript, at 124.

⁵⁰ Transcript at 126-127.

⁵¹ Transcript, at 129-130.

alcohol driving conviction in the last three years.⁵² RCX also looks at other crimes that may cause them to exclude a candidate, which could include credit card fraud, if there were multiple violations, or other crimes if repeated.⁵³ She stated that the e-Rail Safe program lookback period is seven years from the date of conviction and five years from the date of release.⁵⁴ Walker testified that she thought RCX's existing processes were sufficient to keep individual rail crew workers safe.⁵⁵

Upon questioning, Walker noted that she was aware of two RCX vehicles that were stopped by law enforcement officers, both for speeding.⁵⁶ She provided that RCX employees were drug tested randomly.⁵⁷ Walker noted that in her eight years with RCX there had not been any sexual assault allegations made against any RCX employees.⁵⁸

Lastly, Amanda Snide, Assistant State Director for SMART TD's Nebraska Legislative Board, testified. She stated that some of the vehicle safety features noted by Walker and Gadeken-Long were actually for the driver's safety, not the passengers.⁵⁹ Citing statistics on the rate of recidivism of male sex offenders, Snide expressed concern with her and other rail crew passengers' safety when they were being transported by an individual who was a registered sex offender.⁶⁰

O P I N I O N A N D F I N D I N G S

Based on the commentary received by the Commission, both in writing and at the March 5, 2024 hearing, the Commission is therefore proposing a modification to the first set of proposed rules.

The second proposed regulations retain all of the offenses related to motor vehicles and driving contained in the first set

⁵² Transcript, at 134.

⁵³ Id. See also Transcript, at 137.

⁵⁴ Transcript, at 135.

⁵⁵ Transcript, at 138.

⁵⁶ Transcript, at 141-143.

⁵⁷ Transcript, at 143.

⁵⁸ Transcript, at 146.

⁵⁹ Transcript, at 149.

⁶⁰ Id.

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of proposed regulations, including—but not limited to—the offenses related to reckless driving, driving while under the influence, and speeding. It also retains as a disqualifying offense when an individual was convicted, or pled guilty or nolo contendere, to use of a motor vehicle to commit a felony, although for this offense it sets a lookback period limitation of seven (7) years. The Commission finds these offenses, directly related to the safe operation of a motor vehicle, most firmly connected with ensuring the safe transportation of rail crews.

Additionally, the second proposed regulations retain, as a disqualifying offense, sex-related crimes. It disqualifies all individuals who are registered sex offenders if, and only if, they were convicted of a misdemeanor or felony that required them to register as a sex offender within the last seven (7) years. The Commission believes these disqualifications will ensure safety of rail crew carriers while still complying with Title VII and the Fair Credit Reporting Act, and also while allowing individuals with older convictions the ability to rehabilitate and find work as a rail crew driver—if they otherwise meet the requirements of the rail crew transportation companies, E-Rail Safe, and other requirements.

The second proposed regulations do not include any other offenses that would be automatically disqualifying. Based on the hearing, and on written testimony, the Commission finds that these offenses are likely being already screened out, as appropriate, by individualized policies and procedures of the rail crew carriers and railroads in their contractual and operational policies and practices, and doing so in a manner that attempts to comport with federal law, including Title VII and the Fair Credit Reporting Act.

Based on testimony at the hearing, and on written comments, the second proposed regulations include a requirement that the name and photograph of any driver operating the vehicle be displayed in full view of passengers. The added language is similar to the requirements for a taxicab operator under 291 Neb. Admin. Code 3-010.02(J). The Commission finds that allowing passengers the ability to more easily identify drivers provides notice to passengers of who the driver is as well as assists passengers in identifying a driver if they wish to file a complaint.

Additionally, language was added to require carriers to ensure that their drivers comply with all applicable state laws, such as driving laws and vehicle registration requirements. The

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Commission finds that driver compliance with state laws is important to ensure that vehicles under the jurisdiction of the Commission do not put the public at risk.

The second set of proposed rules are set forth in Appendix B.

Interested parties may file written comments with the Commission **on or before 3:00 p.m. CST on July 8, 2024**. Parties should email comments to both brittany.seabrooks@nebraska.gov and psc.motorfilings@nebraska.gov.

The Commission also finds that this matter should be set for hearing on **Monday, July 22, 2024 at 1:30 p.m. CST** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska, and via web conference, available at <http://psc.nebraska.gov/stream>.

If auxiliary aids or reasonable accommodations are needed for attendance at the meeting, please call the Commission at (402) 471-3101. For people with hearing/speech impairments, please call the Nebraska Relay System at (800) 833-7352 (TDD) or (800) 833-0920 (Voice). Advance notice of at least seven (7) days is needed when requesting an interpreter.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that the second set of proposed rules and regulations amending Title 291, Chapter 3 Motor Carrier Rules and Regulations be, and are hereby open for public for comment.

IT IS FURTHER ORDERED that public comment on the proposed amendments should be filed by interested parties on or before **3:00 p.m. CST on July 8, 2024** as set forth herein.

IT IS FINALLY ORDERED that a hearing on this matter is set for **Monday, July 22, 2024 at 1:30 p.m. CST** in the Commission Hearing Room, 1200 N Street, Suite 300, Lincoln, Nebraska, and via webconference, available at <http://psc.nebraska.gov/stream>.

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ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska, this 4th day of June, 2024.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Eric M. Hamler

[Signature]

Tim Schram

Kevin Stocker

[Signature]

Chair

ATTEST:

Thomas W. Golden
Executive Director

TITLE 291 – Public Service Commission

CHAPTER 3 – Motor Transportation Rules & Regulations

001 GENERAL.

001.01 DEFINITIONS. The definitions found in Neb. Rev. Stat. §75-302 (Reissue 2018) apply to these rules. In addition to those definitions, the following apply to this chapter, unless the context otherwise requires.

001.01(A) COMMISSION. The Nebraska Public Service Commission.

001.01(B) DRIVER. Any person who operates a motor vehicle.

001.01(C) LIMOUSINE. A vehicle used to provide limousine service.

001.01(D) LOW SPEED VEHICLE. a (1) four-wheeled motor vehicle (a) whose speed attainable in one mile is more than twenty miles per hour and not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) that complies with 49 C.F.R. part 571, as such part existed on January 1, 2019, or (2) three-wheeled motor vehicle (a) whose maximum speed attainable is not more than twenty-five miles per hour on a paved, level surface, (b) whose gross vehicle weight rating is less than three thousand pounds, and (c) which is equipped with a windshield and an occupant protection system.

001.01(E) NPSC PLATE. A license plate which is issued by the Commission to holders of Commission authority.

001.01(F) ON DEMAND. Service requested by street hail; offered at a cab stand, airport feeder lines, bus stations, or similar staging area; personal summoning by a passenger; or personal solicitation by a driver of the vehicle or an employee, contractor, or agent of the carrier;

001.01(G) PREARRANGED. Service requested and arranged in advance of the time that the service is to be performed. Nothing in this definition will be construed to allow on demand services. This definition will not replace the definition of prearranged in § 012.02(I) of the rules pertaining to Transportation Network Companies;

001.01(H) PREMIUM FARE. A rate based on an hourly rental of not less than one (1) hour at a scheduled rate which will be set, and periodically reviewed, by the Commission and which will include a minimum rental of not less than one hour. A mileage charge may be assessed for the transportation of the vehicle only for such time before and after the transportation is provided and only in addition to the minimum hourly charged as provided by this definition.

001.01(I) TAXI SOFT METER. a mechanical or digital device that calculates the time-and-distance fares for a taxicab service by software-based devices that utilize GPS or other measurement data in the calculation of time-and-distance fares for taxicab service.

001.01(J) TAXIMETER. a mechanical or digital device that calculates the time-and-distance fares for a taxicab service by a physical connection to the vehicle.

001.02 MATTER TO BE SET FOR HEARING. All matters that require a hearing will be set for hearing at the earliest practicable date and in no event, except for good cause shown, will the time fixed for hearing be more than six (6) months after the date of the filing of the petition. Any application that is not set for hearing as set forth above will be dismissed.

001.03 REQUIREMENTS FOR AN EFFECTIVE COMMON OR CONTRACT CARRIER AUTHORITY.

001.03(A). The following requirements must be fulfilled no later than forty-five (45) days following the date an authority is granted by the Commission.

001.03(A)(i). Filing of proposed rates;

001.03(A)(ii). Filing of Commission required insurance documents; and

001.03(A)(iii). Payment of Annual Fees

001.03(B). An authority issued by the Commission is not effective until the requirements of subsection 001.03A have been fulfilled.

001.03(C). If after forty-five (45) days an applicant has not fulfilled the requirements of subsection 001.03A above, the Commission's grant of authority will be considered null and void.

002 OPERATIONS RULES.

002.01 UNAUTHORIZED OPERATIONS. Unless specifically exempted by statute, a regulated motor common or contract carrier of passengers, a licensed carrier of household goods, or a licensed carrier transporting employees of a railroad carrier will not operate any motor vehicle on any public highway in this state except in accordance with state law and these rules. A motor carrier transporting household goods or employees of a railroad carrier will not operate upon any public highway without first having obtained from the Commission a license and will not operate except in compliance with the terms and conditions and restrictions of the license. A regulated motor common or contract carrier passengers will not operate upon any public highway without first having obtained from the Commission a certificate or permit of authority and will not operate except in compliance with the terms and conditions and restrictions of the authority or permit. A licensed carrier or regulated motor common or contract carrier does not avoid the jurisdiction of the Commission by engaging in a lease. No carrier, without first obtaining written Commission approval, will.

002.01(A). Fail to operate over its entire certificated route.

002.01(B). Discontinue in any part service authorized.

002.01(C). Serve any part of its certificated route by interline agreement with another carrier.

002.01(D). Fail to confine its operations to those authorized under its license, certificate or permit.

002.02 RATES. Each regulated motor carrier will charge and collect rates, issue and deliver freight bills, and obtain receipts showing delivery of shipments carried, as prescribed by the Commission in its effective Motor Vehicle Tariffs, schedule of charges, and supplements.

002.03 DEVIATIONS FROM ROUTES. A carrier which has received authority from the Commission to operate only along a designated route may not deviate from their authorized route unless such route has been redesignated, relocated or temporarily closed, when such route has been obstructed by any natural or other cause over which the regulated motor carrier has no control, or when a detour has been designated by the Department of Roads, law enforcement, or an authorized agency of a political subdivision of the state.

002.04 SCHEDULES. Schedules containing the actual rates or charges of such regulated motor carrier for the transportation of passengers in intra-state commerce will be filed with and approved by the Commission, published and kept open for public inspection. In the event that such rates are changed after a permit is issued, the carrier will file a new schedule with the Commission ten (10) days before the effective date of such rates or charges.

003 CLASSIFICATIONS. Pursuant to Neb. Rev. Stat. §75-304, the Commission determines that the following classifications of motor carriers are necessary or desirable in the public interest. All certificates and permits issued by the Commission will be construed and interpreted, and the operations authorized will be tested and determined in accordance with these classifications.

003.01 SERVICE CLASSIFICATIONS. Every applicant for common or contract transportation will designate the type of transportation service requested from the classifications found in this section and will further designate whether (1) such service as requested will be provided as a common carrier or as a contract carrier and, if a contract carrier, the persons or entities contracted with; (2) the service, if granted, will be provided over (a) a regular route which route shall be described in the application or (b) an irregular route which territory the applicant seeks to provide transportation which will be described, and (3) any other restrictions will be applicable. An applicant who desires to transport household goods, employees of railroad carriers, or clients of the Nebraska State Department of Health and Human Services or any contractors of the Department will make specific application for such authority.

003.01(A). Bus service consists of the following elements. (1) the business of carrying passengers and their baggage (2) by bus or van (3) either by charter or regular route (4) either prearranged or scheduled service (5) at a fare approved and on file with the Commission. Bus service may be hired on a charter or special party basis.

