

Rules Governing Motor Carriers and Private Carriers

Oklahoma Administrative Code Title 165.
Chapter 30. Motor Carriers



CORPORATION COMMISSION of OKLAHOMA

TRANSPORTATION DIVISION

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[Authority: 47 O.S., Sections 161 through 180m et seq.]

SUBCHAPTER 1. GENERAL PROVISIONS

165:30-1-1. Purpose

The public policy of this State, as declared by the Legislature, requires that motor carriers and private carriers, except as provided in this Chapter, should be regulated by the Oklahoma Corporation Commission, hereinafter referred to as the Commission, to protect the public interest, the environment and the highways of the state of Oklahoma and ensure compliance with applicable safety rules and regulations. The public policy of this State, as further declared by the Legislature, requires that the charges and services of motor carriers of household goods, as defined in this Subchapter, should be regulated by the Commission. The rules in this Chapter are intended to implement that public policy and to carry out the Commission's statutory duty of regulation in the public interest. In case of doubt as to the meaning of any language of the rules in this Chapter, that construction should be adopted which is consistent with the Constitution and Statutes of Oklahoma. All prior rules and regulations governing motor carriers pertaining to acts and services of motor carriers are hereby superseded and revoked.

165:30-1-2. Definitions

In addition to terms defined in 47 O.S., Sections 161 through 180m et seq. and the Motor Carrier Act of 1995, the following words or terms, when used in this Chapter, shall have the following meaning unless the context clearly indicates otherwise:

"Alliance" means the Alliance for Uniform Hazardous Material Transportation Procedures, a confederation of state, local industry and environmental representatives for the purpose of administering and enforcing a uniform hazardous materials transporters program as established by HMTUSA.

"Authority" means a general term referring to permission issued by the Commission to a motor carrier to perform operations under the jurisdiction of the Commission. The term authority is not applicable to vehicle registrations or fuel permits.

"Base state" means the state selected by a motor carrier according to the procedures established by a uniform program.

"CFR" means the Code of Federal Regulations.

"COD" means collect on delivery.

"Commission" means the Oklahoma Corporation Commission.

"Corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly one hundred percent (100%) interest.

"Environmental restoration" means restitution for loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water, of any commodity transported by a motor carrier. This includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish and wildlife.

"Exceeding authority" means a motor carrier operating outside or beyond the purview of an issued license, certificate, permit, registration or other authority issued by the Commission or a reciprocal state.

"FMCSA" means the Federal Motor Carrier Safety Administration.

"Gross Combination Weight Rating" (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

"Gross Vehicle Weight" (GVW) means the registered weight of the vehicle or any lawful registered combination weight (Gross Combination Weight or GCW).

"Gross Vehicle Weight Rating" (GVWR) means the value specified by the manufacturer as the loaded weight of a single vehicle (gross vehicle weight rating) and may include any lawful combination.

"Hazardous waste" means any material that is subject to the "Hazardous Waste Manifest Requirements" of the United States Environmental Protection Agency specified in Title 40, CFR, Part 262.

"Hazardous waste permit" means the document issued by a participating state which represents a specific motor carrier's registration to transport hazardous waste in states that participate in the uniform hazardous waste program.

"HMTUSA" means the Hazardous Materials Transportation Uniform Safety Act of 1990.

"ICC" means the Interstate Commerce Commission or its successor agency.

"Identification device" means an annual, fee-paid, nontransferable device issued by the Commission to be carried in each and every vehicle.

"Intercorporate hauling" means the transportation of property, passengers or household goods by motor vehicle, for compensation, by a carrier which is a member of a corporate family, as defined in this Section, when said transportation for compensation is provided for other members of the corporate family.

"Interstate" means a shipment having an origin or destination into, out of or through two or more states.

"Intrastate" means a shipment having an origin and destination wholly within one state.

"IRP" means the International Registration Plan as administered by the Commission or other states.

"Letter of filing" means a document issued by the Commission to a motor carrier as evidence of temporary compliance with the hazardous waste uniform program.

"Motor carrier" means a for-hire motor carrier or a private motor carrier operating in interstate or intrastate commerce.

"Motor carrier of household goods" means a person holding a valid certificate or permit requiring public convenience and necessity transporting for hire used personal effects and property of a dwelling.

"**NAIC**" means the National Association of Insurance Commissions.

"**Participating state**" means a state electing to participate in a uniform program by entering into a base state agreement.

"**PIN**" means personal identification number.

"**Principal place of business**" means a single location that serves as the motor carrier's or private carrier's headquarters and where it maintains or can make available its operational records.

"**Private motor carrier**" means a person who operates a commercial motor vehicle and is not a for-hire motor carrier.

"**Process agent**" means a representative upon whom court papers may be served in any proceeding brought against a motor carrier, broker, or freight forwarder.

"**Public convenience and necessity**" means a determination of fact arrived at by the Commission in its expertise and discretion based upon evidentiary proceedings. It denotes a need for transportation service which may be less than absolute, but more than simple convenience or desire of shippers or consignees of freight. It presupposes a present or definite future requirement not already adequately met or will be met. The Commission's determination of fact is whether a proposed transportation service will serve a useful public purpose, responsive to a public demand or need, and whether this purpose can and will be served by the proposed service without unnecessarily endangering or impairing the operations of existing services contrary to the public interest as it applies to motor carriers of household goods.

"**Registration**" means the identification of hazardous waste transporters through a national base state system.

"**Reciprocal state**" means a jurisdiction with which the Commission has entered into a reciprocal agreement regarding the uniform registration, licensing or permitting of motor carriers.

"**Trip permit**" means a temporary authorization issued by the Commission granting permission to conduct operations as a motor carrier in intrastate and/or interstate commerce.

"**Truck yard pit**" means any pit used to store or catch fluids or wash fluids in a truck terminal or maintenance facility as the result of transportation related activities.

"**Uniform application**" means a uniform motor carrier registration, licensing or permit application form established under a uniform program.

"**Uniform program**" means any law, rule, policy, practice and/or all combinations thereof which pertain to the regulation of motor carriers by motor vehicle operating in interstate or intrastate commerce over the highways of Oklahoma and is recognized, adopted and enforced or administered by the Transportation

Division only when in concert and reciprocal with one or more states which adopt, recognize, administer and enforce the exact same rule, law, policy, practice and/or all combinations thereof.

"**Unprocessed agricultural commodities**" means all products raised or produced by tillage and cultivation of the soil, pasture grasses, orchard products, trees in their raw state and products produced by livestock (such as milk, wool, eggs, honey and manure). The term also includes those products embraced within the above definition which have been processed for purposes of handling, storage, preservation or transportation (such as washing, cleaning, wrapping, packaging, boxing, baling, trimming, drying, sorting, sizing, grading, cooling, spraying and fumigating). The term does not include those products embraced within the above definition which, as a result of some treatment or processing, have been so changed that they are no longer in their natural or raw state, but possess new forms, qualities, or properties or result in combinations.

"**USDOT**" means the United States Department of Transportation.

SUBCHAPTER 3. INTRASTATE MOTOR CARRIERS

PART 1. APPLYING FOR A LICENSE

165:30-3-1. Obtaining a license

(a) No intrastate motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of passengers or property for hire without first obtaining from the Commission a license as provided in this Section. A license issued under this Subchapter shall not include transportation as a motor carrier of household goods. Motor carriers of household goods must comply with Subchapter 13 of this Chapter.

(1) An applicant for a license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number (PIN), which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Chapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited until after all requirements have been met, and a license has been issued. All requirements for compliance with this Chapter shall be met within thirty (30) days from date of receipt of a motor carrier license application by the Commission. Failure to comply will result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one year and may be renewed after application has been filed as provided by this Chapter.

(5) No license for intrastate operations shall be issued until after the applicant has provided a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Chapter and all applicable state statutes; and has purchased an appropriate number of identification devices.

(6) The notarized application shall require the following:

(A) Name, single trade name (if any), mailing address, physical address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors listing the addresses of each.

(C) The type of operations the applicant is applying for.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business or a terminal in Oklahoma).

(E) Declaration of its USDOT number, safety rating and a safety summary report which details its safety program and lists all safety violations identified within the prior twelve (12) months. Motor carriers without a USDOT number must attach a copy of its previously submitted application for a USDOT number. The applicant shall notify the Commission in writing of its USDOT number once issued, unless the USDOT number is issued by the Commission.

(F) A size and weight summary report which details its size and weight compliance

program and lists all size and weight violations identified within the prior twelve (12) months.

(G) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(H) A description of all terminal and dock facilities.

(I) A declaration that the applicant is in full compliance with all other state laws, rules and regulations.

(J) Any other information the Commission deems pertinent.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess a copy of this Chapter governing the operations of motor carriers.

(8) A motor carrier desiring to modify its license operations shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (5) and (6)(D)-(H) of this subsection.

(9) A copy of the current license under which a motor carrier operates shall be carried at all times in each power unit by the motor carrier.

(b) A motor carrier engaged in intercorporate hauling shall be subject to this Subchapter.

(c) Motor carrier operations, other than motor carriers of passengers, are exempt from this Subchapter when:

(1) Conducted strictly within a municipality, or
(2) Conducted by a federal, state or local government.

(d) Motor carriers of passengers shall be exempt from this Subchapter when:

(1) Operating a taxicab, as defined by 47 O.S. § 1-174, wholly within a municipality, provided the operator of the taxicab is licensed by the municipality in which business is conducted;
(2) Operating a bus, as defined by 47 O.S. § 1-105, not between two or more cities or towns, provided the operator of the bus is licensed by a municipality in which business is conducted.

(e) Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all other requirements for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license to the Director of the Transportation Division. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.

(f) The Commission may grant or deny the motor carrier license application or may impose conditions, stipulations and limitations on the license. If the Commission deems a hearing on the application to be necessary, the hearing shall be set within 30 days of receipt of a complete application.

(g) No intrastate motor carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) All proceedings subsequent to the application, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

165:30-3-3. License renewals

(a) Any motor carrier desiring to continue intrastate motor carrier operations as granted in its license, shall, prior to the date of license expiration, apply for renewal by submitting the appropriate application form (TDF 2) and all supporting documentation. Each renewal application shall be properly signed, attested to and notarized as follows:

- (1) Application of sole proprietorship must be signed by owner.
- (2) Application of partnership must be signed by one of the partners.
- (3) Application of corporation must be signed by an officer.

(b) All intrastate motor carrier licenses issued by the Commission shall expire the same calendar month as issued, and shall be valid for a period of one year, but may be renewed for up to three years. Carriers renewing licenses for more than one year must maintain all requirements of that license as prescribed in Part 3 of this Subchapter in order for the license to be valid.

(c) Renewal applications shall be accompanied by a filing fee as prescribed by the Commission, unless filed simultaneously with a sub application to modify operations.

(d) A renewal application may be set for hearing at the discretion of the Commission for good cause.

(e) An intrastate motor carrier desiring to renew its license should apply for renewal of its license a minimum of thirty (30) days prior to its expiration.

(f) A renewal application will not be accepted if the license has previously expired, unless the Director of the Transportation Division reviews and approves the acceptance of the application for renewal.

(g) No intrastate motor carrier license shall be renewed until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) No intrastate motor carrier operations shall be performed under an expired motor carrier license.

PART 3. LICENSE REQUIREMENTS

165:30-3-11. Insurance

(a) No intrastate motor carrier whose principal place of business is in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid primary bond or insurance policy issued by an Oklahoma State Insurance Commission authorized provider. No motor carrier shall conduct any operations in this State unless such operations are covered by a valid bond or insurance policy issued by a National Association of Insurance Commissioners (NAIC) certified state insurance commission licensed provider. No holder of an authority shall conduct any operations before a proper certificate of insurance(s) has been filed with, and approved by the Commission. A surety bond containing all obligations provided by this Section may be substituted for an insurance policy.

(b) Every motor carrier shall file with, and must be approved by, the Commission a certificate on Form E or G certifying that there is in effect a valid bond or insurance policy covering operations in Oklahoma to protect the public against loss of life, injury, property damage, and including environmental restoration in minimum amounts, of combined single limits, for bodily injuries to, or death of all persons injured or killed in any accident, and loss or damage in any one accident to property or other (excluding cargo). Minimum liability insurance limits as set forth in 49 CFR Part 387 shall also be applicable to intrastate operations unless otherwise specified in subsections (b)(1)-(4).

(1) Motor carriers of property using vehicles with a gross vehicle weight rating (GVWR) of 10,000 pounds or more:

(A) Transporting non-hazardous commodities or transporting hazardous waste, materials or substances not listed in 49 CFR Part 387.9 - \$750,000.

(B) Transporting hazardous waste, materials, or substances- as required by 49 CFR, Part 387.9.

(2) Motor carriers of property using only vehicles with a GVWR under 10,000 pounds:

(A) Transporting commodities not listed in (B) of this paragraph- \$300,000.

(B) Transporting hazardous waste, materials or substances – as required by 49 CFR Part 387.9.

(3) Motor carriers of the following types of property, materials, and products (also known or identified as restricted property) - \$350,000:

- (A) Sand, rock, gravel, rip-rap, aggregate or dirt.
 - (B) Asphaltic mixtures and similar mixtures and compositions (excluding concrete and concrete mixtures) used in road, highway and other ground surface paving.
 - (C) Unprocessed forestry products and by products thereof not in a finished state.
 - (D) Unprocessed agricultural commodities.
 - (E) Ordinary livestock.
- (4) Motor carriers of passengers (seating capacity includes the driver):
- (A) Taxicab service utilizing vehicles having a seating capacity of less than 7 passengers not operated on a regular route or between specified points - \$100,000.
 - (B) Utilizing vehicles having a seating capacity of 15 passengers or less, other than as described in (A) of this paragraph - \$1,000,000.
 - (C) Utilizing vehicles having a seating capacity of 16 or more passengers - \$5,000,000.
- (5) Motor carriers of household goods - \$750,000.
- (c) Every intrastate motor carrier of freight, except an intrastate motor carrier of household goods, shall be exempted from filing proof of cargo insurance. Every intrastate motor carrier of household goods shall file with, and be approved by, the Commission an additional certificate on Form H or J that there is in effect a valid bond or insurance policy issued by a State Insurance Commission authorized provider, in the amount of at least Five Thousand (\$5,000) Dollars covering each household goods carrying vehicle operated by the carrier for the benefit of all persons who may suffer damage to property while in possession of said motor carrier of household goods.
- (d) Motor carriers of hazardous materials or hazardous waste shall maintain a properly executed Form MCS-82 or MCS-90 in effect as required by CFR 387.
- (e) The Commission may by order grant authority to operate or to continue operating as a motor carrier conditional upon carrying insurance coverage in amounts larger than prescribed by (b) of this Section.
- (f) No certificate of insurance or surety bond filed with the Commission pursuant to this Section shall be cancelled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on Form K or L, which notice shall be effective only upon actual receipt thereof by the Commission.
- (g) Insurance certificates or surety bonds may be cancelled without the thirty (30) days written notice on Form K or L only when the authorization to operate has previously expired or cancelled, the motor carrier provides an affidavit stating no operations have been conducted and the effective date of the cancellation notice is not before the date the cancellation notice is received in the Commission.
- (h) Insurance certificates or surety bonds not properly cancelled or expired shall be considered expired one year after the motor carrier's authorization to operate has been cancelled or expired.
- (i) Insurance certificates or surety bonds approved by this Commission shall be replaced by more recent insurance certificates or surety bonds. The liability of the retiring insurer or surety shall be terminated as of the effective date of the replacement insurance certificate or surety bond provided the replacement is approved by this Commission.
- (j) No certificate of insurance shall be filed with the Commission which contains a provision to the effect that liability thereunder may be limited or avoided because of the culpability, the recklessness, or the condition of the driver of the vehicle involved or any other restriction relating to the driving or operation of the vehicle.
- (k) Every certificate of insurance filed with the Commission shall provide that the public is protected from damage sustained through operations of any and all vehicles operated by the motor carrier insured, whether or not listed or identified in the policy; and that liability is not limited by the description of any particular vehicle or route which may be traveled by the motor vehicle in transporting passengers or property under the certificate or permit or license.
- (l) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.
- (m) When insurance is provided by more than one insurer in order to aggregate security limits for motor carriers, a separate insurance certificate and endorsement is required of each insurer.
- (n) Every motor carrier shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force shall automatically and without notice suspend the license, IRC and authority of a motor carrier until proper insurance is filed.
- (o) Whenever the license or authority of a motor carrier is suspended for failure to maintain in force insurance required by this Section, the carrier must file, within sixty (60) days after commencement of

the suspension, proper certificate(s) of insurance as provided in this Section and a sufficient showing, by affidavit or otherwise, that no operations were conducted during the period that insurance was not in force (TDF 18).

(p) Whenever a motor carrier fails to provide proper certificates of insurance within sixty (60) days after suspension thereof as provided in this Section, the motor carrier's certificate or permit, license, or other authority shall be cancelled by operation of law, and without notice. A certificate or permit, license, or other authority so cancelled shall not be reinstated or otherwise made operative except upon proper showing, at a hearing, that the motor carrier was actually covered by proper insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the motor carrier's own negligence.

(q) Any motor carrier conducting operations under a suspended or cancelled authority, shall not be eligible to apply for a new authority for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.

(r) A person may not require indemnification from a motor carrier as a condition to the following:

- (1) The transportation of property by the motor carrier.
- (2) Entrance onto property by the motor carrier for the purpose of loading, unloading or transporting property.
- (3) Subsection (r)(2) of this Section does not apply to a claim arising from damages or losses from the wrongful or negligent act or omission of the motor carrier.

(s) Insurance filings and cancellation notices required by this Chapter may be accepted electronically as set forth by the Transportation Division. Electronic insurance filings and cancellations shall be held to the same standard and carry the same force and effect as if accepted through traditional paper filings.

165:30-3-12. Identification device

(a) Every motor carrier operating upon the public highways of the State of Oklahoma shall purchase and place within each power unit operated by said motor carrier an identification device issued by this

Commission, and make available for inspection upon request.

(1) Only one (1) identification device is required for each power unit.

(2) The annual fee for each identification device will be as prescribed by law or Commission rule.

(3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.

(b) No identification device may be sold or otherwise transferred; except if such motor carrier provides a newly acquired vehicle in substitution therefore, each identification device on the discontinued vehicle, if such device is still in the possession of the motor carrier, may be transferred to the substitute vehicle or any subsequently substituted vehicle.

(c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by a motor carrier enforcement officer.

(d) No identification devices will be issued to any motor carrier who does not meet all statutory, regulatory and Commission requirements.

(e) Identification device(s) must be purchased prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely purchase the identification device(s) will cause the motor carrier license to expire. Failure to purchase the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and subject to reinstatement rules as prescribed in OAC 165:30-3-103.

165:30-3-13. Deleterious Substance Transport Permit

(a) No person, motor carrier or private carrier shall transport any deleterious substance(s) in any quantity over twenty (20) gallons, without a Deleterious Substance Transport Permit, to be issued by the Commission. The Deleterious Substance Transport Permit shall be required in addition to a motor carrier license as prescribed by this Chapter, when required.

(b) No person, motor carrier or private carrier shall dump, disperse or otherwise release deleterious liquids or substances described herein upon a public highway, on private property, or at any place except as authorized by law.

(c) No motor vehicle used to transport salt water or other deleterious substances shall be equipped with a release device which can be operated in any manner from within the cab of any motor vehicle.

(d) The Commission may issue the permit upon applicant fulfilling all requirements. If issued, a copy of the permit must be carried in each motor vehicle at all time. Motor carriers must maintain valid liability insurance on file with this Commission in accordance

with OAC 165:30-3-11. Failure to do so shall subject the permit to revocation.

(e) Notice of the application and hearing thereon shall not be required, unless the Commission shall so direct.

(f) Every person, motor carrier or private carrier holding a Deleterious Substance Transport Permit shall maintain an accurate register in numerical order at the principal place of business and retain for inspection by Commission personnel at all times. The register shall consist of the shipping document or criteria as provided in (g) of this Section.

(g) Every vehicle transporting deleterious substances shall carry an individual shipping document for each load containing the information as follows:

- (1) Vehicle identification
- (2) Driver name
- (3) Shipper name
- (4) Legal description of the origin of the load
- (5) Volume and description of substance
- (6) Legal description of the destination of the load

(h) The shipping documentation may be transferred to the register. The register shall be maintained in numerical order by the permit holder and retained for inspection by Commission personnel at all times.

(i) Failure to maintain and preserve the records provided herein shall be grounds for revocation of the permit.

165:30-3-16. Current address requirement

(a) Any notice required by law, the Commission's Rules of Practice, OAC 165:5, or this Chapter to be served upon or mailed to any holder of a certificate, permit or license shall be delivered or mailed to the last known address as reflected by the records of the Commission. It is the duty of every holder of a certificate, permit or license to notify the Transportation Division by specific written request (TDF 17) of any change in the address of the principal place of business and mailing address thereof.

(b) Any non-resident motor carrier who has not filed a written designation of service agent with the Commission shall be deemed to have designated the Secretary of State of Oklahoma for the purpose of service of process by the Commission.

(c) Where such notice is required by law, Commission's Rules of Practice, OAC 165:5, or this Chapter is returned undeliverable, it will be grounds for revocation of the certificate, permit or license.

165:30-3-17. Markings

(a) Every motor carrier shall obtain and display a USDOT number.

(b) Each motor vehicle operated by a motor carrier shall be properly marked. The markings shall be in compliance with the Federal Motor Carrier Safety Regulations, 49 CFR Part 390.21 (b)-(d). A motor vehicle operating under a DBA or trade name must

first list the DBA or trade name on the carrier's operating authority.

(c) If the motor carrier's USDOT number is issued by the Commission, the letters OK must follow the carrier identification number. Motor carriers with an intrastate USDOT number will notify the USDOT and the Commission of its intent to engage in interstate operations prior to dropping the OK from its USDOT number.

(d) In the event a power unit is transferred or sold by a motor carrier, the motor carrier is responsible for removing the markings from the unit.

PART 5. CONDUCTING OPERATIONS

165:30-3-31. Compliance with laws and regulations

(a) All intrastate motor carriers and private carriers, where applicable, shall conduct their operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of this Chapter. All licenses heretofore or hereafter granted by the Commission are subject to applicable provisions of law and of this Chapter as fully as if those laws and rules were set forth verbatim therein.

(b) No intrastate motor carrier or private carrier shall operate or allow to be operated on the public highways of the State of Oklahoma any equipment that does not comply with safety criteria established by the USDOT, the rules of this Commission; or, the statutes of the State of Oklahoma. No motor carrier or private carrier shall permit any person to operate a motor vehicle in violation of any size or weight limits established by this Chapter, of OAC 595:30 or of the statutes of the State of Oklahoma. Every person operating vehicles upon the public highways of this State shall meet the minimum safety standards as established by the USDOT and the statutes of the State of Oklahoma. Any vehicle which fails to meet safety criteria, or size and weight standards, or which is operated by any person in violation of this subsection shall be prevented from continued use of the public highways of the State of Oklahoma.

(c) The Commission adopts the oversize and overweight provisions of the rules as adopted by the Oklahoma Department of Public Safety in OAC 595:30.

165:30-3-32. Shipping documentation

Every shipment shall be accompanied at all times by some form of written document of identification, which may be a bill of lading, freight bill, way bill, receipt, load ticket or other written instrument which sets out the date of shipment, commodity, weight, point of origin, point of destination, consignor and consignee. Provided nothing contained in this

Section shall prohibit any motor carrier from utilizing an electronic system of documentation heretofore or hereafter approved by the Commission including a metered tape parcel registration system.

165:30-3-33. Records

(a) All records required by this Subchapter shall be maintained at the location last designated by the motor carrier as its principal office. If no location in Oklahoma is so designated, upon demand, the records shall be made available at a location designated by the Commission, at the expense of the motor carrier.

(b) All books, records and other documents required by this Subchapter must be retained for a period not less than three (3) years.

165:30-3-34. Minimum standards

(a) Every vehicle used for intrastate transportation of passengers or property shall be in safe operating condition, and shall possess all safety equipment required by the Statutes of Oklahoma and the regulations of the USDOT.

(b) Every motor vehicle used for intrastate transportation of passengers or property shall be adequate in size, design, and equipment to perform the transportation and other services required of it. Every vehicle used for transportation requiring specialized equipment shall be equipped with all features and equipment necessary to afford adequate protection to cargo and to the public. No vehicle shall be loaded in excess of applicable weight limits; nor in any event in excess of the reasonable capacity of the vehicle, or in such fashion as to endanger any portion of the cargo.

(c) Every motor vehicle used for the intrastate transportation of explosives or any other dangerous substance shall comply with all applicable laws and rules as to safety, placarding and other transportation requirements.

(d) All vehicles will be utilized in a manner that conforms with the manufacturer's design standards and specifications.

(e) The Commission adopts the provisions of the rules and regulations as adopted by the Oklahoma Department of Public Safety in OAC 595:35, pertaining to 49 C.F.R. Federal Motor Carrier Safety Regulations, with all amendments and appendices thereto.

165:30-3-37. Leasing of equipment

(a) An authorized carrier may perform authorized intrastate transportation in equipment it does not own only under the following conditions:

(1) There shall be a written lease granting the use of the equipment and meeting the requirements as set forth in (b) of this Section.

(2) The authorized carrier acquiring the use of equipment under this Section shall identify the equipment in accordance with the Commission's requirements.

(3) Upon termination of the lease, the authorized carrier shall remove all identification showing it as the operating carrier before giving up possession of the equipment.

(b) The written lease required pursuant to (a) of this Section shall contain the following provisions which shall be adhered to and performed by the authorized carrier as follows:

(1) The lease shall be made between the authorized carrier and the owner of the equipment. The lease shall be signed by these parties or by their authorized representatives.

(2) The lease shall specify the time and date or the circumstances on which the lease begins and ends.

(3) The period for which the lease applies shall be for thirty (30) days or more when the equipment is to be operated for the authorized carrier by the owner or an employee of the owner.

(4) The lease shall provide that the authorized carrier lessee shall have exclusive possession, control and use of the equipment for the duration of the lease. The lease shall further provide that the authorized carrier lessee shall assume complete responsibility for the operation of the equipment for the duration of the lease.

(5) The amount to be paid by the authorized carrier for equipment and driver's services shall be clearly stated on the face of the lease or in an addendum which is attached to the lease. The amount to be paid may be expressed as a percentage of gross revenue, a flat rate per mile, a variable rate depending on the direction traveled or the type of commodity transported, or by any other method of compensation mutually agreed upon by the parties to the lease. The compensation stated on the lease or in the attached addendum may apply to equipment and driver's services either separately or as a combined amount.

(6) The lease shall clearly specify the responsibility of each party with respect to the cost of fuel, fuel taxes, empty mileage, permits of all types, tolls, detention and accessorial services, base plates and licenses, and any unused portions of such items. Except when the violation results from the acts or omissions of the lessor, the authorized carrier lessee shall assume the risks and costs of fines for overweight and oversize trailers when the trailers are preloaded, sealed, the load is containerized, or when the trailer or lading is otherwise outside of the

lessor's control, and for improperly permitted overdimension and overweight loads and shall reimburse the lessor for any fines paid by the lessor. If the authorized carrier is authorized to receive a refund or a credit for base plates purchased by the lessor from, and issued in the name of, the authorized carrier, or if the base plates are authorized to be sold by the authorized carrier to another lessor, the authorized carrier shall refund to the initial lessor on whose behalf the base plate was first obtained a prorated share of the amount received.

(7) The lease shall specify that payment to the lessor shall be made by the authorized carrier within fifteen (15) days after submission of the necessary delivery documents and other paperwork concerning a trip in the service of the authorized carrier. The paperwork required before the lessor can receive payment is limited to those documents necessary for the authorized carrier to secure payment from the shipper. The authorized carrier may require the submission of additional documents by the lessor but not as a prerequisite to payment.

(8) The lease shall clearly specify the right of the lessor whose revenue is based on a percentage of the gross revenue for a shipment to examine copies of the authorized carrier's freight bill before or at the time of settlement. The lease shall clearly specify the right of the lessor, regardless of method of compensation, to examine copies of the carrier's documentation upon which charges are assessed.

(9) The lease shall clearly specify all items that may be initially paid by the authorized carrier but ultimately deducted from the lessor's compensation at the time of payment or settlement together with a recitation as to how the amount of each item is to be computed. The lessor shall be afforded copies of those documents which are necessary to determine the validity of the charge.

(10) The lease shall specify that the lessor is not required to purchase or rent any products, equipment, or services from the authorized carrier as a condition of entering into the lease arrangement.

(11) As it relates to insurance, the lease shall clearly specify:

(A) The legal obligation of the authorized carrier to maintain insurance coverage for the protection of the public.

(B) The conditions under which deductions for cargo or property damage may be made from the lessor's settlements. The lease shall further specify that the authorized carrier must provide the lessor with a written explanation and itemization of any

deductions for cargo or property damage made from any compensation owed to the lessor. The written explanation and itemization must be delivered to the lessor before any deductions are made.

(12) An original and two (2) copies of each lease shall be signed by the parties. The authorized carrier shall keep the original and shall place a copy of the lease in the equipment during the period of the lease. The owner of the equipment shall keep the other copy of the lease. Leases shall not be filed with the Transportation Division.

(c) All charges for transportation performed by equipment covered by this Section shall be made and billed by the lessee and all records shall be maintained as required by 165:30-3-33.

(d) A contract for lease of equipment with provision or option to purchase the equipment as part thereof shall be valid if otherwise in compliance with this Section.

(e) This Section shall not apply to a regular route carrier of passengers.

(f) No person shall rent equipment with driver to a private intrastate carrier or to a shipper, without appropriate certificate or permit or license from the Commission.

PART 7. CHANGE OF NAME OF LICENSE HOLDER

165:30-3-51. Name changes

(a) An application to change the name or business name of the holder of an intrastate motor carrier license, without any change in the legal identity of the holder or any change in the ownership of the license, except as provided in subsections (c), (d) or (e) below, shall be filed on the appropriate form prescribed (TDF 3) under the permanent PIN of the holder with appropriate sub-number designation and with such filing fee as prescribed by law or by Commission rule. No notice or hearing shall be necessary unless the Commission so requires. Notice, if required, shall be as the Commission shall direct.

(b) Any change in legal identity of the holder of an intrastate motor carrier license, except as provided in subsections (c), (d) or (e) below, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership or creation or dissolution of a trust shall require an original application for a license.

(c) Incorporation by a sole proprietor in which the sole proprietor is the majority shareholder of the corporation, limited liability corporation or limited liability partnership shall be deemed a name change. Incorporation by a partnership in which the partners

are the majority shareholders of the corporation shall be deemed a name change.

(d) A change in legal entity from a corporation, limited liability corporation or a limited liability partnership to a sole proprietorship, a partnership, a limited liability corporation or a limited liability partnership in which the sole proprietor, partners or shareholders hold the majority of all issued and outstanding shares of the corporation shall be deemed a name change.

(e) The merger of two or more corporations in which the survivor is the holder of a current license shall be deemed a name change.

(f) The transfer of stock in a corporation that shall result in any entity controlling fifty one percent (51%) or more of the aggregate number of voting shares of the corporation shall not be deemed a name change.

(g) The employment of incorporation, change of name or similar action directly or indirectly as a device to circumvent the rules of this Chapter is prohibited.

PART 9. VIOLATIONS

165:30-3-71. Loading capacity - Safety compliance

(a) No intrastate motor carrier or private carrier shall operate or allow any employee, agent or any other person to operate a motor vehicle owned or leased to it in violation of the size and weight limits established by the State Statutes. Factors to be considered when an application for suspension or revocation is made are set forth in subsection (d)(1) through (5).

(b) No person, firm or corporation shall assist in the commission of such overweight violation or cause a motor vehicle to be overloaded.

(c) No intrastate motor carrier shall operate or allow any employee, agent or any other person to operate a motor vehicle owned or leased to it in violation of the safety standards established by the state statutes.

(d) A compliance audit may be conducted by the Commission and will be based upon, but not limited to the following:

- (1) Frequency of violations.
- (2) Pattern of violations.
- (3) Fleet size.
- (4) Type of operation.
- (5) Overweight excess.

165:30-3-73. Leasing of license

No intrastate motor carrier license, nor any part thereof, or rights thereunder shall be leased; nor shall the holder thereof sublet or in any manner permit the use thereof, or the exercise of any rights or privileges thereunder by another, except as provided in this Section. Violation of this Section shall be grounds for revocation of the license, and shall be grounds for denial of an application for a new or renewed license.

165:30-3-75. Advertising

Any person who advertises to perform intrastate transportation services for which he does not hold a proper certificate or permit or license shall be in violation of this Section and subject to the penalties prescribed for contempt of the Commission.

165:30-3-76. Contempt complaint

In addition to the procedures set forth in the Oklahoma Statutes and in the Commission's Rules of Practice, OAC 165:5 regarding the procedure in proceedings as for contempt, the following procedures may be followed for violations of this Chapter, and applicable statutes of Title 47 and Title 68:

(1) An enforcement officer/compliance inspector/ rate field agent (hereinafter referred to as "officer") of the Transportation Division may issue in the field a contempt citation for any violation of this Chapter or any applicable state statute. The officer shall furnish a copy of the citation to the person.

(2) The citation shall be in the form prescribed by the Commission's Transportation Division.

(3) A person served with a contempt citation may post bond or be released by the complaining officer upon personal recognizance as provided herein. The person shall indicate a plea on the citation, and sign the citation in the presence of the complaining officer. A person served with a citation may elect to change this plea to the citation at any time prior to and including the hearing date before the Administrative Law Judge. Any person electing to plead not guilty shall appear at the time and date set forth on the citation for a hearing on the matter before the Administrative Law Judge and, if not appearing, forfeit the bond posted. All Rules of Practice, OAC 165:5, of the Oklahoma Corporation Commission regarding procedures for hearing shall apply to the hearings provided for herein, except that the Administrative Law Judge may issue either an oral or written recommendation to the Commission en banc on the matter.

(A) The Commission shall accept bond payment of a fine in the form of cash, certified check, cashier's check, certified or guaranteed bank check, postal or commercial money order, guaranteed arrest bond certificate or any other form of payment accepted by the Commission. Such payment shall be in full satisfaction of the violation asserted in the complaint and the allegations and charges therein will be taken as confessed. The guaranteed arrest bond certificate must have been issued by either a trucking services club or surety company, officially authorized to issue such bonds for

trucking violations in Oklahoma by the State Insurance Commission, or a trucking association authorized to transact business in Oklahoma by the State Insurance Commission. The guaranteed arrest bond certificate shall be signed by the person to whom it is issued and shall contain a printed statement that such surety company, trucking association or trucking services club guarantees to pay the fine imposed on such person.

(B) Any person may be released by the complaining officer on personal recognizance if the person is unable to post a bond and the person has been issued a valid license to operate the motor vehicle they are operating, by Oklahoma, or by another state jurisdiction within the United States, or by any party jurisdiction of the Nonresident Violator Compact; and the complaining officer is satisfied as to the identity of the person receiving the citation. A person released on personal recognizance shall post a bond with the Commission within ten (10) days of the writing of the citation. Failure to do so may result in detention of equipment or revocation of authority.

(C) The failure to timely appear at the hearing at the time and date set forth on the citation may result in a request for suspension of the person's driver's license in Oklahoma, or in the nonresident's home state pursuant to the Nonresident Violator Compact. The Commission's Transportation Division shall report all such requests for suspension to the Department of Public Safety, which shall proceed as provided for by the provisions of Section 1115.5 of Title 22 of the Oklahoma Statutes.

(D) The violations for which fines shall be accepted and amounts thereof shall be as follows:

(i) Operating as a motor carrier without proper authority:

(I) First violation within a 12-month period - \$300.00

(II) Second violation within a 12-month period - \$400.00

(ii) Operating without carrying /producing a valid copy of the authority, permit, vehicle registration, fuel license, oversize or overweight permit, or display of fuel decal or identification device:

(I) First violation within a 12-month period - \$125.00

(II) Second violation within a 12-month period - \$200.00

(iii) Operating as a motor carrier carrying or producing an altered or fraudulent authority, oversize or overweight permit, vehicle registration, fuel license or license plate:

(I) First violation within a 12-month period - \$1,000.00

(II) Second violation within a 12-month period - \$1,500.00

(III) Third violation within a 12-month period - \$2,000.00

(iv) Operating a commercial vehicle in excess of its registered weight by two thousand one (2,001) pounds or more:

(I) First violation within a 12-month period - \$175.00

(II) Second violation within a 12-month period - \$250.00

(v) Transportation of a deleterious substance(s) without a current deleterious substance transport permit:

(I) First violation within a 12-month period - \$300.00

(II) Second violation within a 12-month period - \$400.00

(vi) Operating a vehicle without proper registration:

(I) First violation within a 12-month period - \$175.00

(II) Second or third violation within a 12-month period – the amount as shown in (vi) above plus an amount as reflected in 47 O.S. §1133

(vii) Operating motor vehicle without proper markings on vehicle:

(I) First violation within a 12-month period - \$175.00

(II) Second violation within a 12-month period - \$250.00

(viii) Operating a commercial motor vehicle without a valid fuel permit:

(I) First violation within a 12-month period - \$175.00

(II) Second violation within a 12-month period - \$250.00

(ix) Operating motor vehicle without valid lease agreement in vehicle:

(I) First violation within a 12-month period - \$125.00

(II) Second violation within a 12-month period - \$200.00

(x) Operating motor vehicle without proper shipping or cargo ownership documentation in vehicle:

(I) First violation within a 12-month period - \$125.00

- (II) Second violation within a 12-month period - \$200.00
- (xi) Failure to yield for inspection:
 - (I) First violation within a 12-month period - \$150.00
 - (II) Second violation within a 12-month period - \$200.00
- (xii) Operating as an interstate motor carrier while placed out of service by a federal agency:
 - (I) First violation within a 12-month period - \$300.00
 - (II) Second violation within a 12-month period - \$400.00
- (xiii) Operating as a transporter of hazardous waste without proper registration/permit:
 - (I) First violation within a 12-month period - \$350.00
 - (II) Second violation within a 12-month period - \$500.00
- (xiv) Operating as an interstate motor carrier, freight forwarder, broker or leasing company without paying the appropriate UCR fee:
 - (I) First violation within a 12-month period - \$300.00
 - (II) Second violation within a 12-month period - \$400.00
- (xv) Operating as an interstate motor carrier, freight forwarder, leasing company or broker without an active USDOT number:
 - (I) First violation within a 12-month period - \$300.00
 - (II) Second violation within a 12-month period - \$400.00
- (xvi) Operating as an interstate motor carrier, freight forwarder, leasing company or broker without proper federal authority:
 - (I) First violation within a 12-month period - \$300.00
 - (II) Second violation within a 12-month period - \$400.00
- (xvii) Operating as motor carrier, freight forwarder, leasing company or broker without proper insurance on file:
 - (I) First violation within a 12-month period - \$300.00
 - (II) Second violation within a 12-month period - \$400.00
- (xviii) Operating oversize without a proper oversize permit; operating as an escort service without proper certification or violating its certification; failure to secure load; or failure to carry or produce

a valid insurance security verification form, if required:

- (I) First violation within a 12-month period - \$175.00
- (II) Second violation within a 12-month period - \$250.00
- (xix) Refusal to weigh vehicle - \$500.00
- (xx) Operating a commercial vehicle in excess of its legal weight - amount as specified by state statute, or:
 - (I) From 700 to 2000 pounds - \$200.00
 - (II) From 2,001 to 3,000 pounds - \$250.00
 - (III) From 3,001 to 4,000 pounds - \$300.00
 - (IV) From 4,001 to 5,000 pounds - \$350.00
 - (V) From 5,001 to 6,000 pounds - \$400.00
 - (VI) From 6,001 to 7,000 pounds - \$450.00
 - (VII) From 7,001 pounds and above - \$500.00
- (xxi) Violating a special permit or a variance permit - \$100.00
- (xxii) Other violations, unless otherwise specified by the Oklahoma Statutes or by the Oklahoma Bond Schedule:
 - (I) First violation within a 12-month period - \$175.00
 - (II) Second violation within a 12-month period - \$250.00
- (xxiii) The third violation within a twelve-month period of units (i) through (xviii) of the subparagraph, unless otherwise specified by the Oklahoma Statutes or the rules of this Subchapter, shall result in a contempt fine of \$500.00. In addition, the Commission may suspend or revoke a motor carrier's authority, registration or permit.
- (E) Every officer is authorized to serve process in motor carrier, private carrier and other Commission related matters.