003.01(A)(i). Scheduled service means service by any regulated motor carrier who undertakes to transport passengers and their baggage in intrastate commerce by motor vehicle for compensation between fixed termini and over a specific highway or highways upon an established or fixed schedule.

003.01(A)(ii). Charter service means transportation of groups of seven or more persons who collectively contract for transportation on a particular trip paying one lump sum.

003.01(A)(iii). Special party service means the transportation of a group or groups of one or more persons who individually contract for transportation to a common destination with each person paying an individual sum.

003.01(B). Limousine service consists of all of the following elements. (1) the business of carrying passengers for hire by a vehicle (2) along a route under the control of the person who hired the vehicle and not over a defined regular route (3) on prearranged and not on a demand basis (4) at a premium fare.

003.01(C). Open class service consists of all of the following elements. (1) the business of carrying passengers for hire by a vehicle (2) along the most direct route between the points of origin and destination or along a route under the control of the person who hired the vehicle and not over a defined regular route (3) on a prearranged and not on a demand basis (4) at a mileage based, per trip fare, or an hourly rate.

003.01(C)(i). In calculating charges for transportation, a carrier charging a mileage-based fare may use only the actual loaded mileage traveled by the vehicle to transport such passengers. Mileage based charges may not be augmented or enhanced through any calculation that does not reflect actual mileage traveled.

003.01(D). Taxicab service consists of all of the following elements. (1) the business of carrying passengers for hire by a vehicle, subject to the provisions of Rule 010.02 (2) along the most direct route between the points of origin and destination or a route under the control of the person who hired the vehicle and not over a defined regular route (3) on a prearranged or demand basis (4) at a metered mileage based or per trip fare according to the provisions of Rule 010.02H (5) commencing within and/or restricted to a defined geographic area.

003.01(E). Unique Purpose service consists of all of the following elements. (1) the business of carrying passengers for hire (2) by low-speed vehicle (3) by regular routes, irregular routes, or along a route under the control of the person who hired the vehicle (4) on a prearranged or on-demand basis (5) at a per trip fare or hourly rate approved and on file with the Commission.

003.02 RESTRICTIONS. In addition to the other applicable Motor Carrier Rules in this chapter, the following provisions apply to all classes of service unless otherwise specifically provided in these rules.

003.02(A). The Commission, based on the record before it in an application proceeding, restrict the transportation of passengers by type of vehicle, geographic territory, commencement point or termination point, or any other lawful factor which the Commission may determine is necessary or reasonable and in the public interest. Covenants not to compete or similar agreements that restrict the proposed service or the geographic territory of a proposed service that the Commission finds are not in the public interest will not be considered lawful and will not be approved in an application proceeding.

003.02(B). No carrier will transport household goods or employees of railroad carriers absent being granted a license from the Commission.

003.02(C). No carrier will transport passengers under contract with the Nebraska Department of Health and Human Services or any subcontractors of the Department of

Health and Human Services absent specific authorization from the Commission. In order to receive such authorization, the applying carrier must demonstrate that such authorization is or will be required by the present or future convenience and necessity separate and apart from the present or future convenience and necessity demonstrated on the underlying certificate of authority. Authorization to transport HHS clientele will not be available or granted to carriers that only have limousine service authority.

003.03 CLASSIFICATIONS FOR PURPOSES OF REQUIRED INSURANCE. The following classifications are established for the purpose of determining insurance requirements for vehicles operated under authority from the Commission. Operators of motor vehicles are required to carry the minimum levels of financial responsibility as prescribed. Operators will also comply with all applicable insurance regulations as found in Rule 006 of this chapter.

003.03(A). Licensed carriers of household goods are required to carry liability insurance of not less than seven hundred and fifty thousand dollars (\$750,000.00) plus cargo insurance of not less than five thousand dollars (\$5,000.00) of coverage.

003.03(B). Regulated or Licensed carriers of passengers in vehicles with a rated seating capacity of sixteen (16) passengers or more as originally manufactured or as currently modified are required to carry liability insurance of not less than five million dollars (\$5,000,000.00) of coverage.

003.03(C). Regulated or Licensed carriers of passengers in vehicles with a rated seating capacity between eight (8) and fifteen (15) passengers are required to carry liability insurance of not less than one million, five hundred thousand dollars (\$1,500,000.00) of coverage.

003.03(D). Carriers of passengers in vehicles with a rated seating capacity of no more than seven (7) passengers are required to carry liability insurance of not less than five hundred thousand dollars (\$500,000.00) of coverage.

004 FEES AND IDENTIFICATION.

004.01 APPLICATION FEE. An application fee approved annually by the Commission will be payable by the applicant at the time of filing an application. This application fee will not apply to any person who contracts for transportation services with the Nebraska Department of Health and Human Services, or any agency organized under the Nebraska Community Aging Services Act who is not required to hold a certificate from the Commission pursuant to the provisions of Neb. Rev. Stat. sections 75-303.01 and 75-303.02 (Cum. Supp. 2000).

004.02 ANNUAL FEES. An annual fee approved annually by the Commission will be remitted for each motor vehicle operated by each regulated motor carrier. A fee approved annually by the Commission will be remitted by each regulated motor carrier for each truck-trailer or tractor-trailer combination operated. Such annual fees are due and payable by every regulated motor carrier on the first day of January of each year, and is delinquent on the first day of March of that year. If the initial certificate or permit is issued to a motor carrier on or after July 1, the fee will be fifty percent of the annual fee.

004.03 IDENTIFICATION CARDS. The following provisions concerning identification cards apply to all regulated motor carriers.

004.03A ISSUANCE. The Commission will issue annually, without additional charge, an identification card for each motor vehicle, upon payment of an annual fee, and upon compliance with all statutory requirements and rules and regulations of the Commission. The card will contain the certificate or permit number issued by the Commission, the name and address of the holder, and other information as the Commission may require. Upon replacement or addition of any vehicle, a new identification card will be obtained by the regulated motor carrier by application to the Commission and the previously issued identification card will be surrendered to the Commission.

004.03B DISPLAY. No motor vehicle subject to Commission jurisdiction will be operated without an identification card, protected from defacement, in the driver's cab.

004.04 PSC PLATES. The following provisions concerning PSC plates will apply to all regulated motor carriers.

004.04A ISSUANCE. The Commission will issue PSC plates to motor carriers who have complied with all statutory requirements and rules and regulations of the Commission, and who have completed and filed a copy of the forms furnished by the Commission to provide a detailed description for each unit for which a PSC plate is required.

004.04B DISPLAY. No vehicle will be operated without the secure attachment of its PSC plate in the following manner.

004.04(B)(i). On passenger carrying units, at the front or rear of the vehicle, and easily legible from the front or rear.

004.04(B)(ii). On power units on any portion of the front part, preferably to the regular vehicle license so as to be easily read from the front.

004.04(B)(iii). On straight trucks and vehicles with no more than two axles on either the front or rear so as to be easily legible.

004.04(C) TRANSFER. A transferee or lessee of a certificate or permit may use the PSC plates of the transferor or lessor for the remainder of the calendar year, without payment of an additional fee for use of the plates, upon approval in writing by the Commission after the transferee or lessee has applied to the Commission for the approval, and has given the Commission a full, written description of the equipment or vehicle to which the PSC plates are to be transferred and any other relevant information requested by the Commission. The plates will be used only on the specific equipment or vehicle to which they are assigned.

004.04(D) LOSS. If a plate is lost or destroyed, such loss or destruction will be reported to the Commission within forty-eight (48) hours after the discovery of such loss or destruction. A substitute plate may be obtained upon making request for such plate, upon filing an affidavit with the Commission setting forth the time, place and circumstances surrounding the loss or destruction, and upon payment of a fee approved annually by the Commission.

004.04(E) RETURN OF PLATES. Upon suspension, cancellation, or revocation of a certificate or permit, or upon sale, transfer, or other disposition of equipment or vehicles to which a PSC plate has been assigned, the plates will be returned to the Commission

within ten days, except if such plate has been transferred to a transferee or lessee in accordance with these rules.

004.05 DOOR DISPLAYS. The following provisions concerning door displays will apply to all licensed and regulated motor carriers except to those carriers providing limousine service.

004.05(A) CONTENTS. The name, or trade name, of the carrier under whose authority the vehicle is being operated, and the Commission application number assigned to the operating authority, excluding supplement numbers, will be displayed on both doors or sides of each powered vehicle. If the name of any person other than the operating carrier appears on a vehicle, the name of the operating carrier will be followed by the information required in this section and be preceded by the words "operated by". Additional identification may be displayed if it is consistent with the above requirements.

004.05(B) SIZE AND COLOR. Each door display will be legible at all times. The application number will be readily legible, during daylight hours, from a distance of 50 feet (15.24 meters) while the vehicle is stationary. The color scheme of the display will be in distinct contrast to the background color of the vehicle.

004.05(C) REMOVAL. Any numeral or letter painted on equipment in accordance with this section will be removed by the carrier when possession or ownership changes, or when a different carrier operates such equipment.

005 SAFETY REGULATIONS.

005.01 MINIMUM QUALIFICATIONS. Each person driving a motor vehicle subject to the Commission jurisdiction will possess the following minimum qualifications.

005.01(A). Sound physical and mental condition with no mental, nervous, organic, or functional disease or structural defect or limitation likely to interfere with safe driving.

005.01(B). Adequate sight which includes vision with visual acuity of at least 20/40 (Snellen) in each eye either without corrective lenses, or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of at least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70 degrees in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing standard red, green and amber. Persons who require corrective lenses to meet the minimum sight requirement must wear such lenses while operating the motor vehicle.

005.01(C). Adequate hearing which includes hearing of not less than 10/20 in the better ear for conversational tone without a hearing aid.

005.01(D). Freedom from the use of narcotics or illegal drugs.

005.01(D)(i). Pre-employment drug and alcohol testing will be required of all drivers transporting railroad personnel. The testing will be done for alcohol and controlled substances as provided by 49 CFR Parts 40 and 382 as such regulations existed on January 1, 2013.

005.01(D)(ii). A driver will be qualified to drive if the alcohol test results indicate an alcohol concentration of zero (0) and the controlled substance test results indicate a verified negative result.

005.01(D)(iii). A driver will be disqualified to drive if the alcohol and controlled substance test results are not in compliance with 49 CFR Parts 40 and 383; or if the driver refuses to provide a specimen for testing; or if the driver submits an adulterated, diluted or substituted sample for the tests to be performed.

005.01(E). Eighteen 18 years of age.

005.01(F). Possession of a valid operator's license appropriate for the vehicle being operated.

005.01(G). Ability to read, speak and understand the English language.

005.02 MEDICAL CERTIFICATE. Each motor carrier will have on file a certificate of physical examination signed by a licensed physician or a licensed physician assistant for every driver in its employment, attesting that the physician or licensed physician assistant has examined the driver to meet the requirements in 005.01. Such certification will be renewed no less than every two years. Physical certificates obtained pursuant to federal regulations will meet the requirements of this section.

005.03 BACKGROUND CHECK. Each operator of a motor vehicle subject to the Commission's jurisdiction will be subject to a criminal background check submitted to the Commission.

005.04 IMPAIRED ALERTNESS. No person will operate a motor vehicle while such operator's alertness is impaired by fatigue, illness, or other causes.

005.05 HOURS OF SERVICE. No motor carrier will permit or require any driver employed by such motor carrier to drive nor will any such driver drive (1) more than twelve (12) hours following ten (10) consecutive hours off duty or (2) for any period after having been on duty sixteen (16) hours following ten (10) consecutive hours off duty.

005.06. A logbook, (Form MCS-59), as required by the United States Department of Transportation in Section 395.8 of the Federal Motor Carrier Safety Regulations, will be maintained by each driver traveling more than one hundred (100) air road miles from the garage or terminus at which such driver reports for work.

005.06(A). The original copy of each day's logbook sheet for each over-the-road driver will be kept on record at the home office or base of operations of each motor carrier in the State of Nebraska for not less than one year.