PART 11. MISCELLANEOUS

165:30-3-92. Pollution abatement

(a) All transportation by motor vehicle of deleterious substances including salt water, brines, liquid mud, acids, or any other fluids used in the drilling, completion, operation or reworking of an oil or gas well and/or any fluids generated as a by-product or resulting from the production of an oil or gas well or the operation of a disposal facility or facility where

equipment is cleaned shall be conducted in such a manner that prevents any pollution to the surface of the earth or any fresh water bearing formation. Pollution of surface water or subsurface water is hereby prohibited.

(1) This Section shall not be construed as modifying the rights, obligation or duties of any person under the law of this State, or any order, rule or regulation of the Oklahoma Water Resources Board, State Department of Health, Department of Environmental Quality, Oklahoma Wildlife Conservation Commission, State Board of Agriculture, Department of Pollution Control, Department of Public Safety or any other agency of this State with respect to the pollution of fresh water.

(2) When a complaint is received against any person or company alleging pollution as prohibited in this Section, or field investigations by Commission staff or other regulatory agencies indicates prohibited pollution occurring, the Transportation Division shall immediately initiate such action as is necessary or appropriate to abate the pollution.

(b) No transporters of fluids mentioned in this Section shall use an earthen pit for any storage of said fluids or the washing or otherwise cleaning of the inside of the trailer or container used to transport or store such fluids.

(c) Any truck yard pit used for the temporary storage of fluids from washing or cleaning activities of equipment used in the transportation of fluids mentioned in this Section shall not be constructed or enlarged until application (TDF 15) has been made to the Transportation Division, and approval received.

(d) An application to construct or enlarge a truck yard pit shall be accompanied by the filing fee as prescribed by Commission rule, contain an original notarized signature and reflect the following information:

- (1) Applicant's name and trade name (if any).
- (2) Mailing and physical address of applicant.
- (3) USDOT number of applicant.
- (4) Telephone and facsimile numbers of the applicant.
- (5) Contact person.
- (6) Email address of the applicant, if any.
- (7) Legal location of the truck yard pit.
- (8) Size of the truck yard pit.
- (9) Soil conditions in the pit area.
- (10) Depth of subsurface fresh water.
- (11) Distance to the nearest surface fresh water.
- (12) Additional information as required.

(e) If the applicant is not the landowner, the application must additionally be accompanied by the following:

- (1) The name of the landowner.

(2) The mailing and physical addresses of the landowner.

(3) Telephone and facsimile numbers of the landowner.

(4) Email address of the landowner, if any.

(5) A copy of the lease agreement.

(6) Written permission of the landowner for the application to construct or enlarge a truck yard pit.

(f) Fluids generated from washing/cleaning operation in a truck yard shall be collected into a plastic lined pit of at least sixty (60) mls, concrete pit whose mechanical integrity is intact, or a metal container with such generated fluids to be taken to a licensed disposal facility. No pit shall be constructed or maintained as to collect outside runoff water, and the fluid level in such pit must be maintained at all times at least thirty six (36) vertical inches below the lowest point on the embankment.

(g) At any time the owner or operator of the truck yard pit changes or the owner or operator changes its name, the Transportation Division must be notified immediately in writing by the authorized pit owner or operator.

(h) No truck yard pit shall be abandoned without prior notification to the Transportation Division using the form TDF 15. Any such pit abandoned will be emptied and leveled within thirty (30) days of abandonment. The pit operator shall ensure the pit location is inspected by the Transportation Division prior to the pit being emptied and leveled.

(i) A truck yard pit shall be emptied and cleaned for the purposes of inspection, at the discretion of the Transportation Division Director.

(j) The Commission, by order, may close any truck yard pit to be found in violation of this Section.

(k) A truck yard pit permit may be transferred to another person upon approval by the Transportation Division. Application for transfer should be submitted on TDF 15T, and shall tender with the application a fee as prescribed by law or by the Commission rule.

PART 13. SUSPENSION OR CANCELLATION OF LICENSE

165:30-3-101. Voluntary suspension or discontinuance of license

(a) An intrastate motor carrier may request cancellation of its license without notice or hearing.

(b) Any intrastate motor carrier requesting cancellation of its license while in good standing may reapply for a new license at any time.

165:30-3-102. Involuntary suspension or revocation of license

- (a) Any intrastate motor carrier license may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of this Chapter.
- (b) An application to revoke or suspend an intrastate motor carrier license may be filed by a member of the staff of the Commission or by a person adversely affected by the acts alleged. It shall be in the form of an application, and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.
- (c) After hearing, the Commission may grant or deny the application, and may suspend or revoke the license, or any part thereof or rights thereunder, or the Commission may assess a fine or impose limitations or conditions upon the continuation of operations under the license as stated in the order.
- (d) Any motor carrier conducting operations under a suspended or cancelled license, shall not be eligible to apply for a new license for a period of not less than one hundred eighty (180) days. Except for insurance violations as noted in 165:30-3-11, the one hundred eighty (180) day period shall begin the date a Commission order is signed suspending or canceling a motor carrier license.
- (e) The employment of incorporation, stock transfer, merger, change of name or similar action directly or indirectly as a device to evade subsection (d) of this Section is prohibited.
- (f) Any violation of other state statutes or regulations shall be cause to initiate an application for suspension or revocation by staff or other adversely affected persons.

165:30-3-103. Reinstatement of certificate or permit or license

- (a) A motor carrier whose certificate, permit, license, or a portion thereof, has been cancelled by law or by order of the Commission, may file with the Commission a written application for reinstatement on the appropriate form prescribed by the Commission (TDF 8), and shall tender with the application a filing fee as prescribed by law or by Commission rule.
- (b) The application for reinstatement must be filed within three (3) months from the date the certificate, permit, or license was cancelled by law or by Commission order and may be approved by the Director for Administrative reinstatement. Applications not approved for administrative reinstatement may be set for hearing.
- (c) The application shall be filed under the PIN as assigned to the certificate, permit, or license, with appropriate sub-number designation.

- (d) If the authority was revoked due to lack of insurance on file and the carrier cannot furnish proper proof of continuous insurance, the Commission may reinstate the certificate, permit or license only after a hearing has been held and notice thereof has been given as prescribed by the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.
- (e) No reinstatement shall be issued until all requirements of the certificate, permit or license have been fulfilled and a reinstatement fee as prescribed by law or Commission rule has been tendered.

165:30-3-104. Violations

- (a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.
- (b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.
- (c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of the Commission.
- (d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, public safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
- (e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 7. PROCEDURAL RULES

165:30-7-2. Notice

- (a) Notice of an application relating to intrastate motor carrier authority of household goods shall be published prior to hearing once each week for two (2) consecutive weeks as follows:
- (1) For original certificate as an intrastate common carrier or contract carrier of household goods: in a newspaper of general circulation

published in the county seat or the largest city of the county of the applicant's principal place of business; or,

(2) For transfer of an intrastate certificate or permit of household goods: in a newspaper of general circulation published in the county seat or the largest city in the county in which is located the principal place of business of the transferor and transferee.

(b) Notice of an application for a rate or tariff change requiring a hearing shall be published prior to hearing once each week for two (2) consecutive weeks in a newspaper of general circulation published in Oklahoma and Tulsa counties.

(c) Any nonresident of Oklahoma shall be deemed to have its place of business in Oklahoma County for the purpose of this Section.

(d) All parties not of record interested in any intrastate household goods motor carrier application shall, only for the purpose of receiving further notices concerning the application, file with the Commission's Court Clerk a letter containing the name and address of the party and attorney, if any.

(e) Notice of all intrastate household goods motor carrier motions, applications and transfers shall be printed on the Commission Docket as prescribed by law for circulation to the public.

165:30-7-5. Forms

The following forms of the Commission relate to this Chapter:

(1) **Intrastate license forms.**

(A) TDF 1 - Application for Intrastate Motor Carrier For-Hire or Private Carrier License

(B) TDF 2_- Application for renewal of Intrastate Motor Carrier License

(C) TDF 3 - Application for Change of Name on Intrastate Carrier License

(2) **Intrastate certificate or permit forms.**

(A) MCF 1 - Application For Common Carrier Household Goods Certificate and Necessity or Contract Carrier Household Goods Permit

(B) MCF 3 - Application to Transfer Motor Carrier Certificate or Permit of Household Goods

(C) MCF 4 - Motion For Temporary Authority Accompanying Application For Intrastate Carrier Household Goods Certificate of Convenience and Necessity or Permit

(D) MCF 4-A - Motion for Temporary Authority to Transfer Household Goods Certificate or Permit Accompanying MCF 3 Application to Transfer Intrastate Authority

(E) MCF 5 - Application for Change of Name on Intrastate Certificate or Permit

(F) MCF 6 - Application to Temporarily Operate Motor Carrier Household Goods Certificate or Permit As Representative of Estate

(G) MCF 7 - Application For Voluntary Suspension or Discontinuance Of Service of and Intrastate Household Goods Certificate or Permit

(H) MCF 7-A - Application to Reactivate A Household Goods Certificate or Permit Under Voluntary Suspension

(I) MCF 9 - Annual Report

(J) Form H - Uniform Motor Carrier Cargo Certificate of Insurance

(K) Form J - Uniform Motor Carrier Cargo Surety Bond

(3) **Interstate Form** - Unified Carrier Registration

(4) **Hazardous Waste forms.**

(A) UPW - Part I - Registration

(B) UPW - Part II - Permit

(C) UPW - Part III - Other Information

(D) UPW - Part IV - Certification

(E) UPW - Uniform Program Fee Worksheet (Schedules A-D and Summary)

(5) **IFTA/IRP forms.**

(A) IRP Schedule A - International Registration Plan Original Application-Schedule A

(B) IRP Schedule B - International Registration Plan-Schedule B

(C) IRP Schedule C - International Registration Plan Supplemental Application-Schedule C

(D) IRP Schedule G - International Registration Plan Declaration of Estimated Miles-Schedule G

(E) IRP Misc 1 - International Registration Plan Affidavit for Lost/Stolen Tag and Additional Cab Cards

(F) IRP TAP - International Registration Plan Application for Temporary Permit

(G) IFTA Application - International Fuel Tax Agreement Registration Application

(H) IFTA QTR - International Fuel Tax Agreement Quarterly Report

(6) **Miscellaneous forms.**

(A) TDF 8 - Application for Reinstatement

(B) TDF 14 - Application For a Deleterious Substance Transport Permit

(C) TDF 16 - Application for Identification Devices

(D) TDF 17 - Application for Address Change

(E) TDF 18 - Affidavit of No Operations

(F) TDF 19 - Carrier Identification Report

- (G) Form E – Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance
- (H) Form K – Uniform Notice of Cancellation of Motor Carrier Insurance Policies
- (I) Form G – Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond
- (J) Form L – Uniform Notice of Cancellation of Motor Carrier Surety Bonds
- (K) TDF 15 – Application to Construct or Enlarge a Truck Yard Pit
- (L) TDF 15T – Application to Transfer a Truck Yard Pit Permit
- (M) TDF 25 – Application for Motor Carrier Rules and Regulations
- (N) TDF 26 – Motor Carrier Rules and Regulations Update Notification
- (O) TDF 27 – Motor Carrier Rules and Regulations Change of Address Notification
- (P) TDF 28 – Vehicle Information Request Form

165:30-7-6. Applications and requests

- (a) All intrastate motor carrier, private carrier, deleterious, hazardous waste, registration and fuel permit applications must bear an original acceptable signature of the applicant. The applicant must be a legal entity with an optional single trade name listed that is not a legal entity. If signed by an attorney or agent in lieu of the applicant, a copy of the power of attorney must be attached to the application.
- (b) Acceptable signatures on applications for authority are as follows:
 - (1) Sole proprietorship - sole proprietor.
 - (2) Partnership - one of the partners.
 - (3) Corporation - one of the officers or directors.
 - (4) Limited liability company - the manager.
- (c) A name change relating to a partnership or a request to cancel a partnership must be signed by all partners.
- (d) All authority applications filed by an applicant which does not maintain a terminal in Oklahoma must file and maintain a current listing of a valid Oklahoma process agent on behalf of the applicant.
- (e) All applications shall contain the USDOT number of the operating motor carrier. Applications for registration shall additionally contain the USDOT number of the owner of each vehicle, and the registrant.
- (f) Failure to properly complete any application may result in delay or denial of the relief sought.

- (g) Applications may be denied due to outstanding monies owed to the Commission or other state or federal agencies.
- (h) Interstate authority, fuel permits and registration cannot be issued to a motor carrier whose ability to operate in interstate commerce has been denied or revoked.

165:30-7-7. Records and inspections

- (a) All persons engaged in an activity, which an authorized agent of the Commission has reasonable cause to believe appears to be within the purview of this Chapter, shall make its transportation related records available for inspection to an authorized agent of the Commission.
- (b) Persons engaged in an activity within the purview of this Chapter, shall stop when ordered to do so by a motor carrier enforcement officer and yield the vehicle, its contents and its shipping documentation to the officer for inspection.
- (c) All transportation related records shall be made available at the carrier's principal place of business upon request of the Commission. If no location in Oklahoma is so designated, the records shall be made available at a location designated by the Commission, at the expense of the person engaged in transportation matters. Every person who fails to provide the transportation related records, upon demand, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500) Dollars or as otherwise provided by law.

165:30-7-8. Review of Applicants for safety fitness

- (a) Applicants for an intrastate motor carrier license, intrastate private carrier license, hazardous waste registration or permit, renewal of a license or an intrastate motor carrier of household goods certificate shall be reviewed for compliance with rules and regulations as adopted by the Oklahoma Department of Public Safety in OAC 595:35, pertaining to 49 C.F.R. Federal Motor Carrier Safety Regulations, with all amendments and appendices thereto. Areas to be reviewed are based upon, but not limited to, the following:
 - (1) The carrier's USDOT safety rating (if any).
 - (2) The number of vehicle inspections performed.
 - (3) The time frame in which the vehicle inspections were performed.
 - (4) The out of service ratio for the applicant's vehicles.
 - (5) The out of service ratio for the applicant's drivers.
 - (6) Review of applicant's driver qualification files.
 - (7) Review of applicant's vehicle maintenance records.

(8) Verification of applicant's drug/alcohol testing program.

(b) Compliance with the Federal Motor Carrier Safety Regulations and all other requirements shall result in a license application being approved administratively or being set on the Motor Carrier Docket, if hearing is required.

(c) The Transportation Division shall notify the Administrative Law Judge of the results of a safety review performed on an applicant for an intrastate motor carrier of household goods certificate.

(d) Failure to comply with the Federal Motor Carrier Regulations may result in denial or delay of the relief sought.

(e) Holders of an intrastate motor carrier license and an intrastate motor carrier of household goods shall be reviewed on a periodic basis for compliance with the Federal Motor Carrier Safety Regulations. Results of safety reviews may be addressed in a hearing to renew an intrastate motor carrier license or an intrastate private carrier license or be addressed in a separate hearing before an Administrative Law Judge.

(f) Violations of the Federal Motor Carrier Safety Regulations are considered contempt of the Commission and subject to a fine in accordance with the rules and regulations of the Department of Public Safety in OAC 595:35.

165:30-7-9. Compliance reviews

(a) The Commission shall set forth a procedure to audit intrastate motor carriers for compliance with the federal motor carrier safety regulations as adopted by the Department of Public Safety in OAC 595:35.

(b) The procedure to select motor carriers for a compliance review shall be as similar as practical to the Federal Motor Carrier Safety Administration (FMCSA) Safestat list or upon individual motor carrier request.

(c) A compliance review will result in a safety rating. Such safety ratings will be made available to shippers, insurance companies and the general public.

(d) Fines or penalties issued by the Commission regarding violations of safety regulations shall be consistent with those issued by the Department of Public Safety, following federal guidelines, or as set forth in standard contempt proceedings of the Commission.

165:60-7-10. Civil assessments

(a) Motor carriers operating in interstate or intrastate commerce in violation of federal motor carrier safety regulations that result in a critical, acute or out-of-service violation may be assessed a civil penalty.

(b) Civil penalties assessed by the Commission shall be consistent with those issued by the Department of Public Safety, following federal guidelines, or as set

forth in standard contempt proceedings of the Commission.

165:30-7-11. USDOT number

(a) Every person operating or intending to operate as a motor carrier in intrastate or interstate commerce shall obtain a USDOT number.

(b) Every person registering a commercial motor vehicle for apportionment shall obtain a USDOT number.

(c) Every person applying for an IFTA license shall obtain a USDOT number.

(d) USDOT numbers for interstate operations can be obtained utilizing a MCS-150 form available from FMCSA.

(e) USDOT numbers for intrastate only operations can be obtained utilizing a Corporation Commission TDF-19 form.

(f) Motor carriers, registrants and licensees obtaining a USDOT number for interstate operations shall comply with all provisions of 49 C.F.R. 390.19.

(g) Motor carriers operating intrastate only shall file an updated TDF 19 application in conjunction with their for-hire or private carrier license renewal.

(h) Motor carriers of household goods operating intrastate only shall file an updated TDF 19 application a minimum of once every two years.

(i) Motor carriers operating intrastate only shall file a TDF 19 when they cease operations to inactivate their USDOT number.

165:30-7-12 Revocation, suspension or denial of issuance of motor carrier license, permit, certificate or registration

(a) The Commission may revoke, suspend or deny the issuance of any Commission issued motor carrier or commercial motor vehicle license, permit, certificate or registration issued pursuant to the Commission's jurisdiction for any of the following reasons:

(1) Violation of applicable state law.

(2) Violation of Commission rules.

(3) Failure to observe or fulfill the conditions upon which the license, permit, certificate or registration was issued.

(4) Nonpayment of any delinquent tax, fee or penalty to the Commission or to the State of Oklahoma.

(5) Nonpayment of a uniform base state program delinquent tax, fee or penalty to a state or province participating with the Commission in that program.

(b) A motor carrier or registrant who wishes to contest a revocation, suspension or denial of issuance of motor carrier license, permit, certificate or registration is entitled to a hearing under the

procedures contained in the Commission's Rules of Practice, OAC 165:5.

165:30-7-13. Disqualification procedure

(a) **General provisions.** Any person may, after notice and an opportunity for hearing, be disqualified from conducting business before the Transportation Division of the Commission if such person:

- (1) Is shown to be incompetent or disreputable;
- (2) Refuses to comply with rules and regulations;
- (3) With intent to defraud, in any manner willfully and knowingly deceives, misleads, or threatens any person;
- (4) Advises a person to file a fraudulent or false report or return;
- (5) Knowingly prepares or files a false or fraudulent report or return;
- (6) Assists, aids or abets any person in or by concealing any information pertaining to said person's books, records, reports or returns;
- (7) Delays proceedings of the Commission by disposing of or concealing information required in the filing of reports or returns under any Commission law or rule, or assisting another in such acts; or
- (8) Commits any other misconduct determined by the Commission.

(b) **Complaint and initial investigation.** The Commission may, upon its own initiative, or upon receiving a written complaint filed with the Director of the Transportation Division, cause the complaint to be investigated and a determination made as to whether good cause exists for initiating a disqualification proceeding. If it is determined that none of the conditions in subsection (a) above have been met, or if there is insufficient evidence to support the allegation, the investigation will be terminated. If a determination is made that good cause exists for initiating a disqualification proceeding, such proceeding will be promptly commenced.

(c) **Commencement, notice, and conduct of hearing.** The commencement of the proceeding, notice to the respondent, and conduct of the hearing shall be held in compliance with the Commission's Rules of Practice, OAC 165:5.

(d) **Burden of proof.** The Office of the General Counsel shall have the burden of establishing, by a preponderance of the evidence, that a condition in subsection (a) has been met such that respondent should be disqualified from conducting business before the Commission. Notice of the final disposition of the disqualification proceedings will be provided to the respondent.

(e) **Scope of action.** The respondent may be found qualified to conduct business before the Commission, or may be disqualified from conducting business

before the Commission for a stated period of time or indefinitely. The Commission may provide notice of the determination of the disqualification proceeding to other agencies, boards, or Commissions who exercise jurisdiction or regulatory authority over the respondent or the activities involved in the violation. Nothing in this Section shall preclude the Commission from seeking any other remedies or legal proceedings available at law to enforce its orders or rules.

SUBCHAPTER 10. INTERSTATE MOTOR CARRIERS

PART 1. COMPLIANCE

165:30-10-1. USDOT number required

(a) All motor carriers engaged in interstate commerce, operating a commercial motor vehicle as defined by 49 C.F.R. 390.5, must obtain their USDOT number prior to commencing operations.

(b) Motor carriers required to obtain a USDOT number may not engage in interstate commerce within, into or out of Oklahoma without having an active USDOT number.

(c) All motor carriers engaged in interstate commerce shall comply with all provisions of 49 C.F.R. 390.21 with regard to vehicle markings.

(d) All motor carriers engaged in interstate commerce must comply with 49 C.F.R. 390.19

165:30-10-3. Liability insurance

(a) All interstate motor carriers shall have valid insurance on file with FMCSA, as required by FMCSA.

(b) All interstate motor carriers not required to file insurance with FMCSA, shall carry a copy of its current and valid liability insurance security verification form in each vehicle and present it to an officer upon his/her request.

165:30-10-5. Deleterious Substance Transport Permit

An interstate carrier transporting a deleterious substance(s) shall comply with all provisions of OAC 165:30-3-11 and OAC 165:30-3-13.

165:30-10-7. Hazardous waste transportation

An interstate carrier transporting hazardous waste shall comply with all provisions of OAC 165:30-17.

PART 3. CONDUCTING OPERATIONS

165:30-10-11. Lease agreement

An interstate motor carrier shall comply with all provisions of 49 C.F.R. 376.11 with regard to lease agreements.

165:30-10-13. Shipping documentation

- (a) An interstate motor carrier shall be required to carry at all times documentation that provides legal possession of the cargo and shipment information.
- (b) Shipment information must contain, but is not limited to, a description of the cargo and the origin and destination of the cargo.

165:30-10-15. Compliance with laws and regulations

- (a) An interstate motor carrier engaged in operations regulated by the FMCSA must comply with all FMCSA regulations.
- (b) An interstate motor carrier shall conduct its operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Commission.
- (c) No motor carrier engaged in interstate commerce shall operate or allow to be operated on the public highways of the State of Oklahoma any equipment that does not comply with safety criteria established by the USDOT, the rules of this Commission; or, the statutes of the State of Oklahoma. No motor carrier or private carrier shall permit any person to operate a motor vehicle in violation of any size or weight limits established by this Chapter, of OAC 595:30 or of the statutes of the State of Oklahoma. Every person operating vehicles upon the public highways of this State shall meet the minimum safety standards as established by the USDOT and the statutes of the State of Oklahoma. Any vehicle which fails to meet safety criteria, or size and weight standards, or which is operated by any person in violation of this subsection shall be prevented from continued use of the public highways of the State of Oklahoma.
- (d) Violation of the rules of this Subchapter may result in the motor carrier being prohibited from using the public highways of the State of Oklahoma or any other penalties deemed appropriate by the Commission pursuant to authority granted to the Commission.

165:30-10-17. Loading capacity

An interstate motor carrier shall comply with all provisions of OAC 165:30-3-71.

165:30-10-19. Pollution abatement

An interstate motor carrier shall comply with all provisions of OAC 165:30-3-92.

PART 5. VIOLATIONS

165:30-10-31. Contempt complaint

In addition to the procedures set forth in the Oklahoma Statutes and in the Commission Rules of Practice, OAC 165:5, regarding the procedure in proceedings as for contempt, the procedures set forth in 165:30-3-76 may be followed for violation for any requirement or provision of law or the rules of this Subchapter.

165:30-10-32. Violations

- (a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirement of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.
- (b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted road signs.
- (c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.
- (d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, public safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
- (e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

PART 7. INTERSTATE MOTOR CARRIERS OPERATING IN INTRASTATE COMMERCE

165:30-10-41. Intrastate authority required

An interstate motor carrier must obtain intrastate authority from the Commission prior to commencing intrastate operations.

165:30-10-43. Exceptions to intrastate renewal requirements

An interstate carrier with intrastate authority must continue to conduct its operations in accordance with OAC 165:30-3 or OAC 165:30-15, with the exception of the following:

- (1) An interstate motor carrier with valid intrastate authority, issued pursuant to OAC 165:30-3 or OAC 165:30-15, shall not be required to comply with OAC 165:30-3-3 or OAC 165:30-15-5.
- (2) An interstate motor carrier with valid intrastate authority, issued pursuant to OAC 165:30-3 or OAC 165:30-15, shall not be required to renew its identification devices annually, after the first year of the license has elapsed.
- (3) An interstate motor carrier with valid intrastate authority, issued pursuant to OAC 165:30-3 or OAC 165:30-15, shall not be required to carry a copy of its intrastate license with current identification device annually, after the first year of the license has elapsed.

165:30-10-45. Miscellaneous

- (a) An interstate motor carrier with valid intrastate authority issued pursuant to OAC 165:30-3 or OAC 165:30-15, must maintain liability insurance on file as prescribed in OAC 165:30-3-11 or OAC 165:30-15-6, to retain its intrastate authority.
- (b) If a motor carrier's authorization to operate interstate is canceled, whether voluntary or involuntary, the motor carrier must immediately make application to the Commission for intrastate authority renewal and identification devices. Failure to make application within sixty (60) days shall cause the motor carrier's intrastate license to expire.
- (c) Power units operating intrastate only, under an intrastate for-hire or private carrier license that were excluded from the UCR fee, must obtain and display a current year identification device.

SUBCHAPTER 12. UNIFIED CARRIER REGISTRATION

165:30-12-1. Unified Carrier Registration

- (a) The Commission shall comply with the provisions of the procedures adopted by the UCR Board.
- (b) An interstate motor carrier, freight forwarder, leasing company or broker subject to UCR shall be known as a UCRant.
- (c) A UCRant shall pay its applicable UCR fee to its base state, in accordance with the UCR procedures.
- (d) Failure of a UCRant to pay its applicable UCR fee to its base state shall subject the UCRant to contempt complaint proceedings.
- (e) Interstate carriers excluding vehicles operating intrastate only from the UCR fee must comply with 165:30-10-45.

SUBCHAPTER 13. INTRASTATE CERTIFICATES OR PERMITS

PART 1. APPLYING FOR AUTHORITY

165:30-13-2. Obtaining a certificate or permit

(a) No intrastate motor carrier shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of household goods for hire without first obtaining from the Commission a certificate or permit as provided in this Section.

(1) An applicant for a certificate or permit shall file with the Court Clerk of the Commission a written application on the appropriate form prescribed by the Commission (MCF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a PIN, which shall be the permanent identification number for all matters relating to authority granted therein. Any application thereafter filed to amend the authority or for additional authority by the same applicant shall be filed under the original PIN, and otherwise shall be governed by the provisions of this Subchapter relating to an application for authority. Each subsequent application shall also bear a sub-number in sequence.

(3) A certificate or permit shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a partnership or some other legally recognized entity.

(4) The filing of an application for a certificate or permit does not of itself authorize any motor carrier operations by the applicant. Such operations are prohibited except after public hearing and pursuant to a temporary or permanent order of the Commission, and only after all requirements as to filing of tariffs and insurance have been met, and an order granting temporary authority or a certificate or permit has been issued, and identification devices have been obtained. Unless all requirements of this Chapter are met and actual operations commenced within sixty (60) days after final hearing approving an application, the application will be dismissed.

(5) The application for intrastate household goods common carrier authority requiring proof of public convenience and necessity and intrastate household goods contract carrier authority shall be notarized, and shall contain the following information:

(A) Name of applicant, trade name, mailing address, principal place of business address

- which shall be the registered address for purposes of this Subchapter, telephone number and domicile county of the applicant.
- (B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all partners, officers and/or directors and listing the addresses of each.
- (C) Full information as to experience and financial responsibility of applicant, sufficient to show fitness to conduct operations for which authority is sought.
- (D) Service proposed to be performed, which shall set out the exact area to be served.
- (E) Declaration of its USDOT number, safety rating and a safety summary report which details its safety program and lists all safety violations identified within the prior twelve (12) months. Carriers without a USDOT number must attach a copy of its previously submitted application for a USDOT number. The applicant shall notify the Commission in writing of its USDOT number once issued, unless the USDOT number is issued by the Commission.
- (F) A size and weight summary report which details its size and weight compliance program and lists all size and weight violations identified within the prior twelve (12) months.
- (G) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.
- (H) A description of all terminal and dock facilities.
- (I) Schedule containing proposed rates and charges to be assessed for performance of transportation, or reference to tariff series to which applicant will become a party.
- (J) A declaration that the applicant is in full compliance with all other state laws, rules and regulations.
- (K) Any other information the Commission deems necessary.
- (6) An applicant for permit to operate as a contract carrier of household goods in intrastate commerce shall attach to its application a copy of every contract which sets forth the terms under which service is to be performed; provided that such applicant shall not be authorized to serve more than six (6) contracting shippers at any one time.
- (b) Every person operating as a motor carrier of household goods pursuant to this Subchapter shall purchase a copy of this Chapter.

- (c) At the hearing, the applicant shall have the burden of establishing by proof the following:
- (1) That public convenience and necessity exists for granting the authority sought.
 - (2) That the applicant is fit, qualified, and financially able to perform the service and conduct the operations contemplated under the authority sought.
 - (3) That the applicant has the ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma.
- (d) After the hearing, the Commission may grant or deny the application in whole or in part; or may impose conditions, stipulations and limitations on the authority as stated in the order.
- (e) A copy of the current certificate or permit, or order granting temporary authority, under which a carrier operates shall be carried at all times in each power unit by the motor carrier.
- (f) A motor carrier of household goods engaged in incorporate hauling shall not be subject to this Subchapter, but shall apply for a license under Subchapter 3 of this Chapter.
- (g) No intrastate household goods motor carrier certificate or permit shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.
- (h) All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

165:30-13-3. Temporary authority

- (a) A request for temporary intrastate household goods motor carrier authority shall be made by motion.
- (1) An applicant for permanent intrastate motor carrier authority of household goods may, at the same time he files his application or thereafter, file a motion for temporary authority to operate as a motor carrier pending final adjudication of its application. The motion (MCF 4) shall be accompanied by shippers' affidavits or other proof which clearly establishes the necessity for granting temporary authority in advance of hearing on the application for authority. The Commission may, in its discretion, grant an applicant temporary authority to operate as a motor carrier of household goods (only after hearing).
 - (2) The motion shall be filed under the permanent PIN assigned the application for permanent authority, along with any filing fee as prescribed by law or by Commission rule.

(b) Temporary intrastate household goods motor carrier authority allows for provision of service for which there is an immediate and urgent need to meet the requirements of public convenience and necessity to a point or points or within a territory or parts thereof, having no motor carrier service capable of meeting such need; and, the Commissioners may impose any time restriction on the length of the temporary authority that they deem proper.

(1) All motions for temporary authority shall be set for hearing before an Administrative Law Judge, and notice to the public of the hearing shall appear on the Commission's published motor carrier docket. No witnesses shall appear at the hearing, but such matter shall be considered based upon oral arguments and affidavits presented by the appearing parties. Appeals shall be made to the Commissioners as prescribed in the Commission's Rules of Practice, OAC 165:5.

(2) The granting of temporary authority shall create no presumption that permanent authority thereafter will be granted, and shall not excuse any proof required by law or by this Chapter in support of the application.

(c) Transportation services performed under temporary authority for motor carriers of household goods shall be subject to all applicable provisions of law and of this Chapter. No transportation service shall be performed thereunder until appropriate certificates of insurance and tariffs have been filed with the Commission, and identification devices have been obtained. The motor carrier shall have a copy of the temporary authority order in each vehicle prior to operating in Oklahoma.

PART 3. CERTIFICATE OR PERMIT REQUIREMENTS

165:30-13-11. Insurance

All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-3-11.

165:30-13-12. Identification device

(a) Every motor carrier operating upon the public highways of the State of Oklahoma shall obtain and display a current identification device, issued by this Commission, for each power unit operated by said motor carrier.

(1) Only one (1) identification device is required for each power unit.

(2) The annual fee for each identification device will be as prescribed by law or Commission rule.

(3) Identification devices expire on December 31st of each calendar year, unless the motor

carrier additionally holds an intrastate motor carrier license.

(b) No identification device may be sold or otherwise transferred; except if such motor carrier provides a newly acquired vehicle in substitution therefore, each identification device on the discontinued vehicle, if such device is still in the possession of the motor carrier, may be transferred to the substitute vehicle or any subsequently substituted vehicle.

(c) It is the duty of every motor carrier to remove and destroy identification devices upon transfer or sale of a power vehicle.

(d) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by a motor carrier enforcement officer.

(e) No identification devices will be issued to any motor carrier who does not meet all statutory, regulatory and Commission requirements.

165:30-13-13. Annual report

(a) On or before April 15th of each year, every intrastate motor carrier of household goods shall file with the Commission a report of revenues, expenses and other statistics for the calendar year ending on the preceding December 31st, or for its fiscal year ending subsequent to April 15th of the preceding year. An extension of time for filing may be granted by the Transportation Division for a period of not more than thirty (30) days, upon written request.

(1) Each annual report shall be made on the appropriate form (MCF 9) as prescribed by the Commission. A carrier engaged exclusively in intrastate commerce and operating no more than three (3) power vehicles may attach to the prescribed form, as a statement of income and expense portion only, the schedule thereof from its federal or Oklahoma income tax return.

(2) Each annual report shall be properly signed, notarized and attested to as follows:

(A) Report of sole proprietorship must be signed by owner.

(B) Report of partnership must be signed by one of the partners.

(C) Report of corporation or limited liability corporation must be signed by officer and attested to by the Secretary or Assistant Secretary, and contain its corporate seal.

(b) Failure to have on file the prescribed annual report by April 15th, or as extended by authority of the Transportation Division, may result in cancellation of the certificate or permit upon application or motion of the Commission's Transportation Division.

(c) Any annual report filed after April 15th, or as extended by authority of the Transportation Division, but prior to the day of the hearing to cancel the certificate or permit for failure to have on file the prescribed annual report, shall be accompanied by a delinquent annual report filing fee as prescribed by law or by Commission rule.

165:30-13-14. COD shipments

(a) Every intrastate motor carrier of household goods transporting shipment(s) requiring collection of any amount of money on delivery (COD) shall maintain on file at all times with the Commission a surety bond or certificate of insurance coverage on Form MCF 8 or equivalent, the amount of Two Thousand Dollars (\$2,000.00) to guarantee the collection of and proper transmittal of all money collected under COD shipments. No intrastate motor carrier of household goods shall transport any COD shipment at any time when such bond is not in full force and effect and on file with the Commission.

(b) Every amount of money collected pursuant to a COD shipment shall be remitted to the consignor within ten (10) days after collection thereof.

(c) Every intrastate carrier of household goods transporting COD shipments shall maintain a COD register or file containing the following information as to each COD shipment transported:

- (1) The name and address of the consignor and consignee.
- (2) The amount of money to be collected on delivery.
- (3) The origin and destination of the shipment.
- (4) The date of receipt thereof and the date charges were collected.
- (5) Names of each carrier providing any portion of the transportation of the shipment.
- (6) Date on which the money collected was remitted to the consignor.

(d) Every carrier providing any portion of the transportation shall furnish every other carrier participating in the transportation with the information required by this Section so that the information herein specified shall appear on the COD records of each participating carrier. The COD register shall at all times be open to inspection by any authorized representative of the Commission.

165:30-13-15. Markings

Every intrastate motor carrier of household goods shall comply with the provisions of 165:30-3-17.

165:30-13-16. Current address requirement

All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-3-16.

165:30-13-17. Adoption of interstate tariff – filing of affidavit

(a) Rules, regulations, rates and charges as set forth in Nationwide Household Goods Relocation Tariff STB HB 400-M, including supplements thereto or reissues thereof, Household Goods Carrier's Bureau Committee Agent (hereinafter referred to as "Tariff 400-M") are prescribed as the rules and regulations and maximum allowable rates and charges for all motor carriers engaged in the transportation of household goods, subject to a discount of up to 100%.

(b) The rules, regulations, rates and charges set forth in Tariff 400-M, subject to a discount of up to 100%, shall be considered binding upon all motor carriers of household goods.

(c) To the extent any conflict may arise between the subject Tariff and applicable statutes of Oklahoma, the statutes shall prevail.

(d) Each motor carrier of household goods shall maintain a copy of the subject Tariff at its principal place of business for public inspection.

(e) Each motor carrier of household goods shall properly complete and place on file a MCF 8 – Tariff Affidavit that attests to the carrier's compliance with this section.

(f) A certificate held by a motor carrier of household goods may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for any violation of, or failure to comply with any requirement or provision of Tariff 400-M.

PART 5. CONDUCTING OPERATIONS

165:30-13-31. Compliance with laws and regulations

(a) All intrastate motor carriers of household goods shall conduct their operations in accordance with all applicable laws of the State of Oklahoma and this Subchapter. All certificates and permits heretofore or hereafter granted by the Commission are subject to applicable provisions of law and of this Subchapter as fully as if those laws and rules were set forth verbatim therein.

(b) No intrastate motor carrier of household goods shall operate or allow to be operated on the public highways of the State of Oklahoma any equipment that does not comply with safety criteria established

by the USDOT, this Subchapter or, the statutes of the State of Oklahoma. No motor carrier of household goods shall permit any person to operate a motor vehicle in violation of any size or weight limits established by this Subchapter or statutes of the State of Oklahoma. Every person operating vehicles upon the public highways of this State shall meet the minimum safety standards as established by the USDOT and the statutes of the State of Oklahoma. Any vehicle which fails to meet safety criteria, or size and weight standards, or which is operated by any person under the influence of alcohol, amphetamines, stimulants or other drugs, in violation of this subsection shall be prevented from continued use of the public highways of the State of Oklahoma.

(c) An intrastate household goods contract carrier shall not perform transportation except under continuing contract(s), copies of which have been filed with and approved by the Commission. No permit for any household goods contract carrier by motor vehicle shall be issued without the applicant proving by competent evidence that the transport service proposed under the contract is not such that it could be reasonably furnished by existing carriers, and further, that such permit would not jeopardize the existing common carrier service.

(d) No common motor carrier of household goods shall transport property intrastate as a contract carrier of household goods in the same truck, at the same time, that he is transporting property as a common motor carrier. No common motor carrier of household goods shall transport any property intrastate as a contract carrier which property said carrier is authorized to so transport as a common carrier. No contract motor carrier shall transport property intrastate as a common carrier in the same truck, at the same time, that he is transporting property as a contract carrier.

(e) Whenever territorial boundaries of authority are expressed in terms of distance in miles from a city or town, the mileage shall be measured in a straight line from the post office of that city or town, or principal post office if there is more than one. In Oklahoma City, the principal post office is located at 320 S.W. 5th Street; and in Tulsa, the principal post office is located at 333 W. 4th Street.

165:30-13-32. Shipping documentation

(a) Upon receipt of a shipment from a shipper, an intrastate motor carrier of household goods shall issue and deliver to the consignee or consignor a receipt or bill of lading. The instrument, even if prepared by the shipper, shall be deemed issued by the carrier. Each

receipt or bill of lading shall contain the following information:

- (1) The name of the issuing carrier.
- (2) The date the shipment was received by the carrier.
- (3) The name and address of the shipper.
- (4) The points of origin and destination.
- (5) The name and address of the consignee.
- (6) The number and exact description of the goods, articles, packages or property shipped, showing separately each item of separate classification or subject to a separate rate or charge. The information shall be in sufficient detail so that the exact classification and all charges may be calculated from information set out on the face of the instrument.
- (7) Where applicable, the actual, declared or released value of the shipment.
- (8) If it relates to a COD shipment, the instrument shall plainly show the exact amount of money required to be collected on delivery, which amount shall appear on the same line as the name of the person who is required to pay it.