005.06(B). The copies will be filed according to the date of the logbook sheet.

005.06(C). All filings will be available for examination by the Commission.

005.06(D). For all passenger carriers that must comply with this are not required to comply with the trip log requirements set out in rule 010.01E and its subparts.

005.07 INSPECTION OF VEHICLES. The Commission may at any time, but at least annually, inspect or cause to be inspected any vehicle subject to its jurisdiction. The inspections may be conducted at any place except that inspections of passenger carrying vehicles will not impede or delay the schedule upon which the vehicle is operating. The Commission may at any time enter the operating premises of the carrier or into such vehicles as may be operated by the carrier to ascertain whether any statute, rule, or regulation has been violated.

005.08. Each vehicle shall at all times be kept in proper physical and mechanical condition so as to render safe and comfortable public service, as may be determined by the Commission.

005.08(A) MINOR DEFECTS IN EQUIPMENT. Minor defects in equipment that are not likely to endanger life or property may be corrected by maintenance staff of the carrier. When the defects have been corrected, the carrier, or its agent, will notify the Commission that corrections have been made.

005.08(B) MAJOR DEFECTS. If the Commission finds that a motor vehicle under its jurisdiction is unsafe or poses a significant risk to public safety, it may order the carrier to take the vehicle out of service and marked as out of service until repairs have been made and the vehicle has been re-inspected by Commission personnel.

005.08(C) APPEAL BY CARRIER. A carrier, when notified by the Commission that a motor vehicle has been declared and marked "Out Of Service" under the provisions of subsection 005.9B may, before the close of the first business day following the date of such notice, appeal by sending notice, by facsimile or in person to the Commission.

005.08(C)(i). Upon receipt of such appeal notice, the Director of the Transportation Department of the Commission will arrange for the assignment of an inspector to re-inspect or cause to have re-inspected such vehicle within twenty-four (24) hours from date of receipt of the appeal which will include only those normal hours of operation for the Commission.

005.08(C)(ii). If upon re-inspection, the motor vehicle is found in safe condition and to pose no significant risk to public safety, the Commission will notify the carrier by telephone or facsimile that the vehicle is no longer out of service and that the motor vehicle may be put into service without further delay.

005.08(C)(iii). If, upon re-inspection, the vehicle is found to be in an unsafe condition or that the vehicle still poses a significant risk to public safety, the Commission will notify the carrier who owns and operates the vehicle that the appeal of the finding placing the vehicle out of service is dismissed.

005.08(C)(iv). The vehicle may not be placed back into service until the necessary repairs have been made and an inspection finds that the vehicle is no longer unsafe or poses a significant risk to public safety and the Commission certifies in writing that the vehicle can be placed back into service.

006 INSURANCE COVERAGE.

006.01 MINIMUM AMOUNTS OF COVERAGE. Unless otherwise provided in a license, certificate of public convenience and necessity, or permit issued by the Commission, each

motor carrier will have liability coverage at any time for any one accident, by insurance, surety bond, self insurance, or a combination thereof, in the minimum as required by Rule 003.03.

006.02. In addition to the requirements for minimum insurance as provided in Rule 003.03, all carriers of passengers will also carry uninsured and underinsured motorist coverage with a minimum limit of one hundred thousand (\$100,000) per person, three hundred (\$300,000) aggregate per accident coverage.

006.03. All motor carrier insurance required to be filed with the Commission will be continuous in nature, subject to cancellation by the insurer or the insured within thirty (30) days written notice to the Commission. Insurance for a specified term (e.g. six months or one year) will not be acceptable to meet the motor carrier insurance requirements of these Rules.

006.04. Proof of adequate coverage by insurance or bond will be made by filing a uniform motor carrier insurance filing or a uniform motor carrier surety bond filing in lieu of the policy of insurance or surety bond. Such filing may be made electronically in a manner designated by the Director of Transportation of the Commission. Upon receipt by the Commission of a paper filing, which will be in triplicate, one copy will be returned to the home office of the insurance or surety company, one copy will be forwarded to the insured, and the original will be retained by the Commission.

006.05 TYPES OF FILINGS. Insurance filings will be made on the following designated forms unless the Director of Transportation will specifically authorize another type of filing.

006.05(A) ALL LIABILITY INSURANCE FILINGS WILL BE FORM E, ENTITLED. Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance.

006.05(B) ALL LIABILITY SURETY BOND FILINGS WILL BE FORM G, ENTITLED. Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond.

006.05(C) ALL CARGO INSURANCE FILINGS WILL BE FORM H, ENTITLED. Uniform Motor Carrier Cargo Certificate of Insurance.

006.05(D) ALL CARGO SURETY BOND FILINGS WILL BE FORM J, ENTITLED. Uniform Motor Carrier Cargo Surety Bond.

006.05(E) ALL INSURANCE CANCELLATION FILINGS WILL BE FORM K, ENTITLED. Uniform Notice of Cancellation of Motor Carrier Insurance Policies.

006.05(F) ALL SURETY BOND CANCELLATIONS FILINGS WILL BE FORM L, ENTITLED. Uniform Notice of Cancellation of Motor Carrier Surety Bonds.

006.06. Each insurance policy or bond will be written in the full and correct name of the individual, partnership, corporation, limited liability company or other person as shown on the insured's certificate or permit. All partners in a partnership will be named in the policy or bond.

006.07. Motor carrier insurance required under these rules will provide.

006.07(A). The liability of the insurance company will extend only to the insured named in the policy and its employees or lessees notwithstanding any clause in the policy providing for additional insured.

006.07(B). The liability of the insurance company will not be affected by any provision in the policy or the endorsement thereon or violation thereof by the insured, or by the financial condition of the insured.

006.07(C). The insurance company will be liable whether the loss, damage, injury or death occurs on the route or in the territory authorized to be served by the insured or elsewhere in the state.

006.07(D). The insurance company will be liable within the limits of liability as set out in section 003.03 and its subsections of these rules, regardless of whether the motor vehicles or termini, warehouses or other facilities used in connection with the transportation of the cargo are specifically described in the policy or not.

006.07(E). The insurance company will pay, within the limits of liability set out in section 003.03 and its subsections of these rules, any final judgment recovered against the insured for bodily injury to, or death of, any person, except employees of insured while engaged in the course of their employment, or loss or damage to property of others, except property leased or rented by the insured, which results from negligent operation, maintenance, or use of motor vehicles under the certificates of public convenience and necessity, or permit issued to the insured by the Commission.

006.07(F). The liability of the insurance company on each vehicle will be a continuing one notwithstanding any recovery under the schedule of limits set out in section 006.05.

006.07(G). No provision contained in the policy or endorsement thereon, or violation thereof by the insured, will affect in any way the right of any shipper or consignee to relieve the insurance company from liability for the payment of any claim for which the insured may be held legally liable to compensate shippers or consignees, irrespective of the financial condition of the insured.

006.08. Each policy of insurance or surety bond issued pursuant to these regulations will be endorsed by authorized personnel of such company.

006.09. Policies of insurance, surety bonds, and the certificates and endorsements thereof will not be canceled, and liability will not cease until after thirty (30) days written notice by the insurer has been given to the Commission. Such thirty (30) day period will commence on the date the cancellation filing, as set out in section 006.05 is received by the Commission.

006.10. No insurance policy or surety bond will be accepted by the Commission unless written by a company which has been granted a certificate of authority by the Department of Insurance of the State of Nebraska; or which is a properly registered risk retention group as authorized under the federal Liability Risk Retention Act and the state's Risk Retention Act, provided that when a carrier is, after diligent effort, unable to obtain an insurance policy or surety bond from an authorized company, such carrier may obtain a policy or bond from a non-admitted company pursuant to the Surplus Insurance Act.

006.11. A carrier may apply to qualify as a self-insurer by furnishing the Commission a true and accurate statement of its financial condition and any other evidence required by the Commission which will establish to the Commission's satisfaction, the ability of the carrier to meet the requirements of section 003.03 and its subsections without adversely

affecting the carrier's financial stability. Such self-insurance will become effective only upon the written approval of the Commission and will be subject to review at the Commission's discretion.

006.12. The Commission may require any carrier qualifying as a self-insurer to deposit securities, in any amount up to the requirements set by section 003.03 and its subsections, with any financial institution within this state.

006.13. Any carrier may withdraw its qualifications as self-insurer, upon written notice to the Commission and compliance with the provisions of section 006.04.

006.14. The Commission may revoke its approval of any insurance policy, surety bond, or qualification as a self-insurer, if, in its judgment, such security no longer complies with these regulations, or fails to provide satisfactory or adequate protection for the public.

007 ACCOUNTING AND STATISTICAL INFORMATION.

007.01 BUSINESS RECORDS RETENTION AND INSPECTION. Each carrier will, for a period of one (1) year, maintain copies of records related to the movement of passengers or household goods. All such records will be available to the Commission for inspection.

007.02 NOTIFICATION OF CHANGE OF ADDRESS OR CONTACT INFORMATION. All carriers will inform the Commission of changes in address or contact information.

008 LEASING AND INTERCHANGE OF EQUIPMENT.

008.01 SCOPE. Common or contract carriers may engage in leasing only as provided by these rules. Failure to observe the provisions of a lease or its preparation will be a violation of these rules. Leases filed with the Commission in accordance with these rules will be retained by the Commission, the Lessor, and the Lessee for not less than three years after cancellation of such lease.

008.02 LEASING EQUIPMENT. Common or contract carriers may lease equipment which they do not own to augment their existing equipment, other than that exchanged between motor carriers in interchange service, only under the following conditions.

008.02(A). Each lease for the use of equipment will.

008.02(A)(i). Be made between the lessor and lessee;

008.02(A)(ii). Be in writing and signed by the parties thereto, or their duly authorized agents;

008.02(A)(iii). Specify the time period for which the lease applies and the time, date, or circumstance on which the lease begins and ends, the duration of which will coincide with the time for giving receipts for the equipment or the vehicles as required by these rules.

008.02(A)(iv). Specify the compensation to be paid by the lessee for the equipment or vehicle.

008.02(A)(v). Provide for the exclusive possession, control, and use of the equipment or vehicle, and for the complete assumption of responsibility in respect thereto by the lessee for the duration of the lease, or otherwise may be assigned by the lessee, in writing, to an independent contractor who will operate equipment under the lessee's authority.

008.02(A)(vi). Provide that the lessee will be responsible for carrying the insurance required by the Commission notwithstanding any agreement between the parties that the lessor will hold the lessee harmless and provide certain insurance covering the lessee.

008.02(A)(vii). Be approved by the Commission.

008.02(A)(viii). Be executed in quadruplicate, with all copies filed with the Commission to be stamped for approval. One copy will be retained by the Commission and the other three returned to the lessee of which the lessee will retain one, carry one copy on the equipment or vehicle and send the remaining copy to the lessor for retention.

008.02(B). Notwithstanding the provision of rule 008.02(E), a common or contract carrier lessee of equipment or vehicles may subsequently lease that leased equipment or vehicle to another common or contract carrier without being in violation of these rules if the subsequent lease also conforms to the provisions of this section.

008.02(C). When possession of equipment is taken by lessee, the lessee will give to the lessor a receipt specifically identifying the equipment and stating the date and time of day possession is taken. When the possession by the lessee ends, the lessee will obtain from the lessor a receipt specifically identifying the equipment and stating the date and time of day possession is taken.

008.02(D). It will be the duty of the lessee before taking possession of equipment or vehicle, to inspect the same in order to ensure that the equipment complies with the safety regulations of section 005 of these rules. The person making the inspection will certify the results thereof in a report which will be retained by the lessee for the duration of the lease. When equipment other than a power unit is leased, any form of report applicable to such equipment or vehicle may be used. If the inspection discloses that the equipment or vehicle does not comply with the requirements of section 005 of these rules, possession will not be taken. In all instances in which inspection is made, the lessee will certify on the report that the person making the inspection is competent and qualified to make such inspection as a representative of the lessee.