(b) Each shipment shall be supported by a freight bill, which may be a separate instrument or may be a copy of the bill of lading, and shall contain the following information:

- (1) All information required for a bill of lading.
- (2) All charges for transportation and other services in connection with the shipment.
- (3) The date of delivery, which shall be noted by the person accepting or making delivery.
- (4) Receipt of payment of all COD charges collected on delivery, signed by the person receiving payment.

(c) Every shipment shall be accompanied at all times by some form of written document of identification, which may be a bill of lading, freight bill, way bill, receipt, load ticket or other written instrument which sets out the commodity, rate, weight, revenue, point of origin, point of destination, consignor and consignee.

165:30-13-33. Records

(a) Every intrastate motor carrier shall maintain accurate records of all operations, including work orders, bills of lading, freight bills, warehouse receipts, and complete information as to shipper, consignee, origin, destination, commodities hauled, work performed, equipment used and date of shipment or work performed. All records shall be open to inspection at any time by an authorized agent of the Commission.

(b) All records required by this Subchapter shall be maintained at the location last designated by the

motor carrier as its principal office. If no location in Oklahoma is so designated, upon demand, the records shall be made available at a location designated by the Commission, at the expense of the motor carrier.

(c) All books, records, accounts and other documents required by this Subchapter or by tariffs on file with the Commission must be retained for a period of not less than three (3) years.

165:30-13-34. Minimum standards

(a) Every intrastate motor carrier of household goods shall have available sufficient vehicles to reasonably conduct the motor carrier service authorized and required by the certificate or permit.

(b) Every vehicle used for intrastate transportation of household goods shall be in safe operating condition, and shall possess all safety equipment required by the Statutes of Oklahoma, the regulations of the USDOT and the rules of the Department of Public Safety.

(c) Every intrastate motor carrier of household goods shall serve all members of the public within its authority without discrimination in price or service.

(d) All vehicles will be utilized in a manner that conforms with the manufacturer's design standards and specifications.

(e) The Commission adopts the provisions of the rules and regulations as adopted by the Oklahoma Department of Public Safety in OAC 595:35, pertaining to 49 C.F.R. Federal Motor Carrier Safety Regulations, with all amendments and appendices thereto.

165:30-13-35. Credit

(a) Rates and charges for transportation and other services in connection with every intrastate shipment of household goods shall be collected as follows:

(1) Charges on a "prepaid" shipment shall be collected before the shipment is accepted by the carrier.

(2) Charges on a "collect" shipment shall be collected before delivery of the shipment to the consignee or other party authorized to receive the same.

(b) An intrastate common carrier of household goods may extend credit in the amount of the actual transportation charges to a person responsible for payment thereof, for a period not to exceed seven (7) calendar days after the freight bill is presented for payment. Freight bills presented by mail shall be deemed presented on the date mailed. The freight bill for all transportation charges shall be presented to the person responsible for payment thereof on or before

seven (7) calendar days after the date of delivery of the shipment.

(1) After a carrier has delivered a shipment of freight and collected tariff charges thereon, an undercharge bill for additional charges will be deemed a new freight bill for credit purposes.

(2) The mailing of a check, draft or money order, when payment by such means is acceptable to the carrier, shall be deemed payment on the date mailed. Upon return of any check unpaid, or upon failure to pay within the time limited by this Section, the carrier shall not extend further credit to such person until satisfactory arrangements for future credit have been made.

(c) The provisions of this Section shall not apply to:

(1) The United States, any department, bureau or agency thereof.

(2) The State of Oklahoma, or any agency or subdivision thereof.

(3) A county or municipal corporation.

165:30-13-36. Loss, damage and concealed claims

(a) Every intrastate motor carrier of household goods shall be liable for all loss, damage or injury to goods or property due to any negligence while the same is being carried by it.

(b) Every intrastate motor carrier of household goods, upon receipt of a claim in writing for loss of or damage to cargo during transportation, some portion of which was performed by that carrier, regardless of the form in which the claim is presented, shall:

(1) Acknowledge receipt of the claim in writing within thirty (30) days after receipt thereof by the motor carrier.

(2) Commence an investigation in good faith to determine whether the carrier acknowledges or denies liability for the loss or damage.

(3) Either pay the claim in full, or as agreed to by mutual compromise, or deny liability for loss or damage in writing within ninety (90) days after receipt of the original claim by the carrier. Such action shall not be withheld or postponed pending receipt of payment or acknowledgment of liability from connecting carriers.

(c) Acknowledgment of liability shall be accompanied by payment in full of the value of property lost or damaged except where subject to limited liability or released value. When a shipper, in the event of loss or damage and without prior approval from the consignee, elects to release a shipment at a value less than the full value of the property shipped, said shipper will indemnify to the consignee the difference between the released or limited valuation paid by the carrier and the full value of the property shipped. A carrier's liability is limited

to the released value or limited liability as stated in the carrier's governing tariff.

(d) Where intrastate shipments are received by the carrier of household goods from the shipper in apparent good order and with no exceptions noted on the bill of lading, and delivered by the carrier with written exceptions covering loss or damage thereto, the carrier shall have the burden of proof to establish nonliability for such loss or damage. Terms and conditions of the bill of lading contract referring to excepted causes shall remain applicable.

(e) Where intrastate shipments are received by the carrier of household goods from the shipper in apparent good order and with no exceptions noted on the bill of lading, and delivered by the carrier in the same manner with no exceptions noted, such concealed loss or damage claims must be submitted to the carrier by the shipper. Inspections covering loss or damage found after delivery must be requested to the delivering carrier in writing within fifteen (15) days after the delivery of the shipment involved. If more than fifteen (15) days have passed it is incumbent upon the consignee to offer reasonable evidence to the carrier or a representative of the carrier that loss or damage was not incurred by the consignee after delivery by the carrier.

(f) Every intrastate motor carrier of household goods shall maintain a separate numbered file on each claim for loss or damage, and shall keep in the file all documents, acknowledgments, instruments, correspondence, memoranda and other writings relating to the claim. Claim files shall be available at all times for inspection by Commission personnel and shall be retained for two (2) years after final disposition.

165:30-13-37. Leasing of equipment

(a) All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-3-37.

(b) Intrastate motor carriers of household goods shall not rent equipment, with or without driver, to a private carrier or to a shipper.

PART 7. NAME CHANGES AND TRANSFER

165:30-13-51. Mergers and name changes

(a) An application to change the name or business name of the holder of an intrastate motor carrier of household goods certificate or permit, without any change in the legal identity of the holder or any change in the ownership of the certificate or permit, shall be filed on the appropriate form prescribed (MCF 5) under the permanent PIN of the holder with appropriate sub-number designation and with such filing fee as prescribed by law or by OAC 165:5. No notice or hearing shall be necessary unless the

Commission so requires. Notice, if required, shall be as the Commission shall direct.

(b) Any change in legal identity of the holder of an intrastate motor carrier of household goods certificate or permit, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership or creation or dissolution of a trust shall be deemed a transfer of the certificate or permit. Application for transfer in such a case shall be governed by the provisions of OAC 165:30-13-52.

(c) Incorporation by a sole proprietor in which the sole proprietor is the sole shareholder of the corporation shall be deemed a name change. Incorporation by a partnership in which the partners are the sole shareholders of the corporation shall be deemed a name change.

(d) The merger of a corporate holder of an intrastate motor carrier of household goods certificate or permit with another corporation under circumstances that the holder is not the survivor therein, shall be deemed a transfer of the certificate or permit. Application for transfer in such a case shall be made by the survivor, and shall be governed by the provisions of OAC 165:30-13-52.

(e) The acquisition, through stock ownership or otherwise, of operating control of the business of the holder of an intrastate motor carrier of household goods certificate or permit, by another holder of a certificate or permit or by majority stockholders of a corporate holder, shall be deemed a transfer in such a case shall be governed by the provisions of OAC 165:30-13-52.

(f) The transfer of stock in a corporation that shall result in any entity controlling fifty one percent (51%) or more of the aggregate number of voting shares of the corporation, shall be deemed a transfer of the intrastate motor carrier of household goods certificate or permit. Application for transfer in such a case shall be governed by the provisions of OAC 165:30-13-52. Provided that, these provisions shall not apply to transfers of stock among immediate family members. Immediate family members shall be between and among husband and wife, their parents, their children, and their brothers and sisters.

(g) The employment of incorporation, stock transfer, merger, change of name or similar action directly or indirectly as a device to effect a transfer of a certificate or permit without notice and hearing as required by this Subchapter is prohibited.

165:30-13-52. Transfer of certificate or permit

No intrastate motor carrier household goods certificate or permit for any operating rights

thereunder shall be conveyed, assigned or transferred except by order of the Commission, upon written application and after public hearing. No application for transfer of a portion of the authority or operating rights under a certificate or permit will be considered, except upon showing of exceptional cause therefore.

(1) An application for the transfer of motor carrier authority evidenced by one or more current certificates or permits shall be made jointly by the transferor and transferee, shall be in writing on the appropriate form prescribed (MCF 3) and filed with the Court Clerk of the Commission, and shall be accompanied by the filing fee as prescribed by law or by Commission rule. Every application for transfer filed on or after April 1st, shall be accompanied by the transferor's current year's annual report, as set forth in OAC 165:30-13-13. The application shall be assigned a PIN which shall be the permanent identification number of the transferee, if the application is approved. Where transferee already is the holder of a certificate or permit, the application for transfer shall be filed under existing permanent PIN of that transferee, with appropriate sub-number designation.

(2) At the hearing, the applicant shall have the burden of establishing the following:

(A) Reasonably continuous service in compliance with this Subchapter by the transferor for a period of one hundred eighty (180) days prior to filing the application for transfer, as evidenced by freight bills, invoices, bills of lading and/or other appropriate documentation.

(B) That the applicant is fit, willing, qualified and financially able to perform the service and conduct the operations contemplated under the authority sought to be transferred.

(C) That the transfer would be in the public interest and would not tend to create a monopoly or destroy competition.

(3) After the hearing, the Commission may grant or deny the application in whole or in part or may approve the transfer upon stated conditions or limitations. The Commission may revoke the certificate as to areas not served by the motor carrier not shown by the proof to have been transported by the transferor within one hundred eighty (180) days prior to the application, unless the proof shows that public convenience and necessity then exists for the grant of such authority to the transferee.

165:30-13-53. Transfer upon death of holder of certificate or permit

(a) Upon death of the holder of an intrastate household goods motor carrier certificate or permit, his duly authorized legal representative shall make written application for temporary authority to continue operations under the motor carrier certificate or permit while the estate is pending, if the authorized legal representative desires to continue operations under the certificate or permit. The applicant shall attach to his application (MCF 6) certified copies of his letters testamentary, or other proof of authority to operate on behalf of the estate, and shall tender with the application a filing fee as prescribed by law or Commission rule. The application shall be filed under the permanent PIN of the deceased holder, with appropriate sub-number. The Commission may, with or without hearing, enter an order authorizing the legal representative to operate under the certificate or permit, pending final disposition of the estate. Such an order does not constitute a transfer of the certificate or permit. Operations shall not commence until applicant has fulfilled all requirements. The representative may adopt in writing the tariffs previously on file by the deceased holder.

(b) Upon death of the holder of an intrastate household goods motor carrier certificate or permit, where the duly authorized legal representative desires to continue operations under the certificate or permit, an application to transfer the certificate or permit shall be made by the person lawfully succeeding to the interest of the deceased holder. The application shall be in writing on the appropriate form prescribed (MCF 3) and filed with the Court Clerk of the Commission, and shall be accompanied by the filing fee as prescribed by law or by Commission rule. The application shall be filed under a new permanent PIN or under the permanent PIN of the applicant, if it already holds a certificate or permit. The applicant shall attach to its application certified copies of orders of the Court having jurisdiction of the estate, or other proof establishing that the applicant is entitled to have the certificate or permit transferred to it.

(1) An application for transfer of motor carrier household goods certificate or permit due to death of the holder thereof shall be set for hearing as set forth in OAC 165:30-13-52. Notice shall be given by the applicant as set forth in OAC 165:30-7-2.

(2) An application to transfer a certificate or permit in the settlement of the estate to a person not by law succeeding to the interest of the

deceased holder shall be made pursuant to OAC 165:30-13-52.

PART 9. VIOLATIONS

165:30-13-71. Loading capacity-Safety compliance

All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-3-71.

165:30-13-72. Leasing of authority

(a) No intrastate motor carrier of household goods certificate or permit, nor any part thereof, or rights thereunder shall be leased; nor shall the holder thereof sublet or in any manner permit the use thereof, or the exercise of any rights or privileges thereunder by another, except as provided in this Section. Violation of this Section shall be grounds for revocation of the certificate or permit, and shall be grounds for denial of an application for authority.

(b) No intrastate motor carrier shall enter into an arrangement or agreement of any kind with any person who is not a regular employee, for the division, on any basis, of transportation revenues, except as provided in subsection (c) of this Section or in OAC 165:30-3-37; any such arrangement or agreement, except as provided for in subsection (c) of this Section or in OAC 165:30-3-37, shall be deemed an unlawful lease of authority.

(c) An intrastate motor carrier of household goods may appoint a commission agent in a town or community where it maintains no full time employees and compensate the agent according to an agreed division of transportation revenues. The agency contract shall be in writing, shall specify the period for which it is to be in effect or conditions of termination, shall specify the territory to be served and the services to be performed by the agent; and shall prescribe the terms of compensation of the agent or the division of revenues between the parties. The contract shall not provide for any limitation of liability of the carrier in connection with any transportation services. A person may serve as commission agent for more than one (1) motor carrier of household goods. A copy of every contract shall be filed with the Transportation Division of the Commission.

165:30-13-73. Advertising

All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-3-75.

165:30-13-74. Contempt complaint

All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-3-76.

PART 11. SUSPENSION OR CANCELLATION OF AUTHORITY

165:30-13-91. Voluntary suspension or discontinuance of service

(a) No intrastate motor carrier of household goods shall suspend or discontinue performance of any service authorized or required under a certificate or permit, except by order of the Commission.

(b) An intrastate motor carrier of household goods may make written application for permission to suspend or discontinue any or all service. The application (TDF 6) shall be made under the permanent PIN of the holder of the certificate or permit with appropriate sub-number and shall be accompanied by the filing fee as prescribed by law or Commission rule.

(c) Notice of hearing to suspend or discontinue household goods service shall be placed on the Commission Docket for a period of not less than thirty (30) days prior to the hearing.

(d) Upon showing of good cause and upon showing of exceptional circumstances, the Commission may in its discretion authorize suspension or discontinuance of household goods service. Suspension will be authorized for a period not to exceed six (6) months, unless the Commission prescribes otherwise in the order.

(e) If the application is denied in whole or in part and the motor carrier of household goods fails or refuses to continue service required by the certificate, the Commission may revoke all or any part of the certificate or permit affected by the suspension or discontinuance of service.

(f) Prior to the end of the suspension date, the intrastate household goods motor carrier shall make application to place the certificate or permit on extended voluntary suspension or make application (MCF 7-A) to reactivate the certificate or permit, which shall be made under the permanent PIN of the holder of the certificate or permit with appropriate sub-number, and set for hearing by notice on the Commission Docket. If not accomplished, that certificate or permit shall be cancelled.

165:30-13-92. Involuntary suspension or revocation of certificate or permit

(a) Any intrastate motor carrier of household goods certificate or permit may be suspended or revoked by the Commission, or the holder thereof assessed a fine

or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of this Chapter, including but not limited to the following:

- (1) Charging or collecting fares or charges in excess of or lower than authorized tariffs on file with the Commission, or directly or indirectly giving rebates.
 - (2) Discontinuance of any service required under a household goods certificate or permit for a period of thirty (30) days.
 - (3) Violation of municipal or state traffic laws, rules, regulations and rules of the road with evidence of conviction of the driver or of the carrier; provided, however, that a certificate or permit shall not be suspended or revoked upon this ground alone, unless it is shown that such violations were of such serious or continuing nature that further operations by the motor carrier would constitute a hazard to public safety;
 - (4) Failure to maintain on file with the Commission any of the following:
 - (A) Proper certificates of insurance as required by law and this Chapter.
 - (B) Proper tariffs.
 - (C) Annual report.
 - (D) Current address.
 - (5) Sale, assignment, transfer or conveyance of a certificate or permit or any rights thereunder, without order authorizing such transfer.
 - (6) Lease of authority or operating rights or permitting the use or operation thereof by another.
 - (7) Failure to secure or display identification devices, or violation of any provision of this Chapter relating to identification devices.
 - (8) Failure to comply with any provision of this Chapter regulating COD shipments, and the collection and remission of COD charges.
 - (9) Failure to extend voluntary suspension or reactivate certificate or permit after voluntary suspension ends.
 - (10) Any violation of other state statutes or regulations shall be cause to initiate an application for suspension or revocation by staff or other adversely affected persons.
- (b) An application to revoke or suspend an intrastate motor carrier of household goods certificate or permit may be filed by a member of the staff of the Commission or by a person adversely affected by the acts alleged. It shall be in the form of an application, and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Commission's Rules of Practice, OAC 165:5.
- (c) After hearing, the Commission may grant or deny the application, and may suspend, amend or revoke the certificate or permit, or any part thereof or rights

thereunder, or the Commission may assess a fine or impose limitations or conditions upon the continuation of operations under the certificate or permit as stated in the order.

165:30-13-93. Reinstatement of certificate or permit

All intrastate motor carriers of household goods shall comply with all provisions of OAC 165:30-103.

165:30-13-94. Violations

- (a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or requirements of this Chapter; or who fails to obey, observe or comply with any order, decision, rule, regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.
- (b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted signs.
- (c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or the rules of this Agency.
- (d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his/her designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.
- (e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

SUBCHAPTER 15. INTRASTATE PRIVATE CARRIERS

PART 1. GENERAL PROVISIONS

165:30-15-1. Purpose

The public policy of this State, as declared by the Legislature, requires private carriers shall be regulated by the Commission to protect the public interest, the environment and the highways of the State of Oklahoma and ensure compliance with applicable safety, size and weight laws, rules and regulations.

PART 3. OBTAINING A PRIVATE CARRIER LICENSE AND LICENSE REQUIREMENTS

165:30-15-4. Obtaining a license

(a) No intrastate private carrier, utilizing equipment with an actual weight, registered weight or GVWR in excess of 26,000 pounds and/or GCWR in excess of 26,000 pounds when the trailer's GVWR is greater than 10,000 pounds, shall operate upon any street, road, public highway or dedicated public thoroughfare of this State for the transportation of property without first obtaining from the Commission a license as provided in this Section. A private carrier license is not required for a bona fide farmer transporting commodities from farm to market or market to farm; registered and valid non-profit organizations or any private carrier operating equipment leased or rented from a company that leases or rents vehicles on a commercial scale, provided the lease or rental contract is for thirty-one (31) days or less and a copy of the contract is carried in the vehicle. A license issued under this Subchapter shall not include transportation as a for-hire motor carrier. For-hire motor carriers must comply with Subchapter 3 and/or Subchapter 13 of this Chapter.

(1) An applicant for a private carrier license shall file with the Commission a written application on the appropriate form prescribed by the Commission (TDF 1), and shall tender with the application a filing fee as prescribed by law or by Commission rule.

(2) The application shall be assigned a personal identification number ("PIN"), which shall be the permanent identification number for all matters relating to the license granted therein. Any application thereafter filed to amend the license by the same applicant shall be filed in the same cause under the original PIN, and otherwise shall be governed by the provisions of this Subchapter relating to an application for license. Each subsequent application shall also bear a sub-number in sequence.

(3) A license shall be personal to the holder thereof, and shall be issued only to an individual, a corporation, a limited liability corporation, a

partnership or some other legally recognized entity.

(4) The filing of an application for a license does not of itself authorize any private carrier operations by the applicant. Such operations are prohibited until after all requirements have been met, and a license has been issued. All requirements for compliance with this Subchapter shall be met within sixty (60) days from date of application recommending the license be issued. Failure to comply may result in dismissal of the application for a license. Licenses issued shall be valid for a maximum of one year and may be renewed after application has been filed as provided by this Chapter.

(5) No license for private carrier intrastate operations shall be issued until applicant has a satisfactory USDOT safety rating or the applicant has demonstrated its ability to conduct operations in a safe and reasonable manner and applicant is in compliance with all applicable rules and laws of the State of Oklahoma; has furnished proper proof of all insurance required by this Subchapter and all applicable state statutes.