008.02(E). The lessee will identify the leased equipment or vehicle during the duration of the lease. Before relinquishing possession of the equipment or vehicle to the lessor, the lessee will remove any PSC plates or other signs displayed on such equipment or vehicle showing it as the operating carrier. When a power unit owned by a lessor holding operating authority from the Commission is leased, the PSC plates and the cab card belonging to the lessor may remain on or in the power unit.

008.02(F). Before any person other than a regular employee of the lessee is assigned to drive the equipment or vehicle operated under these rules, the lessee will make certain that the driver is familiar with, and that employment does not result in any violation of

section 005 of these rules. The driver will furnish to the lessee a certificate of physical examination in accordance with section 005.03 of these rules.

008.02(G). Each lessee who uses equipment or vehicle under these rules will prepare and retain for one year, a document covering each trip for which the equipment or vehicle is used. This document will contain the name and address of the lessor, the point of origin, the commodity carried, if any, the time and date of departure, the point of final destination, and the lessee's certificate or permit number which has been affixed to the equipment or vehicle. Bills of lading, way-bills, freight-bills, manifests, or other paper identifying the lading will be carried on the equipment or vehicle during use. Copies of these documents will be kept by the lessee for not less than three (3) years.

008.02(H). The use of leased equipment will not change operations, or the relations of the parties involved as they relate to the jurisdiction and control of the Commission. The lessee will continue to remain responsible to the Commission and will answer to the Commission for the performance of its common or contract carrier's responsibilities and for the conduct of any of the drivers with whom it has a lease.

008.03 INTERCHANGE OF EQUIPMENT. For the purposes of this section, the common or contract carrier leasing the equipment to another common or contract carrier is referred to as the transferor, and the common or contract carrier which takes possession of the equipment will be referred to as the transferee. Common or contract carriers may interchange equipment with one or more common or contract carriers only under the following conditions.

008.03(A) WRITTEN AGREEMENT. The written contract, lease or other arrangement providing for interchange, hereinafter, the written agreement, will specify in a readily apparent manner that it is an interchange agreement and will.

008.03(A)(i). Describe specifically the equipment to be interchanged and specify the point or points at which the interchange is to occur.

008.03(A)(ii). Specify the use to be made of the equipment and the consideration for the use.

008.03(A)(iii). Be signed by the parties to the written agreement or their duly authorized agents.

008.03(A)(iv). Be executed in quadruplicate, with all copies filed with the Commission to be stamped for approval.

One copy will be retained by the Commission and the other three returned to the transferee. The transferee shall retain one copy for itself, carry one copy on the equipment and send the remaining copy to the transferor for retention.

008.03(B). In order to engage in the interchange of equipment, the certificates or permits held by transferee and transferor must authorize the transportation of the commodities proposed to be transported and must authorize service from and to the point where the physical interchange occurs.

008.03(C). Traffic transported under interchange service will move by means of through bills of lading issued by the originating carrier, and the rates charged and revenues

collected must be accounted for in the same manner as if there had been no interchange of equipment. Charges for the use of the equipment will be kept separate and distinct from the divisions of the joint rates or the proportions thereof accruing to the carriers.

008.03(D). The transferee will have the equipment inspected in the manner provided for in section 008.02(D) of these rules. Equipment which does not comply with the safety regulations will not be operated until the defects have been corrected.

008.03(E). A common or contract carrier which operates a power unit in interchange service as the transferee will identify such equipment in accordance with these rules. Upon completion of the interchange agreement, the transferee will remove any PSC plate, legend, or signs showing the transferee as the operating carrier before relinquishing possession of the equipment.

008.03(F). A PSC plate need not be purchased by the transferee if the PSC plate purchased for the power unit by the transferor remains on the power unit.

008.03(G). The transferee of equipment on a through movement involving two or more carriers will be considered the owner of the equipment for the purpose of leasing the equipment for movement to destination or return to the originating carrier.

009 BUSES. The following provisions pertain only to carriers providing bus service as defined in rule 003.01A et seq..

009.01 REFUSAL TO CARRY. No driver of any vehicle which transports passengers will refuse to carry any person offering himself or herself for carriage at any time at any regular stopping place who tenders the regular fare to any regular stopping place on the route of such carrier, or between the termini of the route, unless at the same time of such offer the vehicle is fully occupied or unless the person tendering such fare is intoxicated or acting in a disorderly manner.

009.02 TRAILERS. Unless specifically authorized in writing by the Commission, no carrier will transport passengers in a vehicle with any trailer or other vehicle attached, except in a case where a vehicle has become disabled while on a trip and is unable to run on its own power, such disabled vehicle may be towed to a point where repair facilities are available.

009.03 AISLES. Drivers will at all times keep the aisles from front to rear of their buses free from obstructions of any kind, and will not permit passengers to ride on any other part of the vehicle other than the seats while the vehicle is in motion except in an emergency. Passengers will not be allowed in front of a two inch (2") wide white line which will be painted on the floor of each vehicle immediately behind the driver's seat. Each vehicle will have a notice visible at the front of the vehicle that passengers must remain behind the white line.

009.04 HEAT. Vehicles used to transport passengers will be equipped with a heating system sufficient to keep the vehicle comfortable for its passengers.

009.05 LIGHTING. Vehicles will be equipped with lights of not less than two candle power within the vehicle and so arranged as to light up the whole of the interior except that portion occupied by the driver.

009.06 EMERGENCY EXIT DOORS. All vehicles with a seating capacity of eight (8) or more passengers will have emergency exits either in the form of push out windows, or a door on the opposite side of the vehicle entry or at the rear of the vehicle. The door will be equipped with a latch which may be readily operated in an emergency. There shall be no obstructions, either inside or outside, which would prevent the door from being opened. The exits will be easily accessible to passengers.

009.07 TIMETABLES. Each carrier who transports passengers in regular scheduled service will file with the Commission prior to commencing operations, a timetable or schedule showing the time of arrival or departure of its vehicles at each point of the route and the number of trips made daily. When any change is made in the table or schedule, a new table or schedule will be filed with the Commission. All time schedules and revisions will be filed with the Commission not less than ten (10) days prior to the proposed effective date unless otherwise authorized by the Commission. No time schedule or revision will be effective until approved by the Commission.

009.08 CHARTER SERVICE AND SPECIAL PARTY SERVICE. The following provisions apply only to charter service and special party service as designated.

009.08(A). No charter or special party service will be conducted between the same points or over the same route so frequently as to be construed as a regular or scheduled service.

009.08(B). Special party service will not be conducted between points on the route of another route so frequently as to be construed as a regular or scheduled service.

009.08(C). Carriers holding certificates restricted to charter service or sightseeing operations will be prohibited from conducting special party operations.

009.08(D). Each vehicle used in charter or special party service will be so designated by a sign on the front of the vehicle used for such service.

009.08(D)(i). Each sign must contain the following information.

009.08(D)(i)(a). Affirmation or denial that the owner or operator of the vehicle is allowing the consumption of alcoholic liquor in the vehicle by an individual who is twenty-one years of age or older; and

009.08(D)(i)(a)(i). As used in this section, alcoholic liquor is as defined under neb. Rev. Stat. 53-103.2.

009.08(D)(i)(b). Whether the current trip is being performed under a charter or a special party designation in accordance with rules 003.01A2 and 003.01A3; and

009.08(D)(i)(b)(i). If the current trip is being completed under a special party designation, then the sign must also include the license number assigned to the operating authority by the Nebraska Liquor Control Commission.

009.08(D)(i)(c). The name or trade name of the carrier under whose authority the vehicle is being operated; and

009.08(D)(i)(d). The Commission authority number, excluding supplemental numbers.

009.08(D)(ii). Each sign will be legible at all times from a distance of 50 feet (15.24 meters) while the vehicle is stationary. The color scheme of the lettering will be in distinct contrast to the background color of the sign.

009.08(E). Each carrier conducting charter or special party service will file with the Commission a tariff of rates for the transportation of parties and charges for dead head mileage which will be approved by the Commission prior to implementation. The tariff will also indicate at which points the carrier has equipment available for charter party service. No equipment will be held out as available at any non-authorized point.

010 PROVISIONS APPLICABLE TO TRANSPORTATION OF PASSENGERS. The following provisions will be applicable to the transportation of passengers as designated within this section.

010.01 PROVISIONS APPLICABLE TO ALL CLASSIFICATIONS OF PASSENGER TRANSPORTATION. In addition to the other applicable Motor Carrier rules in this chapter, the following provisions will be applicable to all classifications of service for the transportation of passengers.

010.01(A) VEHICLE TITLE. All vehicles will be owned by, and registered in, the name of the certificate holder, except that the certificate holder may engage in equipment leasing as provided by these rules.

010.01(B). If a person applies for carriage and is willing and able to tender the fare, each operator will convey such person to the person's destination unless.

010.01(B)(i). The passenger is in such condition of uncleanness that carriage in the vehicle would be a violation of any law.

010.01(B)(ii). The behavior of the passenger is such that the person poses a safety risk to the operator, other passengers, or the vehicle is in danger of being damaged

010.01(B)(iii). The point of origin or destination or immediate approach is impassable or dangerous.

010.01(C). In addition to complying with the minimum qualifications for driving a motor vehicle subject to Commission jurisdiction, all operators will.

010.01(C)(i). Be competent to conduct the applicable transportation service safely and courteously.

010.01(C)(ii). Not smoke inside the vehicle.

010.01(C)(iii). Shall be within the ages of twenty-one (21) and seventy (70) except that the Commission may waive the maximum age limit for an operator who is over seventy (70) if the carrier desiring to employ the operator can show that the operator is insurable, has no medical or other disability which prevents him or her from safely operating the vehicle and has a satisfactory driving record. Any such waiver will be in

writing and renewed annually. Any application for waiver or renewal will be accompanied by a medical certificate required by rule 005.02.

010.01(D). Each carrier will retain articles left in vehicles by passengers for not less than thirty (30) days. Upon request from any passenger, the carrier will make a reasonable search for any article believed to have been left in a vehicle.

010.01(E) TRIP LOG. All carriers will maintain a trip log which contains the information prescribed in this section. Such log will be completed following the delivery of the passenger to his or her destination and signed by the driver. The Commission may, upon application and written approval, allow for electronic filing and storing of the information required in this section provided that all of the information herein prescribed is included except that the full name of the driver may be filed in place of the signature. All records required by this section will be retained by the carrier for a period of two (2) years from the date of the transportation of the passenger.

010.01(E)(i). The name of the individual engaging or hiring the vehicle and his or her address.

010.01(E)(ii). The address of the point where the passenger was picked up and the point of destination and the times they occurred.

010.01(E)(iii). The amount charged and collected.

010.01(F) RECEIPT. Upon demand of any passenger, a receipt for services will be given at the time of payment. Such receipt will contain the name of the company, the name of the operator, the vehicle fleet number, the total amount paid, and the date of payment.

010.01(G) COMPLAINTS. Every vehicle will have a notice posted, clearly legible and visible from the passenger compartment, which reads.

"DIRECT COMPLAINTS REGARDING THE OPERATION
OF THIS VEHICLE TO.

The Nebraska Public Service Commission
300 The Atrium, 1200 N Street
Lincoln, Nebraska 68508
1-800-526-0017 (Nebraska)
1-402-471-3101 (Lincoln)"

010.02 PROVISIONS APPLICABLE ONLY TO THOSE CARRIERS PROVIDING TAXICAB SERVICE. The following provisions apply only to those carriers who are authorized to provide taxicab service.

010.02(A). If a person applies for carriage and is willing and able to tender the fare, the operator will convey such person to his or her destination subject to rule 010.01B, or unless the vehicle is already engaged.

010.02(B). Operators may solicit passengers only at taxicab stands established by the city, while seated in the driver's seat, or while standing beside the vehicle. Passengers will not be solicited by outcries or hawking.

010.02(C). Carriers will comply with all applicable municipal ordinances relating to the qualification of taxicab operators which are not in conflict with these rules.

010.02(D). The number of passengers carried by a vehicle will not exceed seven persons, including the driver, or the rated capacity of such vehicle as prescribed by the maker of the vehicle, whichever is smaller. Except for transportation provided under contract with the Nebraska Department of Health and Human Services, whenever any vehicle is occupied by a passenger or passengers, the operator will not permit any other person to occupy the vehicle except with the consent of the first passenger or passengers. Passengers will be informed of this provision by a card, posted inside the vehicle, stating the schedule of rates and charges for the vicinity in which the vehicle is operated and in the following form.

"FOR YOUR PROTECTION.

You, as the first passenger in this taxicab, are the one to decide who will ride with you. Unless it is at your request or with your consent, this cab driver is prohibited by law from accepting additional passengers. Schedule of rates authorized for taxicabs operating in (Name of Town) is (Copy from commission order setting rates for that vicinity).

(Name of Company)"

010.02(D)(i). Service will not be denied to the first passenger or passengers due to refusal to grant consent to transport additional passengers on the trip.

010.02(D)(ii). If several individuals that have boarded a taxicab at one location choose to be transported to a single common destination, the driver of the taxicab will charge the party at rates approved by the Commission as if the passengers are all members of the same party.

010.02(E). Each vehicle will be operated over the most direct route from point of passenger pickup to the point of destination of passengers.

010.02(F). Each carrier will have its full or trade name and assigned application number permanently placed on each side of the vehicle in letters at least two inches (2") high. The word "taxicab" will also appear conspicuously on the sides of the vehicle unless the word "cab", "taxi" or "taxicab" is included within the name of the carrier. The fleet number of each vehicle will be displayed in figures not less than two inches (2") high in the forward part of the passenger compartment and also on the sides and rear of each vehicle. None of the markings described in this rule will be placed on any glass or on the bumper of the vehicle.

010.02(G). Each vehicle will be equipped with.

010.02(G)(i). A dome light within the passenger compartment of the vehicle capable of being turned on or off by passengers or controlled by operation of the doors.

010.02(G)(ii). An identity light attached to the top of the vehicle. The light will be in one unit consisting of an illuminated plate or cylinder upon which is printed the word "taxicab", "taxi", "cab", "for hire", or the owner's trade name. The size of such light will not exceed eight inches (8") in height nor twenty-three inches (23") in length. Loaded

or bug lights may be attached to the upper portion of a vehicle. If used, such lights will be smaller than the identity light and will be illuminated when the vehicle is engaged.

010.02(H). A carrier which operates in municipalities of fifteen thousand (15,000) persons or more, as determined by the official U.S. Census, or between municipalities not more than five (5) miles apart, whose aggregate population exceeds fifteen thousand (15,000) persons, will equip its vehicles with a taximeter or a taxi soft meter. The Commission may, at any time, require any carrier operating in any community of less than fifteen thousand (15,000) persons to equip its vehicles with a taximeter or a taxi soft meter. Taximeters and taxi soft meters are subject to the following specifications.

010.02(H)(i). No taximeter will be operated without first having been inspected, tested, approved and sealed by the Commission or a duly authorized representative of the taxicab company.

010.02(H)(ii). Each meter will be sealed during the time the vehicle is in the service of the taxicab carrier.

010.02(H)(ii)(a). Taximeters will be sealed with either a wire and lead seal bearing the letters "NPSC," or, at the discretion of the Commission representative, with a sticker bearing the letters "NPSC." This seal will be affixed only by a person duly authorized by the Commission.

010.02(H)(ii)(a). Taxi soft meters will be physically secured in each vehicle and password protected that enable only an authorized representative of the company to program the taxi soft meter remotely. Taxi drivers may not have access to or program taxi soft meters. Taxi soft meters will be considered sealed upon written approval from the Commission.

010.02(H)(iii). Commission approved rates will be programmed into each taxi soft meter.

010.02(H)(iii)(a). Programmed rates may only be changed by an authorized representative of the company who has central password protected access to program rates for all taxi soft meters in the fleet.

010.02(H)(iii)(b). Hardware and Software provisions must be in place that prevent a taxi driver from changing the programmed rates or modifying how the taxi soft meter works.

010.02(H)(iii)(c). Each company will have access to, and provide to the Commission upon request, a changelog that provides a persistent audit trail or rates that are charged and historical rate changes that have been made identifying the person(s) who made them.

010.02(H)(iii)(d). Any Hardware or Software changes and/or upgrades must not affect the way programmed rates are calculated. If the calculation of programmed rates is affected, the company must have the taxi soft meter reevaluated according to 010.02H1.

010.02(H)(iv). taxi soft meters must provide passengers with a generated receipt pursuant to rule 010.01F.

010.02(H)(v). Taximeters will be mounted and connected to the transmission or speedometer in an approved manner. Taxi soft meters shall be mounted or affixed to the vehicle interior to the right of the driver, and physically secured in the vehicle by hardware. Where mounted on the dashboard of a vehicle, the meter will be located so as not to obstruct the view of the operator or cause undue hazard to passengers. All taximeters and taxi soft meters will be placed so that the dial or faceplate showing the amount charged is well lighted and readily visible to passengers riding in the vehicle.

010.02(H)(vi). Periodic tests of meters will be made by the Commission. A meter with an error in registration not exceeding three percent (3%) of the distance covered by each meter drop will be considered correct and accurate. Otherwise, the requirements for approval of, and methods for, testing the taximeters will conform to specifications established by the National Bureau of Standards.

010.02(H)(vii). After a meter has been tested, approved and sealed, a different tire size will not be affixed to the vehicle without re-testing the meter.

010.02(I). Each vehicle will be equipped with a device visible to the public from the outside of the vehicle which indicates whether it is in service or for hire and a device visible to a passenger inside which indicates whether the taximeter is in position to record a fare.

010.02(J). Each operator will be identified by a card, displayed in full view of the passengers, bearing the name and photograph of the operator and the taxicab carrier's address.

010.02(K). No vehicle will be equipped with shades, curtains, or window-tinting which shields the occupants or the operator from observation.

010.03 PROVISIONS THAT APPLY TO THE TRANSPORTATION CONTRACTORS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES AND LIKE AGENCIES. A contractor of the Nebraska Department of Health and Human Services, hereinafter, the Department, or any of the agencies contracting with the Department, or for any agency organized under the Nebraska Community Aging Services Act, who is not certificated or permitted by the Commission providing transportation for the Department or such agencies will certify on a form provided by the Commission that the provider meets the minimum operator standards, insurance requirements and equipment standards prescribed by the Commission in these rules.

010.03(A) DRIVER REQUIREMENTS. A Department transportation provider must certify that.

010.03(A)(i). The person is the individual who will personally drive the vehicle in question.

010.03(A)(ii). The person is at least nineteen (19) years of age or an emancipated minor.

010.03(A)(iii). The person possesses a current operator's permit issued by any state.

010.03(A)(iv). The person has knowledge of Nebraska state and local traffic rules and the rules of the road.

010.03(A)(v). The person has no more than three (3) points assigned against their driver's license.

010.03(A)(vi). The person will not smoke in the vehicle.

010.03(A)(vii). The person is competent to conduct the service carefully and dependably.

010.03(A)(viii). The person does not use illegal drugs.

010.03(A)(ix). The person is not aware of any mental or physical limitation which would impose a threat to the health or well-being of the passengers.

010.03(B) INSURANCE. A Department provider must maintain the minimum automobile liability insurance coverage as required by these rules and state law.

010.03(C) EQUIPMENT STANDARDS. A Department transportation provider must certify that.

010.03(C)(i). The person has current and valid plates and registration.

010.03(C)(ii). The person will ensure that each vehicle will, at all times, be kept in proper physical and mechanical condition including, but not limited to, operable seat belts, turn signals, lights and horn, child passenger restraint devices as required by law, and comfortable temperature and ventilation conditions.

010.03(D) SELF-CERTIFICATION. All such self-certification filings will be made with the Commission and filed for record and be available for public inspection during the regular business hours of the Commission. Such filings will be continuous in nature unless canceled by the Department.

010.03(E). The Commission will, upon application of any certificated motor carrier or the Department, hear any dispute between the same with regard to the contested ability of the motor carrier to provide a specific service in a given case. The parties may agree to an informal conference between the carrier, the Department, and the Commission to facilitate a mutually agreeable resolution. If the parties cannot come to an agreement, either party may file a formal complaint with the Commission in a manner provided for in the rules of Commission procedure.

011 VOLUNTARY SUSPENSIONS. Certificated motor carriers seeking to suspend service pursuant to Neb. Rev. Stat. §75-316, must apply for and obtain Commission approval of such suspension. The certificated motor carrier must provide the Commission with an application identifying the certificate of public convenience and necessity held by said motor carrier and setting forth the length of time the carrier wishes to place its authority under voluntary suspension. The Commission may approve the carrier's request for the time period requested for a period not exceeding a twelve (12) month increment. In no event will the carrier's authority be suspended for more than twenty-four (24) consecutive months.

012 TRANSPORTATION NETWORK COMPANIES.

012.01 APPLICABILITY OF RULES. The rules and regulations found in Chapter 3, Sections 001 through 011 of Title 291 of the Nebraska Administrative Code will not apply to transportation network companies. If there is a conflict between Chapter 3, Sections 001 through 011 of Title 291 of the Nebraska Administrative Code and these rules regarding the regulation of transportation network companies, these rules and regulations will apply.

012.02 DEFINITIONS. In addition to other definitions used in this chapter, unless the context otherwise requires, the following definitions apply.

012.02(A). Application open stage means the time period from the moment a participating driver logs on to the transportation network company's online-enabled application or platform until the driver accepts a request to transport a passenger and from the moment the driver completes the transaction on the online-enabled application or platform or the passenger exits the vehicle, whichever is later, until the driver either accepts another ride request on the online-enabled application or platform or logs off the online-enabled application or platform.

012.02(B). Commission means the Nebraska Public Service Commission.

012.02(C). Engaged stage means the time period from the moment a participating driver accepts a ride request on the transportation network company online-enabled application or platform.

012.02(D). Insurance policy means a policy placed with an authorized Nebraska insurer or with a surplus lines insurer pursuant to Chapter 44 of the Nebraska Revised Statutes.

012.02(E). Participating driver or driver means any person who uses a personal vehicle in connection with a transportation network company's online-enabled application or platform to connect with passengers.

012.02(F). Passenger means a passenger in a personal vehicle for whom a driver provides transportation and who is connected with a driver by a transportation network company's online-enabled application or platform.

012.02(G). Passengers on board stage means the time period when there are passengers in the vehicle pursuant to the driver's participation in a transportation network company.

012.02(H). Personal vehicle means a passenger car as defined in Neb. Rev. Stat. §60-345 that a driver owns, leases or is otherwise authorized to use to provide services on a transportation network company's online-enabled application or platform.

012.02(I). Prearranged ride means a ride in which a participating driver is matched to a passenger through a transportation network company's online-enabled application or platform and does not include the on-demand summoning of a ride or street hail. Prearranged ride does not include shared-expense carpool or vanpool arrangements. Prearranged ride does not include activity by the participating driver to personally solicit passengers or initiate contact with potential passengers.

012.02(J). Service means the provision of transportation by a driver to a passenger with whom a transportation network company matches the driver.

012.02(K). Transportation network company means an organization, including a corporation, a limited liability company, a partnership, a sole proprietor, or any other entity, operating in this state that provides prearranged transportation services for compensation using an online-enabled application or platform to connect passengers with participating drivers using a personal vehicle. Transportation network company does not include Medicaid nonemergency medical transportation brokerage services provided pursuant to a contract with the Department of Health and Human Services.

012.02(L). Transportation network company insurance means an insurance policy that covers loss arising from a participating driver's use of a personal vehicle in connection with a transportation network company's online-enabled application or platform.

012.03 UNAUTHORIZED OPERATIONS. Unless exempted by statute, no person will operate a transportation network company in Nebraska without first having obtained from the Commission a permit to operate as a transportation network company in Nebraska.