(6) The notarized application shall require the following:

(A) Name, a single trade name(if any), mailing address, physical address, telephone number and domicile county of the applicant.

(B) The type of applicant (indicating if sole proprietorship, partnership, corporation or other legal entity), specifying the names of all officers, if any, and listing the addresses of each.

(C) The type of operations the applicant is applying for.

(D) The name and address of the motor carrier's process agent in Oklahoma (if the motor carrier does not maintain its principal place of business in Oklahoma).

(E) Declaration of its USDOT number, safety rating and a safety summary report which details its safety program and lists all safety violations identified within the prior twelve (12) months. Carriers without a USDOT number must attach a copy of its previously submitted application for a USDOT number. The applicant shall notify the Commission in writing of its USDOT number once issued, unless the USDOT number is issued by the Commission.

(F) A size and weight summary report which details its size and weight compliance program and lists all size and weight

violations identified within the prior twelve (12) months.

(G) A listing of all power vehicles and trailers to be used, detailing the model, make and capacity of each vehicle and denoting whether each vehicle is owned or leased.

(H) A description of all terminal, dock or motor pool facilities.

(I) A declaration that the Applicant is in full compliance with all other state laws, rules and regulations.

(J) Any other information the Commission deems necessary.

(7) Every person operating under the Motor Carrier Act of 1995 and the rules of this Commission shall possess a copy of this Chapter governing the operations of motor carriers and private carriers.

(8) A private carrier desiring to modify its license shall file a sub application (TDF 1). Sub applications to include hazardous materials must comply with the provisions in this Section. Sub applications to modify other types of operations shall be exempt from (6)(D)-(G) of this subsection.

(9) A copy of the current license under which a carrier operates shall be carried at all times in each power unit by the private carrier.

(b) Applicant may be issued a provisional intrastate license not to exceed ninety (90) days from the date application is filed, provided all requirements, with the exception of the educational compliance requirements, for the intrastate license have been met. Applicant must provide a written request for the provisional intrastate license. If the provisional intrastate license is issued, a copy of the provisional intrastate license must be carried in each vehicle operated by the Applicant.

(c) No intrastate private carrier license shall be issued to an applicant until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(d) An intrastate private carrier additionally conducting intrastate motor carrier operations under a valid motor carrier license, certificate or permit need not obtain a private carrier license.

(e) If a hearing is held, the applicant shall have the burden of establishing its ability to conduct operations in a safe and reasonable manner and in compliance with all applicable rules and laws of the State of Oklahoma and that it has furnished or will furnish proper proof of all insurance required by this Chapter

and all applicable state statutes. The Commission may grant or deny the application or may impose conditions, stipulations and limitations on the license.

(f) All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

165:30-15-5. License renewals

(a) Any private carrier desiring to continue intrastate private carrier operations as granted in its license, shall, prior to the date of license expiration, apply for renewal by submitting the appropriate application form (TDF 2) and all supporting documentation. Each renewal application shall be properly signed and attested to as follows:

(1) Application of sole proprietorship must be signed by owner.

(2) Application of partnership must be signed by one of the partners.

(3) Application of corporation must be signed by officer.

(b) All intrastate private carrier licenses issued by the Commission shall expire the same calendar month as issued, and shall be valid for a period of one year, but may be renewed for up to three years. Carriers renewing licenses for more than one year must maintain all requirements of that license as prescribed in Part 3 of this Subchapter in order for the license to be valid.

(c) Renewal applications shall be accompanied by a filing fee as prescribed by the Commission, unless filed simultaneously with a sub application to modify operations.

(d) A renewal application may be set for hearing in the discretion of the Commission for good cause. All proceedings subsequent to the application, and the conduct of the hearing, shall be governed by applicable provisions of the Commission's Rules of Practice, OAC 165:5.

(e) An intrastate private carrier desiring to renew its license should apply for renewal of its license a minimum of thirty (30) days prior to its expiration.

(f) A renewal application will not be accepted if the license has previously expired, unless the Director of the Transportation Division reviews and approves the acceptance of the application for renewal.

(g) No intrastate private carrier license shall be renewed until all outstanding fines or judgments due the Commission or other state(s) regulatory agencies have been satisfied.

(h) No intrastate private carrier operations shall be performed under an expired private carrier license.

165:30-15-6. Insurance

(a) No intrastate private carrier required to obtain a private carrier license whose principal place of business is in Oklahoma shall conduct any operations in this State unless such operations are covered by a valid primary bond or insurance policy issued by an Oklahoma State Insurance Commission authorized provider or a self insurance certificate issued by the Oklahoma State Insurance Commission or a state commission certified by the National Association of Insurance Commissioners (NAIC) or by the Oklahoma Department of Public Safety pursuant to 47 O.S. § 7-503. No private carrier required to obtain a private carrier license shall conduct any operations in this State unless such operations are covered by a valid bond or insurance policy issued by a NAIC certified state insurance commission licensed provider or a self insurance certificate issued by a state commission certified by NAIC or by the Oklahoma Department of Public Safety pursuant to 47 O.S. § 7-503. No holder of a license shall conduct any operations before a proper certificate of insurance(s) or self insurance has been filed with, and approved by the Commission. A surety bond containing all obligations provided by this Section may be substituted for an insurance policy.

(b) With the exception of private carriers filing self insurance certificates, every intrastate private carrier of property is required to obtain a private carrier license, and shall file with, and must be approved by, the Commission a certificate on Form E or G certifying that there is in effect a valid bond or insurance policy covering operations in Oklahoma to protect the public against loss of life, injury and property damage in minimum amounts, of combined single limits, for bodily injuries to or death of all persons injured or killed in any accident, and loss or damage in any one accident to property or other (excluding cargo), as follows:

(1) Transporting non-hazardous commodities or commodities not mentioned in (B)-(C) of this subsection - \$350,000.

(2) Transporting deleterious substances- \$750,000.

(3) Transporting hazardous waste, materials, substances, explosives, poison gas or highway controlled radioactive materials as defined in and as required by 49 CFR, Parts 100 through 399.

(c) Every intrastate private carrier utilizing a self insurance certificate shall file with the Commission a certificate of self insurance covering operations in this state. In the event an authorized agency cancels a certificate of self insurance, the carrier must immediately notify the Commission.

(d) The Commission may by order grant authority to operate or to continue operating as a private carrier conditional upon carrying insurance coverage in amounts larger than prescribed by (b) of this Section.

(e) No certificate of insurance or surety bond filed with the Commission pursuant to this Section shall be canceled, unless the authorization to conduct operations has been canceled, except after thirty (30) days written notice made to the Commission, on Form K or L, which notice shall be effective only upon actual receipt thereof by the Commission.

(f) Insurance certificates or surety bonds may be cancelled without the thirty (30) days written notice on Form K or L only when the authorization to operate has previously expired or cancelled, the carrier provides an affidavit stating no operations have been conducted and the effective date of the cancellation notice is not before the date the cancellation notice is received in the Commission.

(g) Insurance certificates or surety bonds not properly cancelled or expired shall be considered expired one year after the carrier's authorization to operate has been cancelled or expired.

(h) Insurance certificates, certificates of self insurance, or surety bonds approved by this Commission shall be replaced by more recent insurance certificates, certificates of self insurance, or surety bonds. The liability of the retiring insurer or surety shall be terminated as of the effective date of the replacement insurance certificate or surety bond provided the replacement is approved by this Commission.

(i) No certificate of insurance or certificate of self insurance shall be filed with the Commission which contains a provision to the effect that liability thereunder may be limited or avoided because of the culpability, the recklessness, or the condition of the driver of the vehicle involved or any other restriction relating to the driving or operation of the vehicle.

(j) Every certificate of insurance or certificate of self insurance filed with the Commission shall automatically provide that the public is protected from damage sustained through operations of any and all vehicles operated by the private carrier insured, whether or not listed or identified in the policy; and that liability is not limited by the description of any particular vehicle or route which may be traveled by the motor vehicle in transporting passengers or property under the license.

(k) Every certificate of insurance filed with the Commission shall be executed by an officer or authorized agent of the insurance company; and if executed by an agent, a copy of his written authority or power of attorney to execute the same shall be attached to the certificate.

(l) When insurance is provided by more than one insurer in order to aggregate security limits for private carriers, a separate insurance certificate and endorsement is required of each insurer.

(m) Every private carrier shall maintain in force at all times all insurance required by state laws and by this Section. Failure for any cause to maintain any required insurance in force or self insurance certificate on file with the Commission shall automatically and without notice suspend the license of a private carrier until proper insurance is filed.

(n) Whenever the license of a private carrier is suspended for failure to maintain in force insurance required by this Section or self insurance certificate on file with the Commission, the carrier must file, within sixty (60) days after commencement of the suspension, proper certificate(s) of insurance or self insurance as provided in this Section and a sufficient showing, by affidavit or otherwise, that no operations were conducted during the period that insurance was not in force (TDF 18).

(o) Whenever a private carrier fails to provide proper certificates of insurance or self insurance within sixty (60) days after suspension thereof as provided in this Section, the private carrier's license shall be cancelled by operation of law, and without notice. A license so cancelled shall not be reinstated or otherwise made operative except upon proper showing, at a hearing, that the private carrier was actually covered by proper insurance or proper certificate of self insurance during the suspension or cancellation period, and that failure to file with the Commission was not due to the private carrier's own negligence.

(p) Any private carrier conducting operations under a suspended or cancelled license, shall not be eligible to apply for a new license for a period of not less than one hundred eighty (180) days. The one hundred eighty (180) day period shall be determined by either the date insurance on file expires or the date a violation is discovered, whichever occurrence is later.

165:30-15-7. Current address requirement

(a) Any notice required by law, the Commission's Rules of Practice, OAC 165:5, or this Subchapter to be served upon or mailed to any holder of a private carrier license shall be delivered or mailed to the last known address as reflected by the records of the Commission. It is the duty of every holder of a private carrier license to notify the Transportation Division by specific written request (TDF 17) of any change in the address of the principal place of business and mailing address thereof.

(b) Any non-resident private carrier who has not filed a written designation of service agent with the Commission shall be deemed to have designated the Secretary of State of Oklahoma for the purpose of service of process by the Commission.

(c) Where such notice is required by law, Commission's Rules of Practice, OAC 165:5, or this Subchapter is returned undeliverable, it will be grounds for revocation of the private carrier license.

165:30-15-8. Name changes

(a) An application to change the name or business name of the holder of an intrastate private carrier license, without any change in the legal identity of the holder or any change in the ownership of the license, except as provided in subsections (c), (d) or (e) below, shall be filed on the appropriate form prescribed (TDF 3) under the permanent PIN of the holder with appropriate sub-number designation and with such filing fee as prescribed by law or by Commission rule. No notice or hearing shall be necessary unless the Commission so requires. Notice, if required, shall be as the Commission shall direct.

(b) Any change in legal identity of the holder of an intrastate private carrier license, except as provided in subsections (c), (d) or (e) below, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership or creation or dissolution of a trust, shall require an original application for a license.

(c) Incorporation by a sole proprietor in which the sole proprietor is the majority shareholder of the corporation, limited liability corporation or limited liability partnership shall be deemed a name change. Incorporation by a partnership in which the partners are the majority shareholders of the corporation shall be deemed a name change.

(d) A change in legal entity from a corporation, limited liability corporation or a limited liability partnership to a sole proprietorship, a partnership, a limited liability corporation or a limited liability partnership in which the sole proprietor, partners or shareholders hold the majority of all issued and outstanding shares of the corporation shall be deemed a name change.

(e) The merger of two or more corporations in which the survivor is the holder of a current license shall be deemed a name change.

(f) The transfer of stock in a corporation that shall result in any entity controlling fifty one percent (51%) or more of the aggregate number of voting shares of the corporation shall not be deemed a name change.

(g) The employment of incorporation, change of name or similar action directly or indirectly as a device to circumvent the rules of this Subchapter is prohibited.

165:30-15-9. Identification device

(a) Every private motor carrier operating upon the public highways of the State of Oklahoma shall

obtain and display a current identification device issued by this Commission, for each power unit operated by said private motor carrier and make it available for inspection upon request.

- (1) Only one (1) identification device is required for each power unit.
 - (2) The annual fee for each identification device will be a prescribed by law or Commission rule.
 - (3) Identification devices shall expire simultaneously with the expiration date of the annual license issued to the motor carrier.
- (b) No identification device may be sold or otherwise transferred.
- (c) Identification devices found to be in the possession of a carrier not authorized will be confiscated and returned to the Commission by the motor carrier enforcement officer.
- (d) No identification devices will be issued to any private motor carrier who does not meet all statutory, regulatory and Commission requirements.
- (e) Identification device(s) must be acquired prior to the expiration of each annual expiration of a multiple year renewal license to extend the motor carrier license. Failure to timely acquire the identification device(s) will cause the motor carrier license to expire. Failure to acquire the identification device(s) within 30 days of the expiration of the license will cause the motor carrier license to automatically expire and become subject to reinstatement rules as prescribed in OAC 165:30-3-103.

PART 5. CONDUCTING OPERATIONS

165:30-15-11. Deleterious Substance Transport Permit

All intrastate private carriers transporting any deleterious substance(s) shall comply with all provisions of 165:30-3-13.

165:30-15-12. Markings

Every motor vehicle of 26,000 pounds GVWR or greater operated by an intrastate private carrier shall comply with the provisions of 165:30-3-17.

165:30-15-13. Compliance with laws and regulations

All intrastate private carriers shall comply with all provisions of 165:30-3-31.

165:30-15-14. Legal possession of cargo

All intrastate private carriers operating a motor vehicle with a GVWR in excess of 26,000 pounds shall be required to establish legal ownership of the contents of such vehicle.

165:30-15-15. Minimum standards

All intrastate private carriers shall comply with all provisions of 165:30-3-34.

165:30-15-16. Leasing of equipment

All private carriers engaged in intrastate commerce, utilizing equipment other than carrier owned, shall be required to carry a copy of a lease agreement or contract in the vehicle at all times.

165:30-15-17. Leasing of license

No intrastate private carrier license, nor any part thereof, or rights thereunder shall be leased; nor shall the holder thereof sublet or in any manner permit the use thereof, or the exercise of any rights or privileges thereunder by another, except as provided in this Section. Violation of this Section shall be grounds for revocation of the license, and shall be grounds for denial of an application for a new or renewed license.

PART 7. VIOLATIONS, SUSPENSION OR CANCELLATION

165:30-15-31. Loading capacity-Safety compliance

All intrastate private carriers shall comply with the provisions of 165:30-3-71.

165:30-15-32. Contempt complaint

In addition to the procedures set forth in the Oklahoma Statutes and in the Oklahoma Corporation Commission Rules of Practice, OAC 165:5 regarding the procedure in proceedings as for contempt, the procedures as set forth in 165:30-3-76 may be followed for violation of any provision of law or of the rules of this Subchapter.

165:30-15-33. Pollution abatement

All private carriers shall comply with the provisions of 165:30-3-92.

165:30-15-34. Violations

(a) Every for-hire motor carrier, shipper, private motor carrier, their employees or any other person who violates or fails to comply with or procures, aids or abets in the violation of any provision of law or of any requirements of this Chapter; or who fails to obey, observe or comply with any order, decision, rule or regulation, direction, demand or requirement, or any part or provision thereof, of the Commission, or who procures, aids, or abets any corporation or person in its refusal or willful failure to obey, observe

or comply with any such order, decision, rule, direction, demand or regulation, or part of provision thereof, after notice and hearing, is guilty of contempt of the Commission and is subject to a fine not to exceed Five Hundred (\$500.00) Dollars per violation per day or as otherwise provided for by law.

(b) All motor carriers must yield for inspection as directed by a duly authorized motor carrier enforcement officer or by posted signs.

(c) Motor carrier enforcement officers may hold and detain equipment operated by a motor carrier for violations of applicable laws in the Oklahoma Statutes or rules of this Agency.

(d) If, in the judgment of a motor carrier enforcement officer, a detained vehicle poses an inherent risk to public health, safety or welfare, upon direction of the Transportation Division Director or his designee, the motor carrier enforcement officer may arrange for impoundment of the detained vehicle at the expense of the motor carrier.

(e) Contents of impounded equipment must be inventoried, with any inventory expense incurred at the sole cost of the motor carrier.

165:30-15-35. Suspension or discontinuance of license

(a) An intrastate private carrier may request cancellation of its license without notice or hearing.

(b) Any intrastate private carrier requesting cancellation of its license while in good standing may reapply for a new license at any time.

(c) Any intrastate private carrier license may be suspended or revoked by the Commission, or the holder thereof assessed a fine or other lawful punishment for violation of, or failure to comply with, any requirement or provision of law or of this Chapter.

(d) An application to revoke or suspend an intrastate private carrier license may be filed by a member of the staff of the Commission or by a person adversely affected by the acts alleged. It shall be in the form of an application, and proceedings thereon, including notice and hearing if required, shall be as prescribed in the Oklahoma Corporation Commission's Rules of Practice, OAC 165:5.

(e) Any violation of other state statutes or regulations shall be cause to initiate an application for revocation by staff or other adversely affected persons.

(f) After hearing, the Commission may grant or deny the application, and may suspend or revoke the license, or any part thereof or rights thereunder, or the Commission may assess a fine or impose limitations or conditions upon the continuation of operations under the license as stated in the order.

(g) Any private carrier conducting operations under a suspended or cancelled license, shall not be eligible to apply for a new license for a period of not less than

ninety (90) days. Except for insurance violations as noted in 165:30-3-11, the ninety (90) day period shall begin the date a Commission order is signed suspending or canceling a private carrier license. This subsection shall not apply to private carrier licenses which have expired.

(h) The employment of incorporation, stock transfer, merger, change of name or similar action directly or indirectly as a device to evade subsection (f) of this Section is prohibited.

165:30-15-36. Reinstatement of a private carrier license

An intrastate private carrier whose license has been cancelled by law or by order of the Commission may make application for reinstatement in accordance with the provisions as set forth in 165:30-3-103.

SUBCHAPTER 16. INTERSTATE PRIVATE CARRIERS

165:30-16-1. Markings

All motor carriers engaged in interstate private commerce shall comply with all provisions of 49 C.F.R. 390.21 with regard to markings.

165:30-16-2. Lease agreement

All motor carriers engaged in interstate private commerce shall comply with all provisions of 49 C.F.R. 376.11 with regard to lease agreements.

165:30-16-3. Shipping documentation

All motor carriers engaged in interstate private commerce shall be required to carry at all times documents that establish legal possession of cargo.

165:30-16-4. Compliance with laws and regulations

(a) All motor carriers engaged in interstate private commerce shall conduct their operations in accordance with all applicable laws of the State of Oklahoma and all applicable rules of the Commission. All registrations heretofore or hereafter filed with the Commission are subject to applicable provisions of law and the rules of this Subchapter as fully as if those laws and rules were set forth verbatim herein.

(b) No motor carrier engaged in interstate private commerce shall operate or allow to be operated on the public highways of the State of Oklahoma any equipment for hire that does not comply with the safety criteria established by the Statutes of Oklahoma or by the Department of Public Safety. No motor carrier shall permit any person to operate a

motor vehicle for hire when such person is intoxicated or under the influence of alcohol or under the influence of amphetamines, stimulants or other drugs. Any vehicle which fails to meet safety criteria, or which is operated by a person under the influence of alcohol, amphetamines, stimulants or other drugs, shall be prevented from continued use of the public highways of the State of Oklahoma.

(c) Violation of the rules of this Subchapter may result in the motor carrier being prohibited from using the public highways of the State of Oklahoma or any other penalties deemed appropriate by the Commission pursuant to authority granted to the Commission.

165:30-16-5. Minimum standards

(a) Every vehicle used for interstate private commerce shall be in safe operating condition, and shall possess all safety equipment required by the Statutes of Oklahoma, the regulations of the USDOT and the rules of the Department of Public Safety.

(b) All vehicles will be utilized in a manner that conforms with the manufacturer's design standards and specifications.

(c) The Commission adopts the provisions of the rules and regulations as adopted by the Oklahoma Department of Public Safety in OAC 595:35, pertaining to 49 C.F.R. Federal Motor Carrier Safety Regulations, with all amendments and appendices thereto.

165:30-16-6. Loading capacity

All interstate private carriers shall comply with all provisions of OAC 165:30-3-71.