012.04 APPLICATION REQUIREMENTS. The application for permit to operate as a transportation network company in Nebraska must be filed on forms provided by the Commission.

012.04(A). The application for a permit will be in writing, under oath, submitted to the Commission, and accompanied by the fee required under Neb. Rev. Stat. § 75-305(2).

012.04(B). A duly authorized official of the applicant who possesses the full power and authority to make binding representations on the applicant's behalf will subscribe to the oath on the application.

012.04(B)(i). A participating driver contracting with a transportation network company holding a valid permit from the Commission will not be required to obtain a permit or certificate from the Commission when driving pursuant to the terms of the contract with the transportation network company.

012.04(C). The application will contain the following.

012.04(C)(i). The legal name of the applicant;

012.04(C)(ii). Any name under which the applicant will or does conduct business in Nebraska;

012.04(C)(iii). The applicant's primary business address and telephone number;

012.04(C)(iv). A copy of the articles of organization or certificate to transact business in Nebraska;

012.04(C)(v). The name, address, and telephone number of the applicant's registered agent in Nebraska; and

012.04(C)(vi). A statement that the applicant agrees to adhere to the statutes of Nebraska, the rules and regulations of the Commission regulating transportation network companies, and any applicable federal laws, local ordinances and regulations.

012.04(D). If an applicant is duly certified or permitted to operate a transportation network company in at least one other state, the Commission will, within sixty (60) days after receiving a complete application, issue a permit to the applicant if the applicant meets the requirements set forth under statute and Commission rules and regulations.

012.04(E). If an applicant is not duly certified or permitted to operate a transportation network company in at least one other state, the Commission will, within ninety (90) days after receiving a complete application, issue a permit to the applicant if the applicant meets the requirements set forth under statute and Commission rules and regulations. The applicant will bear the burden of demonstrating that.

012.04(E)(i). The applicant has sufficient financial resources to provide transportation network company services in the proposed service territory;

012.04(E)(ii). The applicant has sufficient technical competency to provide transportation network company services in the proposed service territory; and

012.04(E)(iii). The applicant has sufficient managerial resources to provide transportation network company services in the proposed service territory.

012.04(F). If the Commission finds any information incomplete or inaccurate, the Commission will notify the applicant and give the applicant the opportunity to complete the application.

012.05 TRANSPORTATION NETWORK COMPANY REQUIREMENTS. Every transportation network company will.

012.05(A). Provide the Commission with its email address and customer service telephone number.

012.05(B). Display for the passenger either a picture of the driver's personal vehicle and a picture of the driver or the license plate number of the driver's personal vehicle on the online-enabled application or platform that a transportation network company uses to connect drivers and passengers.

012.05(C). Maintain an agent for service of process in Nebraska.

012.05(D). Maintain accurate and up-to-date records of all drivers providing services on behalf of the transportation network company, including the vehicle identification number for all personal vehicles to be operated in connection with the transportation network company.

012.05(E). Implement an anti-discrimination policy that prohibits discrimination by any driver providing service for the company on the basis of race, national origin, religion, gender, physical or mental disability, medical condition, marital status, or age and file the policy with the Commission.

012.05(F). Maintain a website that provides a customer service telephone number or email address of the transportation network company and that provides the telephone number and email address of the Commission.

012.05(G). Establish a driver training program designed to ensure that each driver safely operates his or her personal vehicle prior to the driver being able to offer services on the transportation network company's online-enabled application or platform.

012.05(H). Maintain records required under Neb. Rev. Stat. §§ 75-323 through 75-343 to be collected by the transportation network company, including records regarding participating drivers.

012.05(I). Cooperate with the Commission and any employees, investigators, or duly authorized agents of the Commission in the investigation of complaints received by the Commission from the public or in investigations initiated by the Commission.

012.05(J). Disclose in writing prior to permitting a person to act as a driver that a driver is responsible to know the laws, rules, and regulations that govern the service he or she provides in connection with a transportation network company.

012.06 PREARRANGED RIDE. A participating driver will not provide a ride unless it is a prearranged ride.

012.06(A). Upon completion of a prearranged ride, a transportation network company will transmit an electronic receipt to the passenger's email address or online-enabled application documenting the following.

012.06(A)(i). The point of origin and destination of the prearranged ride;

012.06(A)(ii). The total duration and distance of the prearranged ride;

012.06(A)(iii). The total amount paid, if any, including the base fare and any additional charges incurred for distance traveled or duration of the prearranged ride; and

012.06(A)(iv). The driver's first name.

012.07 RATES. Except as otherwise provided by statute or under these rules, a transportation network company will not be subject to rate regulation by the Commission and will not be subject to provisions relating to rates and charges prescribed in Neb. Rev. Stat. §§ 75-101 to 75-158.

012.07(A). A transportation network company may offer service for compensation, no charge, or suggested compensation.

012.07(B). A transportation network company will file with the Commission the rates it uses to determine any compensation or suggested compensation on its online-enabled application or platform, including any use of dynamic pricing. The transportation network company will keep the rate filing current and will charge rates consistent with the rates it files with the Commission.

012.07(C). The following requirements apply if the transportation network company uses dynamic pricing through its online-enabled application or platform.

012.07(C)(i). The transportation network company's online-enabled application or platform will provide clear visible indication that dynamic pricing is in effect prior to the passenger requesting a ride.

012.07(C)(ii). The transportation network company's online-enabled application or platform will include a feature that requires the passenger to expressly confirm that he or she understands that dynamic pricing will be used in order for the ride request to be completed.

012.07(C)(iii). The transportation network company's online-enabled application or platform will provide a fare estimator that enables the passenger to estimate the cost under dynamic pricing prior to requesting a ride.

012.07(C)(iv). Dynamic pricing will not be permitted during any state of emergency declared by the Governor.

012.08 NON-COMPETE. A transportation network company will not require a participating driver to sign an agreement not to compete with the company in order to be matched with passengers through the company's online-enabled application or platform.

012.09 OWNERSHIP OF VEHICLES. A transportation network company will not own, control, operate, or manage drivers' personal vehicles.

012.10 HHS AUTHORIZATION. No transportation network company or participating driver will provide transportation for any person under contract with the Department of Health and Human Services or any contractors of the Department of Health and Human Services without specific authorization from the Commission. In order to receive such authorization, the transportation network company or participating driver will file an application which demonstrates that such service is or will be required by the present or future public convenience and necessity as required under Neb. Rev. Stat. § 75-371.20.

012.11 DRUGS AND ALCOHOL POLICY. Every transportation network company will implement, enforce, and maintain a zero-tolerance policy on the use of drugs or alcohol applicable to any driver providing service for the transportation network company that prohibits a driver from using any amount of drugs or alcohol while the driver is providing service.

012.11(A). The transportation network company must provide a copy of the policy to the Commission promptly upon adoption and provide a copy of any revision to the policy promptly upon adoption.

012.11(B). A transportation network company will not allow a driver to provide service if the company finds the driver to be in violation of its zero-tolerance policy or if the driver has not successfully completed driver training as required under 012.05G.

012.11(C). The transportation network company will provide on its website and its online-enabled application or platform notice of the zero-tolerance policy and the procedures to report a complaint about a driver with whom the passenger was matched when the

passenger reasonably suspects the driver was under the influence of drugs or alcohol during the course of the prearranged ride.

012.11(C)(i). Upon receiving a complaint, a transportation network company will immediately suspend the driver against whom the complaint was issued and conduct an investigation of the alleged violation. The suspension will last for the duration of the investigation.

012.11(D). If the Commission has reasonable cause to believe a transportation network company is not enforcing the zero-tolerance policy filed with the Commission, the Commission will investigate and, after notice and hearing, may enter an order requiring the transportation network company to enforce such policy, which may include suspension of the participating driver.

012.12 DRIVER REQUIREMENTS. A participating driver must possess a valid driver's license, proof of registration, and proof of automobile liability insurance and be at least twenty-one (21) years of age.

012.12(A). Prior to permitting a person to act as a driver, the transportation network company will obtain and review a national criminal history record information check.

012.12(A)(i). The criminal disposition information retrieved by the transportation network company's national criminal history record information check will be at least as comprehensive as the criminal disposition information retrieved by a national criminal history record information check performed by the Federal Bureau of Investigation pursuant to Neb. Rev. Stat. § 81-6120.

012.12(A)(ii). Fingerprinting is not required as part of the national criminal history record information check.

012.12(B). A person who has four or more moving traffic violations or one or more major traffic violations in the three (3) years prior to the date of the criminal background check will not serve as a driver. The following offenses will constitute major traffic violations.

012.12(B)(i). Failure to stop and report or render aid as required under Neb. Rev. Stat. §§ 60-696 or 60-697;

012.12(B)(ii). Reckless driving in violation of any city or village ordinance or of §§ 60-6213, 60-6214, or 60-6217;

012.12(B)(iii). Speeding of more than thirty-five (35) miles per hour over the speed limit; and

012.12(B)(iv). Failure to yield to a pedestrian resulting in bodily injury to a pedestrian.

012.12(C). A person who has been convicted of or pled guilty or nolo contendere to driving under the influence of drugs or alcohol in the previous seven (7) years in this state or any other state or territory prior to the date of the criminal background check will not serve as a driver.

012.12(D). A person who is required to register as a sex offender or who has been convicted of or pled guilty or nolo contendere to any offense involving fraud, use of a motor vehicle to commit a felony, a crime involving property damage, theft, acts of violence, or acts of terror will not serve as a driver.

012.13 HOURS OF OPERATION. No person will be a participating driver for a period of more than twelve (12) hours during each twenty-four (24) hour period.

012.14 VEHICLE REQUIREMENT. In order for a vehicle to be used under these rules, a personal vehicle will be in compliance with the Motor Vehicle Registration Act as required for a passenger car as defined in Neb. Rev. Stat. § 60-345.

012.15 INSPECTIONS. A certified mechanic, who may be employed by a transportation network company, will perform an initial safety inspection on each personal vehicle prior to approving it for use as a personal vehicle.

012.15(A). The inspection will include inspection of at least the following components and as such components will be in good working order.

012.15(A)(i). Foot brakes;

012.15(A)(ii). Parking or emergency brakes;

012.15(A)(iii). Steering mechanism;

012.15(A)(iv). Windshield;

012.15(A)(v). Rear window and other glass;

012.15(A)(vi). Windshield wipers;

012.15(A)(vii). Headlights;

012.15(A)(viii). Taillights;

012.15(A)(ix). Turn indicator lights;

012.15(A)(x). Stop lights;

012.15(A)(xi). Front seat adjustment mechanism;

012.15(A)(xii). The opening, closing, and locking capability of doors;

012.15(A)(xiii). Horn;

012.15(A)(xiv). Speedometer;

012.15(A)(xv). Bumpers;

012.15(A)(xvi). Brake Lights;

012.15(A)(xvii). Muffler and exhaust system;

012.15(A)(xviii). Tire conditions, including tread depth;

012.15(A)(xix). Interior and exterior rear-view mirrors; and

012.15(A)(xx). Safety belts for driver and passengers.

012.15(B). A driver will annually obtain such an inspection and approval of the driver's personal vehicle in order to continue its use as a personal vehicle. A driver will maintain proof of the current inspection.

012.15(C). A transportation network company will make the initial and annual inspection reports available to the Commission upon request.

012.16 TRANSPORTATION NETWORK COMPANY INSURANCE. Beginning on September 1, 2015, a transportation network company and a participating driver will maintain transportation network company insurance as provided.

012.16(A). Unless otherwise specified, the following requirements will apply to transportation network company insurance during the engaged stage and during the passengers on board stage.

012.16(A)(i). Primary liability coverage in the amount of at least one million dollars (\$1,000,000) for death, personal injury, and property damage; and

012.16(A)(ii). Uninsured and underinsured motorist coverage for both the driver and passengers in the amounts required by the Uninsured and Underinsured Motorist Insurance Coverage Act.