165:30-16-7. Contempt complaint

In addition to the procedures set forth in the Oklahoma Statutes and in the Commission Rules of Practice, OAC 165:5, regarding the procedure in proceedings as for contempt, the procedures set forth in 165:30-3-76 may be followed for violation for any requirement or provision of law or the rules of this Subchapter.

165:30-16-8. Pollution abatement

All motor carriers engaged in interstate private commerce shall comply with all provisions of OAC 165:30-3-92.

165:30-16-9. Deleterious Substance Transport Permit

All interstate private carriers transporting any deleterious substance(s) shall comply with all

provisions of OAC 165:30-3-13 and OAC 165:30-3-11.

SUBCHAPTER 17. HAZARDOUS WASTE TRANSPORTERS

PART 1. GENERAL PROVISIONS

165:30-17-1. Purpose and applicability

(a) The rules in this Subchapter are intended to implement a uniform registration and permitting program for motor carriers who transport hazardous waste in interstate or intrastate commerce of a type and amount that requires the shipment to be accompanied by a Uniform Hazardous Waste Manifest contained in 40 CFR, Part 262; and to conform the procedures and requirement contained in the report submitted to the secretary of transportation pursuant to Section 22 of the HMTUSA by the Alliance for Uniform Hazardous Materials Transportation Procedures (49 USC app 1801-1813 amended by Sec. 20).

(b) The rules in this Subchapter are intended to reflect or complement the procedures as set forth by the Alliance. In the event of conflict, the procedures as set forth by the Alliance will prevail.

(c) Motor vehicles owned and operated by a local, state, or federal government, or any other political subdivision, are not subject to the provisions of this Subchapter.

(d) The Transportation Division may enter into agreements with federal agencies, a national repository or other participating states as necessary to allow the reciprocal registration and permitting of motor carriers transporting hazardous waste. The agreements may include procedures for determining a base state, the collection and distribution of registration fees, dispute resolution, the exchange of information for reporting purposes, and other provisions necessary to fully implement, administer and enforce the uniform program.

(e) This Subchapter preempts and supersedes any hazardous waste transportation registration or permitting program administered or enforced by any state agency, city, county, or other political subdivision of the state.

165:30-17-2. Cooperation with other base states

The Commission will cooperate with other base states in exchanging information and transmitting

funds relating to motor carriers registered and permitted under the Alliance.

PART 3. APPLYING FOR HAZARDOUS WASTE REGISTRATION AND PERMIT

165:30-17-11. Selection of base state

(a) A motor carrier transporting or intending to transport hazardous waste in and/or through a participating state must register and/or permit in a participating state.

(b) If the motor carrier's principal place of business is in a participating state, the motor carrier must use its principal place of business state as its base state.

(c) If the motor carrier's principal place of business is not in a participating state, the motor carrier shall select the participating state in which it operates the most miles (based upon IRP percentages).

(d) A motor carrier's base state may change due to the motor carrier changing its principal place of business or due to the entry of new states into the uniform program. Procedures set forth by the Alliance will be followed as it pertains to the changing of a motor carrier's base state.

165:30-17-12. Obtaining a hazardous waste registration and permit

(a) A motor carrier with its principal place of business in Oklahoma, or that designates Oklahoma as its base state, shall register as a hazardous waste transporter with and obtain a permit from the Commission before transporting a hazardous waste in or through Oklahoma. A motor carrier that designates another participating state as its base state shall register as a hazardous waste transporter and obtain a permit from that state before transporting a hazardous waste in or through the state of Oklahoma.

(b) A motor carrier who engages in interstate or intrastate transportation of a hazardous waste and who is required to register its hazardous waste transportation in Oklahoma shall file parts I, II and IV of the uniform application (UPW) with the Commission and pay the prescribed fees for registration and permits for its Oklahoma waste transportation as well as fees for reciprocal states.

(c) Upon a motor carrier's compliance with this Subchapter, the Commission shall issue a Hazardous Waste Registration and/or Permit to the motor carrier within ninety (90) days. Motor carriers must maintain valid liability insurance on file with this Commission in accordance with OAC 165:30-3-11. Failure to do so shall subject the registration or permit to revocation.

(d) The Commission shall not issue a registration or permit to a motor carrier if the Commission determines that a motor carrier's conduct would constitute grounds for suspension or revocation under this Subchapter. The Transportation Division may elect to request additional information from the motor carrier to support the motor carrier's application for registration and/or permit. Additional information requested shall be based upon the motor carrier's compliance with the federal motor carrier safety regulations.

(e) A registration is valid for one year and a permit is valid for three years unless the motor carrier fails to renew its registration, the permit is suspended or revoked or there is a substantial change in the motor carrier's operations during the permitting period.

(f) Each motor carrier shall file a Part I-Registration of the uniform application (UPW-Part I) on an annual basis. However, for the first year after the effective date of this Subchapter, the Transportation Division may stagger the registration date for motor carriers. Registration fees shall be apportioned for any quarterly time frame exceeding one year.

(g) Each motor carrier shall additionally file a Part II-Permitting of the uniform application (UPW-Part II) every three years. However, for the first year after the effective date of this Subchapter, the Transportation Division may divide the total pool of applicants to be granted a uniform permit into three classes. The first class may be granted uniform permits with a term of one year; the second class may be granted uniform permits with a term of two years; and the third class may be granted uniform permits for three years. Permit fees shall be apportioned for any permit time not equaling a three-year time frame.

(h) Each uniform registration and permit application shall contain certification by a responsible official of the applicant who is authorized to certify applications for registrations and permits on behalf of the applicant. Such certification shall contain the following statement, "I certify that, to the best of my knowledge and after due investigation, the information contained in this application is true, accurate, and complete" and shall contain the name, title, and telephone number of the official certifying the application. Such certification must be signed and dated by the official certifying the application.

(i) No registration or permit shall be issued to a motor carrier with outstanding fines owed to another state agency.

(j) A registered and permitted motor carrier shall maintain a copy of its valid registration and permit for Hazardous Waste in each vehicle when transporting a hazardous waste.

(k) The hazardous waste registration and permit are nontransferable.

165:30-17-13. Filing of proof of proper liability insurance

All motor carriers shall comply with the provisions of 165:30-3-11.

165:30-17-14. Letter filing

(a) A motor carrier may provide a written request for a letter of filing that, if issued, will allow a motor carrier to operate in the base state and reciprocal states for a period of up to 90 days while the motor carrier's application for registration and permit is being processed.

(b) The Commission shall not issue a letter of filing to a motor carrier until the motor carrier has complied with initial requirements of this Subchapter pending staff's review of the motor carrier's safety compliance. The letter of filing may be rescinded if the motor carrier fails to fully comply with all requirements of this Subchapter.

(c) A letter of filing cannot be issued by the Commission to a motor carrier whose principal place of business is located in a reciprocal state or to a motor carrier who is currently registered with a reciprocal state.

(d) A copy of the letter of filing shall be carried in each vehicle transporting hazardous waste operated by the applicant.

165:30-17-15. Filing fee calculation

(a) Part I of the uniform application, (UPW-Part I) requires a processing fee of \$50.00 and must be submitted annually for renewal of registration. An amount, as set forth by the Alliance, shall be added to the annual registration processing fee to be collected by the Commission and remitted to the Alliance.

(b) Each motor carrier shall submit with its registration application a double apportioned vehicle waste transporter registration fee which shall be equal to the percentage of Oklahoma transportation (IRP %) multiplied by the total number of vehicles the motor carrier operates, rounded up to the next whole number, multiplied by the percentage of the motor carrier's total hazardous waste activity multiplied by a per-vehicle fee of \$100.00.

(c) A motor carrier may use data from its most recently complete fiscal year or the most recent complete calendar year in calculating the percentages required in this Subchapter for transportation conducted during the previous year.

(d) Part II of the uniform application, Permitting, requires a permit review fee of \$500.00.

(e) Fee calculation for the reciprocal states is found in the Uniform Program Fee Worksheet (Schedules A-D and Summary) of the uniform application.

165:30-17-16. Ownership of registration and permit

Hazardous waste permits shall be considered personal to the holder thereof and shall be issued only to some definite legal entity. Permits are not subject to lease, nor shall the holder thereof sublet or permit the exercise, by another.

PART 5. CONDUCTING OPERATIONS

165:30-17-31. Shipping documentation

Each shipment shall be accompanied by a uniform hazardous waste manifest as specified in 40 CFR, Part 262 or other manifest as required by the state.

165:30-17-32. Markings

All motor carriers shall comply with the provisions of 165:30-3-17.

165:30-17-33. Leasing of equipment

All motor carriers engaged in interstate commerce will be required to carry a copy of the lease contract in each and every power unit.

165:30-17-34. Name Changes

(a) Any change in legal identity of the holder of a hazardous waste, except as provided in subsections (b), (c), or (d) below, including but not limited to incorporation or dissolution of a corporation, formation or dissolution of a partnership or creation or dissolution of a trust, shall require an original application for a registration and permit.

(b) Incorporation by a sole proprietor in which the sole proprietor is the majority shareholder of the corporation, limited liability corporation or limited liability partnership shall be deemed a name change. Incorporation by a partnership in which the partners are the majority shareholders of the corporation shall be deemed a name change.

(c) A change in legal entity from a corporation, limited liability corporation or a limited liability partnership to a sole proprietorship, a partnership, a limited liability corporation or a limited liability partnership in which the sole proprietor, partners or shareholders hold the majority of all issued and outstanding shares of the corporation shall be deemed a name change.

(d) The merger of two or more corporations in which the survivor is the holder of a current license shall be deemed a name change.

(e) The transfer of stock in a corporation that shall result in any entity controlling fifty on percent (51%)

or more of the aggregate number of voting shares of the corporation shall not be deemed a name change.

(f) A request for a name change shall be in writing and shall be accompanied by copy of the Certificate of Incorporation, Amended Certificate of Incorporation or similar documentation (if applicable) and a \$50.00 name change filing fee. The request for name change must be signed by the owner (if an individual). If a partnership is adding or removing a partner(s) all partners (whether existing, added or removed) must sign the request and current demographics information must be provided. If a corporation has amended its name, a corporate officer must sign the request. If the officers of the corporation have changed, a listing of all the officers including the addresses of each must be additionally be attached to the request.

(g) Proper insurance filings or bonds must be placed on file with this Commission reflecting the new name.

(h) The employment of incorporation, change of name or similar action directly or indirectly as a device to circumvent the rules of this Subchapter is prohibited.

165:30-17-35. Address changes

A motor carrier shall notify the Commission in writing of any change in the motor carrier's mailing or physical address or telephone number.

PART 7. VIOLATION, SUSPENSION OR REVOCATION OF A PERMIT

165:30-17-51. Inspections, reviews and audits

(a) The Commission will use its enforcement powers to ensure motor carrier compliance with federal safety regulations, state laws and rules of this Commission.

(b) Authorized employees of the Commission shall perform the following duties:

- (1) Physically inspect vehicles, tanks, containers, cargo and/or drivers;
- (2) Perform on-site examinations of a motor carrier's operations including physical inspections and review of a motor carrier's operating systems;
- (3) Examine a company's records to verify information on which a permit is based;
- (4) An in-house review of a motor carrier's records sent by the motor carrier to the Commission;
- (5) Inspect vehicles and drivers; and,
- (6) Investigate alleged violations triggered by a public inquiry or complaint.

165:30-17-52. Advertising

Any person who advertises to perform hazardous waste transportation services for which he does not hold a registration and permit shall be in violation of this Section and subject to the penalties prescribed for contempt of the Commission.

165:30-17-53. Suspension, revocation and denial

(a) The Commission may suspend or revoke a permit issued under this Subchapter or order the suspension of the transportation of hazardous waste in Oklahoma by a motor carrier who has obtained a permit from another participating state under the uniform program if the Commission determines that a motor carrier has:

- (1) Committed a violation of a 49 CFR, Parts 100 to 180, 382, 383, 387, or 390 to 397, while engaging in hazardous waste transportation if the violation posed an imminent hazard to the public or the environment;
- (2) Made a knowing falsification of a material fact in a uniform application;
- (3) Received an unsatisfactory safety rating from the Commission or the USDOT;
- (4) Failed to maintain proper liability insurance on file;
- (5) Failed to comply with requirements identified in this Subchapter;
- (6) Exhibited reckless disregard for the public and the environment; or,
- (7) Vehicle or driver out-of-service percentages higher than the national average.

(b) In determining if a motor carrier has exhibited reckless disregard for the public and the environment in violation of this Subchapter, the Commission shall consider:

- (1) Whether the motor carrier has engaged in a pattern of violations of 49 CFR, Parts 100 to 180, 382, 383, 387, or 390 to 397, or regulations governing the management of hazardous waste, while engaging in hazardous materials transportation, when the violations are viewed in relation to the number of truck-miles of hazardous material transportation and the number of vehicles in the motor carrier's fleet.
- (2) The actual or potential level of environmental damage resulting from an incident or a violation of the federal regulations referred to in the Section;
- (3) The response by the motor carrier to an incident or a violation of the federal regulations referred to in the Section;
- (4) The motor carrier's history of violations for the past three years;
- (5) Any mitigating factors;
- (6) Outstanding fines owed to the Commission or another state agency; and,
- (7) Other factors as justice requires.

(c) The Director of the Transportation Division may deny the issuance of a motor carrier's application

based upon reasons as specified in this Section. An application may merit the Division's request for additional information from the motor carrier to show compliance with safety regulations.

(d) A motor carrier who wishes to contest a denial, suspension, or revocation is entitled to a hearing under the procedures as specified in the Commission's Rules of Practice, OAC 165:5.

165:30-17-54. Reinstatement of a hazardous waste permit

If the permit holder believes the Commission has revoked its permit without goods cause, the registrant may petition the Commission for relief, as prescribed in the Commission's Rules of Practice, OAC 165:5.

165:30-17-55. Violations

The Commission may issue an order requiring violations of this Subchapter to be corrected. An order may include a fine of up to a maximum of \$500.00 for each violation of this Subchapter identified during a single inspection, investigation, or audit unless a different amount is specified under state or federal guidelines.

165:30-17-56. Contempt compliant

In addition to the procedures set forth in state statutes and in the Commission's Rules of Practice, OAC 165:5 regarding the procedure for contempt proceedings, the procedures as set forth in 165:30-3-76 may be followed for violation of any requirement or provision of law or the rules of this Subchapter.

SUBCHAPTER 19. REGISTRATION PURSUANT TO THE INTERNATIONAL REGISTRATION PLAN

165:30-19-1. Purpose

The provisions of this Subchapter have been promulgated to facilitate the administration, enforcement, and collection of fees under the International Registration Plan (IRP) and Oklahoma Motor Vehicle Licensing and Registration Act (47 O.S. §§ 1101 et seq.).

165:30-19-2. Definitions

In addition to terms defined in the IRP, the Uniform Operational Audit Procedure Guidelines, and the IRP Policies and Procedures Manual, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means any person making an application with the Oklahoma Corporation

Commission seeking to register a vehicle or vehicles pursuant to the IRP.

"Application" means a filing with the Oklahoma Corporation Commission, seeking to register a vehicle or vehicles with the Commission pursuant to the IRP.

"Apportioned registration" means the proportional registration of a vehicle pursuant to the terms of the IRP and this Subchapter.

"Carrier" means a fleet operator which engages in the transportation of passengers or property for compensation or hauls its own commodity.

"Credentials" means identification plates and cab cards.

"Established account" means any prorated account for which a properly completed original application has been received by the IFTA/IRP Section and all corresponding and assessed fees have been paid in full.

"Grace period" means two months following the expiration of the registration year.

"Interstate" means between or through two or more jurisdictions.

"Intrastate" means from one point within a jurisdiction to another point within the same jurisdiction.

"IRP" means the International Registration Plan. The IRP is a licensing and reciprocity agreement between states of the United States and provinces of Canada that sets forth the procedures for registration and operation of vehicles traveling in two or more member jurisdictions.

"New operation" means a vehicle or fleet of vehicles not previously registered pursuant to the provisions of the IRP. "New operation" does not include an existing fleet that is expanding the number of vehicles or area of operation.

"Operations" means actual movement of a vehicle. For purposes of this Subchapter, operations may be classified as interstate or a combination of interstate and intrastate.

"Proportional registration" means registration of an apportionable vehicle pursuant to the terms of the IRP and this Subchapter.

"Records" means and includes operational records.

"Registration agent" means a person hired by an applicant or registrant to prepare and/or file applications, supplemental applications, and other documents required for proportional registration in Oklahoma.

"Regular business hours" means 8:30 a.m. to 4:30 p.m. local time.

"Reporting period" or "mileage year" means the period of twelve (12) consecutive months immediately prior to July 1 of the year preceding the year of registration or license.

165:30-19-3. Registration

(a) **General requirements for registration.** Before a vehicle can be proportionally registered in the state of Oklahoma the applicant or registrant must:

(1) Have an established place of business located in Oklahoma. Absent an established place of business in **any** IRP jurisdiction, an applicant must satisfy the residency requirements in 165:30-19-6, prior to being allowed to base plate in Oklahoma.

(2) Complete the application, all required schedules, and provide backup documentation required by the Commission to verify the information submitted by the applicant:

(A) The application must include the mailing address and telephone number of the applicant. In addition to providing the applicant's telephone number, the applicant may provide the telephone number of a third party who has knowledge of the applicant's whereabouts and is able to contact the applicant within a reasonable period of time upon request. An applicant or registrant may not utilize a telephone listing indicating the same telephone number as that of any other person in this state as a qualifying telephone number under this Section.

(B) If the application is signed by someone other than the applicant or registrant, pursuant to a power of attorney, the name or names of the individuals to whom such authority is granted must be included in the power of attorney executed by the applicant.

(3) Provide proof of payment (or suspension from levy) of Federal Heavy Vehicle Use Tax;

(4) Provide proof of financial responsibility pursuant to 47 O.S. § 7-602 (liability insurance);

(5) Motor vehicles operated by a motor carrier with valid liability insurance on file with FMCSA or this Commission are exempt from subsection (a) (4) of this Section;

(6) If the applicant is leased to a motor carrier, the applicant must provide a copy of the lease to satisfy Oklahoma's financial responsibility requirements (47 O.S. § 7-602).

(7) Provide proof of ownership;

(8) Provide proof of payment of prior registration fees, if the vehicle was registered pursuant to the IRP in another jurisdiction; and

(9) Pay all applicable fees to complete registration.

(10) Provide the USDOT number of the registrant on the IRP application. Where the USDOT number of the registrant and the carrier responsible for safety are different, BOTH must be provided on the IRP application.

(b) **Registration periods.** Application for registration may be made at any time during a registration year.

(c) **Where to make application.** Application for registration may be submitted through the mail to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, or by applying in person at 2101 N. Lincoln Blvd., in Oklahoma City. A list of other locations where application may be submitted is available from the IFTA/IRP Section or the Commission website under the Transportation Division (<http://www.occeweb.com>).

(d) **Incomplete applications.** No application for proportional registration shall be processed unless the applicant has submitted the documentation required in (a) of this Section. Failure to submit the required documentation shall result in denial of the application.

(e) **IRP Plan Compliance.** Since registration with the Plan can affect other jurisdictions' registration fees and tax receipts, the Transportation Division must be diligent in ensuring that those registrants with Oklahoma as their base jurisdiction are indeed entitled to base in Oklahoma.

(1) If after approval of the application and during the registration year, the Transportation Division has reason to believe that critical account information submitted on an application has changed, the Transportation Division shall allow the registrant 30 days to provide the updated information. If the information is not provided within that time or is deemed insufficient, the Transportation Division shall revoke the registrants' credentials in accordance with OAC 165:5-25.

(2) If after approval of the application and during the registration year the Transportation Division has evidence that critical account

information submitted on an application was submitted erroneously or falsely, the Transportation Division shall revoke the registrants' credentials in accordance with OAC 165:5-25.

165:30-19-4. Title requirements and proof of ownership

(a) Owners of vehicles registered in Oklahoma must possess an Oklahoma title as proof of ownership unless the vehicle has been previously registered in another jurisdiction and engaged in interstate commerce.