012.16(B). Unless otherwise specified, the following requirements will apply to transportation network company insurance during the application open stage.

012.16(B)(i). Transportation network company insurance will be primary and in the amount of at least twenty-five thousand dollars (\$25,000) for death and personal injury per person, fifty thousand dollars (\$50,000) for death and personal injury per incident, and twenty-five thousand dollars (\$25,000) for property damage; and

012.16(B)(ii). Uninsured motorist coverage pursuant to the Uninsured and Underinsured Motorist Insurance Coverage Act.

012.16(C). The requirements for coverage may be satisfied by any of the following.

012.16(C)(i). Transportation network company insurance maintained by a participating driver;

012.16(C)(ii). Transportation network company insurance maintained by a transportation network company; or

012.16(C)(iii). Any combination of the above.

012.16(D). Prior to permitting a person to act as a driver, a transportation network company will disclose in writing to each participating driver.

012.16(D)(i). The insurance coverage, the limits of liability, and any deductible amounts that the transportation network company maintains while the driver uses a personal vehicle in connection with a transportation network company's online-enabled application or platform;

012.16(D)(ii). That a driver's personal automobile insurance policy may potentially not provide coverage for damage to the vehicle used by the driver, uninsured and underinsured motorist coverage, and other first-party claims from the moment the driver logs on to the transportation network company's online-enabled application or platform to the moment the driver logs off the transportation network company's online-enabled application or platform.

012.16(D)(ii)(a). The driver should contact his or her insurer or insurance agent in order to determine coverage under his or her personal automobile insurance policy.

012.16(E). The insurer providing transportation network company insurance will have the duty to defend and indemnify the insured.

012.16(F). An insurance policy required under Neb. Rev. Stat. §§ 75-323 through 75-341 will be placed with an authorized Nebraska insurer or with a surplus-lines insurer pursuant to Chapter 44 of the Nebraska Revised Statutes.

012.16(G). Coverage under a transportation network company insurance policy will not be dependent on a personal automobile insurance policy first denying a claim nor will a personal automobile insurance policy, including a personal liability umbrella policy, be required to first deny a claim.

012.16(H). When transportation network company insurance maintained by a participating driver to fulfill the insurance obligations of Neb. Rev. Stat. §§ 75-323 through 75-341 and these rules and regulations has lapsed or ceased to exist, the transportation network company will provide the coverage required by Neb. Rev. Stat. §§ 75-323 through 75-341 and these rules beginning with the first dollar of a claim.

012.16(I). In order for transportation network company insurance maintained by a transportation network company to meet the requirements of Neb. Rev. Stat. §§ 75-323 through 75-341 and these rules, a certificate of insurance will be filed with the Commission specifying that on cancellation or nonrenewal of the transportation network company insurance, the insurer must send written notice of the cancellation or nonrenewal to the Commission at least thirty (30) days before the effective date of the cancellation or nonrenewal.

012.16(J). Neb. Rev. Stat. §§ 75-323 through 75-341 will not limit the liability of a transportation network company arising out of an automobile accident involving a participating driver in any action for damages against a transportation network company for an amount above the required insurance coverage.

012.16(K). In the event of a loss involving a personal vehicle used in connection with a transportation network company and if such personal vehicle is subject to a lien, the transportation network company insurance carrier will make payment for a claim covered under collision physical damage coverage or comprehensive physical damage coverage

directly to the business repairing the vehicle or jointly to the owner of the vehicle and the primary lienholder on the covered vehicle.

012.16(L). The owner of any personal vehicle used in connection with a transportation network company will have the duty to maintain collision physical damage coverage and comprehensive physical damage coverage for transportation network company activity if the vehicle is required to carry such coverage due to a contractual obligation.

012.16(M). A private passenger automobile insurance policy is not required to provide primary or excess coverage during the period of time from the moment a participating driver logs on to a transportation network company's online-enabled application or platform until the driver logs off the online-enabled application or platform or the passenger exits the personal vehicle, whichever is later.

012.16(N). Notwithstanding any other law, a personal automobile insurer may, at its discretion, offer an automobile insurance policy, or an amendment or endorsement to an existing policy, that covers a private passenger motor vehicle, station wagon type vehicle, sport utility vehicle, or similar type of motor vehicle with a passenger capacity of eight (8) persons or less, including the driver, while used in connection with a transportation network company's online-enabled application or platform only if the policy expressly provides for the coverage during all or the defined portion of the time periods specified in Neb. Rev. Stat. §§ 75-323 through 75-341, with or without separate charge, or the policy contains an amendment or an endorsement to provide that coverage, for which a separately stated premium may be charged. The policy, amendment, or endorsement may include, but not be limited to.

012.16(N)(i). Comprehensive physical damage coverage;

012.16(N)(ii). Collision physical damage coverage;

012.16(N)(iii). Liability coverage for bodily injury and property damage;

012.16(N)(iv). Medical payments coverage; and

012.16(N)(v). Uninsured and underinsured motorist coverage.

012.16(O). In a claims coverage investigation, a transportation network company or its insurer will cooperate with insurers that are involved in the claims coverage investigation to facilitate the exchange of information, including the provision of dates and times at which an accident occurred that involved a participating driver and the precise times that the participating driver logged on and off the transportation network company's online-enabled application or platform in the twenty-four (24) hour period preceding the accident.

012.16(P). All records, including electronic records, showing the time when a driver has logged in as active or logged out as inactive on the transportation network company's online-enabled application or platform, and any data or reports with information about the personal vehicle's involvement in a motor vehicle accident, that are maintained by the transportation network company will be maintained for a minimum of five (5) years after the date the loss is reported to the transportation network company.

012.16(Q). A participating driver will carry proof of transportation network company insurance coverage with him or her at all times during his or her use of a vehicle in connection with a transportation network company's online-enabled application or platform. In the event of an accident, a participating driver will, upon request, provide this insurance coverage information to any other party involved in the accident and to a law enforcement officer.

012.16(Q)(i). Proof of insurance coverage will be in any format allowable under Nebraska law.

012.17 LIENS.

012.17(A). A transportation network company is required to disclose in writing to any driver planning to use a vehicle which has a lien against it to provide service in connection with a transportation network company that the driver must notify the lienholder at least seven days prior to using the vehicle to provide such service that the driver intends to use the vehicle to provide service in connection with a transportation network company by complying with Neb. Rev. Stat. §§ 75-323 through 75-343 and these rules.

012.17(A)(i). The transportation network company will make the required disclosure a distinctive part of the driver's terms of service and will require a separate acknowledgment of this disclosure by each driver by electronic or handwritten signature.

012.17(B). A driver planning to use a vehicle which has a lien against it to provide service in connection with a transportation network company will notify the lienholder using a form prescribed by the Commission.

012.17(B)(i). The form will be signed by the driver prior to filing the form with the lienholder.

012.17(B)(ii). The driver will file a copy of the signed lienholder notification form as well as proof of receipt of the form to the Commission prior to using the vehicle to provide service in connection with a transportation network company.

012.17(C). A driver planning to use a vehicle which has a lien against it to provide service in connection with a transportation network company will update his or her lienholder notification form on file with the Commission within thirty (30) days should the driver acquire a lien on a vehicle or change lienholders during the course of his or her employment as a driver with a transportation network company.

012.17(C)(i). The form will be signed by the driver prior to filing the form with the lienholder.

012.17(C)(ii). The driver will file a copy of the signed lienholder notification form as well as proof of receipt of the form to the Commission prior to using the vehicle to provide service in connection with a transportation network company.

012.17(D). The Commission will maintain such records for a maximum of five (5) years.

012.17(E). The Commission will make such records available to lienholders.

012.18 RECORDS. The Commission or the employees or duly authorized agents of the Commission may, in a mutually agreed-upon setting, inspect any records held by a transportation network company which the Commission determines are necessary to review to ensure public safety, including information obtained pursuant to statute and these rules.

012.18(A). Such inspection of records will occur no more than once each calendar quarter unless the Commission finds it necessary to inspect such records more frequently. Such inspection will be conducted on an audit basis rather than a comprehensive basis.

012.18(B). In response to a specific complaint, the Commission may inspect any records held by a transportation network company which the Commission determines are necessary to investigate and resolve the complaint, including information obtained pursuant to statute or these rules.

012.18(C). Any records obtained or inspected pursuant to these rules will not be considered public records subject to Neb. Rev. Stat. §§ 84-712 to 84-712.09 and will not be subject to disclosure by the Commission except when publicly disclosed as evidence in a civil penalty proceeding pursuant to Neb. Rev. Stat. § 75-156 or in a criminal proceeding prosecuted by the state.

012.19 FEES.

012.19(A). Every transportation network company will pay an annual fee.

012.19(A)(i). The transportation network company may choose to pay either twenty-five thousand dollars (\$25,000) or a fee established by the Commission not to exceed eighty dollars (\$80) for each personal vehicle operated by a driver of the transportation network company.

012.19(A)(ii). The Commission will establish the amount per vehicle on an annual basis so that the amount collected does not exceed the amount actually necessary to sustain the administration and enforcement of laws, rules, and regulations governing transportation network companies.

012.19(B). Annual fees will be due and payable to the Commission no later than January 1. Such fees will be paid to and collected by the Commission and remitted to the State Treasurer within thirty (30) days of receipt.

012.19(B)(i). Annual fees will be delinquent on March 1 of each year after such permit has been issued.

012.19(B)(ii). If the initial permit is issued to a transportation network company on or after July 1, the fee will be fifty (50) percent of the annual fee.

012.20 TRANSPORTATION NETWORK COMPANY REGULATION CASH FUND.

012.20(A). This section is adopted pursuant to Neb. Rev. Stat. § 75-331.

012.20(B). The Fund will be used to regulate transportation network companies and enforce Neb. Rev. Stat. §§ 75-321 through 75-343 and these rules and regulations.

012.20(C). The Fund will contain the fees remitted pursuant to Neb. Rev. Stat. § 75-305.

012.21 ANNUAL REPORT. The Commission will electronically provide the Legislature with an annual report before December 31 of each year on the status of the implementation of Neb. Rev. Stat. §§ 75-321 through 75-343. The report will describe the following.

012.21(A). The number of permits issued pursuant to § 75-324;

012.21(B). A description of any revocation proceedings involving permits issued under § 75-324;

012.21(C). The number of rides provided by taxicab carriers relative to historical numbers;

012.21(D). The number of taxicabs operated by taxicab carriers relative to historical numbers;

012.21(E). The number of drivers either employed or contracted by taxicab carriers relative to historical numbers;

012.21(F). The number of taxicab carriers authorized by the Commission relative to historical numbers;

012.21(G). Any other information in its possession that the Commission believes will assist the Legislature in evaluating the effectiveness of §§ 75-323 through 75-343. The report will also address the question of the need for further legislation to achieve the purposes of §§ 75-323 through 75-343.

013 LICENSES.

013.01. Applicability of Rules. The rules and regulations found in Chapter 3, Sections 001 through 011 of Title 291 of the Nebraska Administrative Code shall apply to motor carriers granted a license to transport household goods or passengers that are employees of railroad carriers where specified. If there is a conflict between Chapter 3, Sections 001 through 011 of Title 291 of the Nebraska Administrative Code and these rules regarding the regulation of licensees, these rules and regulations shall apply.

013.02. Requirements for an Effective Authority.

013.02(A). A license shall be issued by the Commission to any qualified applicant upon completion of the following.

013.02(A)(i). Payment of a license fee required under Neb. Rev. Stat. § 75-304.03 and 75-304.04;

013.02(A)(ii). Filing of Commission required insurance documents; and

013.02(A)(iii). Filing of required application form.

013.03 APPLICATION. The application for initial and renewal licenses to transport household goods or passengers that are employees of railroad carriers must be filed on forms provided by the Commission.

013.03(A). The application for a license will be in writing, under oath, and submitted to the Commission.

013.03(B). A duly authorized official of the applicant who possesses the full power and authority to make binding representations on the applicant's behalf will subscribe to the oath on the application.

013.03(C). The application will contain the following.

013.03(C)(i). The legal name of the applicant;

013.03(C)(ii). The applicant's principal place of business in the State of Nebraska, mailing address, telephone number, and email address;

013.03(C)(iii). USDOT number issued by the Federal Motor Carrier Safety Administration;

013.03(C)(iv). A copy of the articles of incorporation, organization, or certification to transact business from the Nebraska Secretary of State;

013.03(C)(v). The name, address, telephone number, and email address for the applicant's designated agent for service of process;

013.03(C)(vi). The applicant's current list of vehicles to be used to provide transportation services pursuant to the license;

013.03(C)(vii). A copy of the applicant's fingerprint-based background check report conducted by the Nebraska State Patrol or other comparable law-enforcement agency; and

013.03(C)(viii). A statement that the applicant agrees to adhere to the statutes of Nebraska, and the rules and regulations of the Commission.

013.04. A license issued by the Commission shall be valid for one year and may be renewed annually for a fee required under Neb. Rev. Stat § 75-304.03 and 75-34.04.

013.04(A). A license may be suspended or revoked by the Commission after notice and hearing for failure to comply with Neb. Rev. Stat. § 75-307, any rule or regulation adopted and promulgated by the Commission, or any lawful order of the Commission.

013.05 INSURANCE. The applicant must ensure proof of adequate coverage by insurance or bond is filed with the Commission in minimum levels of financial responsibility and on such forms prescribed by Rule 003.03 and Rule 006.

013.05(A). An applicant may file a certificate of insurance with its initial or renewal license application. Such certificate of insurance shall be replaced with a form prescribed in Rule 006 no later than thirty (30) days after filing of the initial or renewal license application.

013.06 RATES. The Commission shall have no authority to regulate the rates of any motor carrier issued a license under these rules.

013.07 SERVICE TERRITORY. licensees are authorized to provide services statewide unless an applicant elects to limit the service territory to specific counties.

013.08 PROVISIONS APPLICABLE TO THOSE LICENSEES PROVIDING PASSENGER TRANSPORTATION SERVICE TO EMPLOYEES OF RAILROAD CARRIERS. The following provisions apply only to those carriers who are licensed to provide passenger transportation services to employees of railroad carriers engaged in interstate commerce to and from their work locations.

013.08(A) SAFETY REGULATIONS. All licensees transporting employees of railroad carriers must.

013.08(A)(i). Operate its vehicles in compliance with state law; and

013.08(A)(ii). Comply with Commission Rule Section 005, minimum safety regulations for driver qualifications, equipment safety, and operating standards, and log books.

013.08(B). Licensees must post notice in a conspicuous location in all vehicles of a passenger's right to submit a complaint to the commission. Such notice must conform to Commission Rule 010.01G.

013.08(C). Recordkeeping. All licensees transporting employees of railroad carriers must.

013.08(C)(i). Maintain copies of records related to its intrastate passenger transportation services and make such records available for inspection in accordance with Rule Section 007;

013.08(C)(ii). Maintain logbooks in accordance with Rule 005.06 and 005.07.

013.08(D) DRIVER REQUIREMENTS. All licensees transporting employees of railroad carriers must meet the following requirements.

013.08(D)(i). A person who has four or more moving traffic violations or one or more major traffic violations in the three (3) years prior to the date of the criminal background check will not serve as a driver. The following offenses will constitute major traffic violations.

013.08(D)(i)(a). Failure to stop and report or render aid as required under Neb. Rev. Stat. §§ 60-696 or 60-697;

013.08(D)(i)(b). Reckless driving in violation of any city or village ordinance or of §§ 60-6,213, 60-6,214, or 60-6,217;

013.08(D)(i)(c). Speeding of more than thirty-five (35) miles per hour over the speed limit; and

013.08(D)(i)(d). Failure to yield to a pedestrian resulting in bodily injury to a pedestrian.

013.08(D)(ii). A person who has been convicted of or pled guilty or nolo contendere to driving under the influence of drugs or alcohol in the previous seven (7) years in

this state or any other state or territory prior to the date of the criminal background check will not serve as a driver.

013.08(D)(iii). A person who, in the previous seven (7) years, has been convicted of or pled guilty or nolo contendere to a felony or misdemeanor that required the individual to register as a sex offender will not serve as a driver.

013.08(d)(iv) A person who has been convicted of or pled guilty or nolo contendere to use of a motor vehicle to commit a felony in the previous seven (7) years will not serve as a driver.

013.08(D)(v) Licensees must ensure that all drivers operating their vehicles under Commission authority are operating in compliance with state law.

013.08(E) Each driver operating a vehicle will be identified by card, displayed in full view of passengers, bearing the driver's legal name and photograph.

013.09 PROVISIONS APPLICABLE TO THOSE LICENSEES PROVIDING TRANSPORTATION SERVICE AS A MOVER OF HOUSEHOLD GOODS. The following provisions apply only to those carriers who are licensed to provide transportation services as a mover of household goods.

013.09(A) DEFINITIONS. In addition to the definitions found in Neb. Rev. Stat. § 75-302 and otherwise found in this chapter, unless the context otherwise requires, the following definitions apply.

013.09(A)(i). Accessorial services means any service provided by a household goods mover that supplements, or is incidental to, the transportation of household goods. Examples include packing, unpacking, wrapping or protecting a portion of the shipment or providing special equipment or services as hoisting;

013.09(A)(ii). Bill of lading means receipt for shipment and contract for its transportation;

013.09(A)(iii). Binding Estimate means written agreement made in advance between consumer and named mover that guarantees total cost of move based upon quantities and services shown in estimate;

013.09(A)(iv). Certified Scale means any scale designed for weighing motor vehicles, including trailers or semi-trailers not attached to a tractor and certified by an authorized scale inspection and licensing authority;

013.09(A)(v). Contract means a written document, approved by the shipper in writing before the performance of any service, that authorizes services by the named mover and lists the services and all costs associated with the transportation of household goods to be performed;

013.09(A)(vi). Inventory means a written list of all items to be made part of the shipment;

013.09(A)(vii). Line Haul Charge means the charges for the transportation portion of the move;

013.09(A)(viii). Non-Binding Estimate means written notice of costs estimated by named mover based on estimated weight of the shipment and services requested, with final charges based upon the actual weight of the shipment, the services provided, and the tariff provisions of named mover;

013.09(A)(ix). Order for Service means a document authorizing the mover to transport a shipper's household goods;

013.09(A)(x). Shipper means a person who utilizes the services of a mover to transport or ship household goods;

013.09(A)(xi). Storage means warehousing of the shipper's goods while under the care, custody, and control of the mover; and

013.09(A)(xii). Valuation means the monetary value declared by a shipper for the shipment.

013.09(B) ARTICLES LIABLE TO CAUSE DAMAGE. A mover will not accept for shipment any property liable to impregnate or otherwise damage equipment or other property or accept for shipment articles which cannot be taken from the premises without damage to the article or premises.

013.09(C). Prior to providing transportation services, a mover shall provide a prospective shipper.

013.09(C)(i). Either a written binding or non-binding estimate of the total costs and basis for such costs to be incurred by the shipper at least 24 hours prior to a scheduled move, unless the move is initiated less than 24 hours before the commencement of the move;

013.09(C)(ii). A signed Order for Service on every move;

013.09(C)(iii). A complete and legible descriptive inventory of each loading;

013.09(C)(iv). An executed Bill of Lading;

013.09(C)(v). A detailed description of the rates and charges to be assessed as negotiated by the mover and shipper or, if the mover has notice of the availability of the applicable sections of the mover's rates and charges in its tariff, including an explanation that a shipper may examine or request a copy of the tariff sections;

013.09(C)(vi). Disclosure of the limits of its liability and the valuation options available for any claims of damage to shipper's household goods;

013.09(C)(vii). Provide summary of mover's customer complaint and inquiry handling procedures.

013.09(D) ESTIMATES.

013.09(D)(i). A mover must conduct a physical survey of the household goods to be transported and considered part of the written estimate provided to the prospective shipper prior to providing transportation services.

013.09(D)(i)(a). If the household goods are more than 50 miles from the mover's location, a physical survey is not required.

013.09(D)(i)(b). A shipper may waive the physical survey in writing prior to the loading of the shipment.

013.09(D)(ii) WEIGH TICKET. A mover must weigh each shipment that is moving under a non-binding estimate and retain scale ticket from a certified scale, complete with date, truck or trailer number and shipper's name/or bill of lading.

013.09(D)(iii). The estimate will specify the form of payment for the shipment.

013.09(D)(iv). A mover must determine charges for any accessorial services before finalizing any estimate.

013.09(E) CONTRACTS. Nothing in these rules will be construed to preclude the mover and shipper from entering into a more comprehensive contract or amending a contract upon mutual agreement.

013.09(F) DELIVERY AND STORAGE OF GOODS

013.09(F)(i). The shipper and mover must agree to the date for pickup and delivery of the shipment. Such dates must be recorded on the Bill of Lading;

013.09(F)(ii). A mover shall relinquish household goods to a shipper and place the goods inside the shipper's dwelling after all charges have been paid or satisfactory arrangements have been made between the mover and the shipper; and

013.09(F)(iii) STORAGE IN TRANSIT. A shipper may request that a mover store the shipment prior to delivery.

013.09(F)(iii)(a). The mover will notify the shipper of the specified period of time that the shipment will be held in storage; and

013.09(F)(iii)(b). Prior to the expiration of the storage period, the mover must notify the shipper in writing when such period will convert to permanent storage, the time period under which the shipper may file claims against the mover for loss or damage to the household goods while in transit or during the storage period, when the mover's liability will end for loss and damage, and when the shipment will become subject to the rules, regulations, and charges of the storage facility.

013.09(G) CLAIMS

013.09(G)(i). A claim for loss, damage or injury will not be voluntarily paid by the mover unless the claim is filed in writing within the time limits specified in the Bill of Lading or other contract and contains the following minimum requirements.

013.09(G)(i)(a). Contains facts sufficient to identify the shipment;

013.09(G)(i)(b). Asserts liability for alleged loss, damage, or inquiry;

013.09(G)(i)(c). A claim for the payment of specified or determinable amount of money.

013.09(G)(ii) CLAIM FOR UNCERTAIN AMOUNT. When presented a claim for an uncertain amount of money, a mover will determine the condition of the shipment involved at the time of delivery, if it was delivered, and will ascertain as nearly as possible the extent, if any, of the loss or damage for which it may be responsible. A formal claim in writing for a specified or determinable amount of money must still be filed before a mover will voluntarily pay a claim.

013.09(G)(iii) DOCUMENTS NOT CONSTITUTING CLAIMS. Bad order reports, appraisal reports of damage, notations of shortage or damage, or both, or freight bills, delivery receipts, or other documents, or inspection reports issued by carriers or their inspection agencies, whether the extent of loss or damage is indicated in dollars and cents or otherwise, will, standing alone, not be considered by carriers as sufficient to comply with the minimum claim filing requirements specified.

013.09(G)(iv) CONCEALED DAMAGE OR SHORTAGE. a mover must be promptly notified after discovery of concealed damage or shortage and given reasonable opportunity to inspect the shipment and packaging. Movers will promptly and thoroughly investigate the claim and establish a claim file.

013.09(G)(v). A mover may satisfy a claim by repairing or replacing the property lost or damaged with materials of like kind, quality, and condition at time of acceptance by the mover.

013.09(G)(vi). A mover's liability is limited to the extent provided in the terms and conditions of the Bill of Lading.

013.09(G)(vii). A mover must acknowledge receipt of each claim in writing within 30 days after receipt of the claim.

013.09(G)(vii)(a). The mover will pay, refuse payment, or make a firm compromise offer within 120 days after receipt of the claim.

013.09(G)(vii)(b). If the claim cannot be resolved within 120 days, the mover each succeeding 60 days thereafter while the claim is pending must notify the claimant in writing of the reason that the claim cannot be concluded.