(b) Proof of ownership must be submitted for all vehicles being registered through an original or supplemental application. Documents necessary to prove ownership include:

- (1) If titled in Oklahoma, a copy of the front and back of the title or vehicle registration in the owner's name;
- (2) If previously registered in another jurisdiction and engaged in interstate commerce, a copy of another jurisdiction's IRP cab card and a copy of the front and back of the out of state title;
- (3) A lease-purchase agreement by which the applicant or registrant, under the terms of the agreement, is to become the owner of the vehicle at the end of the lease period for nominal or no additional consideration, and the vehicle is currently titled in the name of the leasing company and has been registered for interstate commerce with another jurisdiction.

165:30-19-5. Established place of business

(a) **General provisions.** To verify an applicant's or registrant's established place of business in Oklahoma, the applicant or registrant must provide proof of a physical structure, designated by a street number or road location and open during regular business hours, which contains within it:

- (1) A person or persons conducting the fleet applicant's or registrant's business; and
- (2) The operational records of the fleet, unless such records can be made available in accordance with the provisions of Section 1602 of the International Registration Plan.

(b) **Specific compliance provision (IRP Decis. 99-4).** An "established place of business" as utilized in these

rules and in Section 305 of the International Registration Plan cannot be provided for the applicant or registrant by or in the form of a registration agent or other third party.

(c) **Physical structure.** A physical structure, owned, leased, or rented by the applicant or registrant, wherein operational records of the fleet can be made available for audit purposes, must be evidenced by:

- (1) A current real estate tax bill;
- (2) Photocopies of rent receipts or mortgage payments which indicate the business address;
- (3) A current real estate rental contract and an original power of attorney conforming with Section 20 of Title 16 of the Oklahoma Statutes, if the contract is signed by someone other than the applicant or registrant; or,
- (4) Proof of insurance coverage.

(d) **Person or persons conducting applicant's or registrant's business.** The person conducting the trucking-related business of the applicant or registrant must be in the permanent employment of the applicant or registrant, as evidenced by submission of the applicant's or registrant's federal employer's identification or other identification number and verification by the Commission that the applicant or registrant is an employer for the purposes of Oklahoma Withholding.

(e) **Specific compliance provision (IRP Decis. 99-4)** An applicant or registrant may not utilize a registration agent or its employees to satisfy the requirement of the presence of a person or persons in this state conducting the applicant's or registrant's business.

(f) **Use of registration agent.** Nothing in this Section shall be construed as prohibiting a registration agent from preparing or filing proportional registration applications or other documents for an applicant or registrant who meets the requirements set forth in this Section.

(g) **Resubmission of documentation.** Registrants with accounts in good standing may not be required to resubmit the established place of business indicia each year, provided that the established place of business remains unchanged since previously documented to the satisfaction of the Commission. To avail itself of this provision, the registrant must certify to the Commission under penalties of perjury that the registrants' established place of business has

not changed. Nothing herein shall prevent the Commission from periodically requiring registrants to re-submit documentation of their established place of business. Registrants will periodically be required to resubmit established place of business documentation in accordance with the schedule established by the Commission.

(h) **False or fraudulent submission.** Applicants who knowingly provide false or fraudulent information or abuse the provisions of 165:30-19-3 shall have their registration credentials immediately revoked and will be denied further application.

165:30-19-6. Registration as a resident

(a) **General requirements.** Applicants who have no established place of business in any IRP jurisdiction may register in Oklahoma once they prove to the satisfaction of the Commission that they are residents of the State of Oklahoma. Such applicants may register in Oklahoma, provided that they furnish a street address, and a telephone number, and satisfactorily demonstrate that the applicant is indeed a resident of the State of Oklahoma and can be located in Oklahoma for purposes of audit.

(b) **Street address.** The street address in Oklahoma must be the street address where the applicant's records are maintained or where the records will be delivered for the purpose of audit. An applicant may not utilize the address of a registration agent to satisfy the requirement of an address in Oklahoma.

(c) **Applicant can be located.** The applicant must submit documentation that indicates the applicant can be located in Oklahoma for purposes of audit. Documentation acceptable for meeting the requirements of this subsection includes:

- (1) Proof of Oklahoma residency, such as an Oklahoma-issued driver's license, current Oklahoma Income Tax filing, proof of an Oklahoma homestead exemption, or other evidence of bona fide residency;
- (2) Ownership of real property in Oklahoma.

(d) **Qualifying determination.** The Transportation Division shall make its decision on whether the applicant has met its burden of proof based on the totality of the evidence presented.

165:30-19-7. Operations records

Operational records shall be documents supporting miles traveled in each jurisdiction and the total miles traveled. These documents can be fuel reports, trip sheets, logs, or computer runs that can be supported by source documents, when requested. An acceptable source document to verify fleet mileage is some type of "Individual Vehicle Mileage Record"

(IVMR). IVMRs should contain the following basic information:

- (1) Date of trip (starting and ending);
- (2) Trip origin and destination;
- (3) Routes of travel and/or beginning and ending odometer readings;
- (4) Total trip mileage (including all movement, loaded, empty, deadhead, and/or bobtail miles);
- (5) Mileage by jurisdiction;
- (6) Unit number or vehicle identification number;
- (7) Vehicle fleet number;
- (8) Registrant's name; and
- (9) Driver's signature and/or name.

165:30-19-8. Maintenance and availability of operational records

(a) **Retention of records.** Operational records must be maintained for a period of three (3) years after the close of the registration year for which the records were included in the application. Failure to maintain the required records may result in an assessment of up to 100 percent Oklahoma registration fees, additional fees due other states, and/or denial of apportion privilege.

(b) **Availability of records.** Failure to make records available upon proper request may result in mileage adjustment evidence by an assessment of up to One Hundred percent (100%) Oklahoma registration fees, additional fees due other states, and/or denial of apportion privilege.

(c) **Electronic records.** Registrants or licensees selected for audit whose fleet size exceeds 200 vehicles are required to submit the detailed records required to conduct the audit in the electronic format established by the Commission.

165:30-19-9. Failure to pay additional fee assessments

Failure to pay any additional fees shall constitute cause for cancellation of the license plates and reciprocal privileges of the registrant, and notification to other IRP jurisdictions.

165:30-19-10. Renewal applications

When an application for renewal of proportional registration is not received on or before the first day of the month of expiration, the applicant cannot be assured that a registration cab card and plate will be issued for display of credentials prior to the enforcement date. Registrants whose renewal application is not received on or before the expiration date must renew all vehicles in their fleet unless proof of disposition of these vehicles is provided. If this proof shows that the vehicle(s) were disposed of after expiration, those vehicles must be included in the renewal fleet. Registrants whose renewal

application is not received on or before the expiration date shall be subject to enforcement for display of credentials on the day following the expiration date.

165:30-19-11. Enforcement

(a) Credentials for the current registration year may be displayed upon receipt, but shall be displayed on the vehicle by 12:01 a.m., on the enforcement date, since enforcement for display of current registration year credentials will begin on the enforcement date, unless extended by the Commission.

(b) Registrants whose renewal application is not received on or before the expiration date cannot avail themselves of the grace period and shall be subject to enforcement.

(c) Vehicles apprehended for improper registration credentials may be subject to arrest and fine in the jurisdiction in which the violation occurs.

(d) IRP apportioned registration does not include special fuel requirements, operating authority or over dimensional and overweight permits.

165:30-19-12. Supplemental application

(a) After an original application has been filed, vehicles can be added, deleted, or registration weight increased by filing a supplemental application form.

(b) Registration fees for supplemental applications are calculated from the date of purchase or lease, unless the vehicle was previously registered in the fleet, then the fees shall be calculated upon an annual rate. For registrants who do not have possession of equipment on the date they purchased it, fees may be calculated from the date the equipment came into possession of the registrant. Registrants who wish to avail themselves of this provision must provide documentation of the receipt date of the equipment to the Transportation Division. In no case should the effective date of the registration be after equipment is placed in service.

(c) When a supplemental application is filed to add a unit and delete a similar unit, a credit of the registration fees paid on the deleted unit will be given toward registration of the added unit for those states that allow credit. In order for credit to be given on the registration fees, the cab card and license plate for the deleted vehicle must be returned with the supplemental application, or an affidavit of destruction must be submitted with the supplemental application. Under no circumstances can a license plate be transferred from one vehicle to another. No refund for the unused portion will be given for a deleted vehicle.

(d) If the license plate is lost, an affidavit may be submitted in lieu of the plate.

165:30-19-13. Amended mileage/adding states

(a) If the operations of a registrant change to include additional states during the registration year, the

additional states can be added to the fleet. The states must be added to all vehicles in the fleet. The original mileage percentages cannot be changed. The addition of a state or states will result in a total fee assessment in excess of One Hundred percent (100%).

(b) To apply to add states, the registrant must complete Schedule B and submit Schedule A or a list of currently registered vehicles. The appropriate space on the form should be marked to show the type of transaction and mileage must be shown for each state added. If there is actual mileage for a state being added, actual miles must be included. If not, estimated must be used.

(c) Estimated mileage must be based on reasonable proposed operations of the fleet during the entire calendar year for which a state is being added. The applicant shall be required to substantiate the estimation by submitting a full statement of the proposed method of operation on a form provided by the Commission. The statement shall include reasonable information relating to origin, destination, and number of trips. If requested, subsequent to initial review and prior to disapproval, the applicant shall submit supporting documentation, which may include verifiable contracts or brokerage agreements, or both. Alternatively, owner-operators may provide a copy of the miles reported by the carrier with which the vehicle and driver have a valid lease agreement. Additionally, the Division may independently substantiate mileage through other sources available to the Commission.

(d) In the absence of a full statement of the proposed method of operation, the Commission shall require the applicant to utilize the estimated mileage chart established by the Commission.

(e) Once the fees are paid, new IRP cab cards will be issued reflecting the additional state(s).

165:30-19-14. Audits

The Transportation Division of the Commission has the responsibility of conducting audits of the operational records of a registrant that are not maintained at a location within the State of Oklahoma and cannot be made available for audit at a location within Oklahoma. The registrant will be required to reimburse the State of Oklahoma for expenses incurred by its auditor(s) for performance of an audit at a location outside Oklahoma.

165:30-19-15. Mileage

(a) If an applicant for proportional registration operated for ninety (90) or more days during the mileage reporting period of the preceding year, actual operated miles must be filed. For those jurisdictions where there is no mileage to report, but for which proration is desired, estimated miles must be filed.

(b) If an applicant for proportional registration is new, or the applicant did not operate for ninety (90) days or more during the reporting period, estimated miles must be filed for all jurisdictions for which proration is sought.

(c) Estimated mileage will not be accepted after the first year of prorated registration in Oklahoma. Provided, in cases where actual operation was less than ninety (90) days during the mileage reporting year, estimated mileage will also be accepted for the second year.

(d) Estimated mileage must be based on reasonable proposed operations of the fleet during the entire calendar year for which proportional registration is being sought. The applicant shall be required to substantiate the estimation by submitting a full statement of the proposed method of operation on a form provided by the Commission. The statement shall include reasonable information relating to origin, destination, and number of trips. If requested, subsequent to initial review and prior disapproval, the applicant shall submit supporting documentation, which may include verifiable contracts and/or brokerage agreements. Alternatively, owner-operators may provide a copy of the miles reported by the carrier with which the vehicle and driver have a valid lease agreement. Additionally, the Division may independently substantiate mileage through other sources available to the Commission.

(e) In the absence of a full statement of the proposed method of operation, the Commission shall require the applicant to utilize the estimated mileage chart provided by the Commission. The chart shall be developed and updated annually by dividing the total actual miles for each member jurisdiction reported by Oklahoma registrants by the total number of vehicles registered with actual miles for the jurisdiction.

(f) Failure to provide a full statement of the proposed method of operation, or in the alternative, to submit the application based upon the estimated mileage chart developed by the Commission shall result in denial of the application for proportional registration.

165:30-19-16. Application disapproval

(a) An application will be denied if it is not properly completed. It is the responsibility of the applicant or registrant to submit all information required by the application instructions and attach all necessary documentation.

(b) The applicant or registrant or his agent will be notified if an application is denied and the reasons therefore or if additional information is needed.

(c) An application that has been denied may be resubmitted by the applicant or registrant but will be processed as a new application upon receipt of the resubmission.

(d) If the applicant believes that the application was wrongfully denied, the applicant may, within thirty (30) days of the mailing or hand-delivery of the notice of denial, file a written protest of the denial with the Transportation Division under the provisions of OAC 165:5.

(e) No extensions, temporary operating authority, or temporary credentials will be issued for vehicles listed on a denial application.

165:30-19-17. Temporary registration.

New fleet vehicles, or vehicles being added to any existing fleet, must have some form of temporary registration prior to operation if permanent IRP credentials have not been issued. All forms of temporary registration are valid for the period shown and will be honored by all IRP jurisdictions when properly completed and validated.

(1) **Temporary registration.** Temporary registration may be obtained directly from the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948. The temporary registration shall be completed in full by the applicant and validated by the IFTA/IRP Section at the time the application and appropriate fees are presented to the section. The temporary registration should be completed as follows:

(A) Enter the assigned Oklahoma IRP account number or leave a blank if no previous number has been assigned.

(B) Mark the appropriate section indicating the type of application on which the vehicle(s) is listed for registration and the date application was filed.

(C) List the vehicles being authorized by license plate number (leave blank if not assigned), equipment number, year model, make and the vehicle identification number. Unused vehicle listing spaces must be lined out.

(D) List jurisdictional weights for the vehicles. A separate form must be completed for vehicles which are not to be qualified at identical weights in the same jurisdiction. State with no entry must be lined out.

(E) Enter the registrant's name and business address as reported on schedule A or C application.

(F) Jurisdiction and weight information entered on the form must be consistent with those reported on the Schedule A or C form.

(G) Temporary registration for established accounts may also be obtained directly from any person that has entered into an

agreement with Commission for distribution and issuance of temporary registration. This registration must be completed in the same manner described in paragraph (1) of this subsection. Misuse of any temporary registration may result in denial of temporary registration privileges.

(2) **Required payment of fees.** Temporary registration or credentials may only be issued to new accounts after all required fees are paid.

(3) **Wires of temporary registration.** Wires of temporary registration may be requested from the IFTA/IRP Section in the following manner:

(A) **Where to apply.** Wires of temporary registration may be requested through the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, during normal business hours, Monday through Friday.

(B) **Application procedure.** A properly completed and signed Schedule C application must be mailed to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948, prior to issuance of the wire request. The applicant must contact the appropriate wire service agency to determine the proper amount of fees due and the location to remit the fees.

(4) **Self-issue temporary registration.** Self-issue temporary registrations are available only to established Oklahoma-based IRP registrants, and may be used for vehicle(s) added to the fleet, duplicate cab cards, substitute license plates, state add and weight increase applications to the registrant's account. Self-issued temporary registrations may not be used for renewal vehicles. Self-issued temporary registrations may not be issued by a registrant to another registrant or to an applicant or potential applicant for Oklahoma proportional registration.

(A) **Self-issue temporary registration.** Self-issue temporary registrations or authorizations may be issued up to a maximum of twenty-five percent (25%) of the registrant's fleet. Any registrant with a fleet of less than six (6) vehicles may be assigned one (1) self-issue temporary registration.

(B) **Application procedure.** Properly completed temporary registrations allow for immediate temporary registration for vehicles added to the fleet, duplicate cab cards, substitute license plates, state add and weight increase applications. Upon issuance, a copy

of the temporary registration should be placed in the vehicle, and one copy mailed **immediately** to the IFTA/IRP Section, Transportation Division, Oklahoma Corporation Commission, P.O. Box 52948, Oklahoma City, Oklahoma, 73152-2948. Within fifteen (15) days of issuance, another copy of the temporary registration must be submitted, along with a completed Schedule C.

(C) **Violations.** Misuse of the temporary registration or failure to maintain proper accountability may result in the Prorate Section's refusal to issue the registrant self-issue temporary registrations.

(5) **Issuance of temporary registration.**

(A) The issuance of temporary registration creates a debt to the State of Oklahoma who is then indebted to the participating jurisdictions of the International Registration Plan. Registrants must pay registration fees for the remainder of the registration year for which a temporary registration is issued. The fees shall be calculated beginning with the effective date of the temporary registration, or the date determined by the Transportation Division, if earlier, and continue through the end of the registration year.

(B) In addition to collection actions, failure to pay the fees described in (A) above will cause the loss of apportioned registration privileges.

(C) The Transportation Division may withhold issuance of future temporary registration, to those registrants who have failed to timely file a registration application, or pay the registration fees associated with any vehicle, for which a temporary registration authorized by 47 O.S. § 1124.1 has been issued.

(D) The Transportation Division may revoke previously issued registration credentials and/or deny future registration privileges to registrants who use temporary registration issued under 47 O.S. § 1124.1 without paying registration fees.

165:30-19-18. Compliance confirmation

(a) New registrants may be contacted within six (6) months of registration to determine if required records are being maintained and give guidance on maintaining proper records. Initial contact will be by telephone or in writing. If the initial contact is unsuccessful, contact will be made by visiting the

registrant's established place of business or residence.

(b) New registrants who are not maintaining proper records at the time of initial contact will be provided guidance on maintaining proper records.

(c) The Commission will then notify the registrant who has received guidance pursuant to subsection (b), in writing, of the date on which proper second-year operational records must be made available by the registrant for inspection.

(d) If at that time, the registrant is unable to provide proper second-year operational records, the registrant will not be allowed to apportionally register in Oklahoma for the third year without a complete pre-registration audit of the renewal application.

165:30-19-19. Trip permits

(a) **Purpose of permit; validity.** The 72-hour trip permit provided full registration to trucks, trucktractors, trailers, semi trailers, and motorbuses, which are not registered in Oklahoma. The permit is valid for either interstate or intrastate movement. This permit cannot be issued for a vehicle, which has been apprehended by law enforcement officers for improper registration.

(b) **Eligible out of state vehicles.** Out of state vehicles eligible for apportioned registration, but not registered as such, will be required to purchase a 72-hour trip permit before proceeding through the State of Oklahoma.

(c) **Where permit may be obtained; costs.** Trip permits are available from the Transportation Division of the Commission and Commission contracted wire services. The cost of the permit is set forth by statute and Commission rule.

(d) **Effect of expired, altered, or undated permit.** An operator of a motor vehicle possessing an expired, altered, or undated temporary permit shall be deemed to be operating an unregistered motor vehicle and shall be subject to full registration and penalty.

(e) **Newly purchased trucks to be registered in another state.** A permit must be issued on newly purchased trucks carrying a load and driving to another state for registration.

(f) **Receipt.** Only one (1) copy of a 72-Hour Permit receipt will be given to applicant.

165:30-19-20. Incorporation by reference

(a) **Reference to the International Registration Plan ("IRP").** When reference is made to the International Registration Plan or "IRP", it shall mean, unless the context clearly indicates otherwise, the registration reciprocity agreement among the various states of the United States and the provinces of Canada, including the Audit Procedures Manual, which provides for payment of license fees for apportionable vehicles on the basis of fleet miles operated in the various jurisdictions, to which Oklahoma is a signatory state,

as published by International Registration Plan, Inc., as currently amended.

(b) **Incorporation.** The following Articles are, unless otherwise specifically provided, incorporated by reference in their entirety:

(1) Articles I through XXIII of the International Registration Plan ("IRP"); and,

(2) The International Registration Plan Audit Procedures Manual.

(c) **Inclusion of IRP citations and definitions.** When a provision of the IRP is incorporated by reference, all citations and definitions contained therein are also incorporated by reference.

(d) **Inconsistencies or duplication.** In the case of any inconsistency or duplication between the requirements of those provisions incorporated by reference in this Section, and the rules set out in this Subchapter, the provisions incorporated by reference shall prevail, except where rules set out in this Subchapter are more particular. The provisions incorporated by reference are subject to any limitations provided by Oklahoma law.

SUBCHAPTER 21. INTERNATIONAL FUEL TAX AGREEMENT

165:30-21-1. Purpose

The provisions of this Subchapter have been promulgated to facilitate the administration, enforcement, and collection of motor fuel taxes under the International Fuel Tax Agreement (IFTA) and Oklahoma Motor Fuel Tax Code (68 O.S. §§ 601 et seq.).

165:30-21-2. Definitions

In addition to terms defined in the IFTA, the IFTA Audit Manual, and the IFTA Procedures Manual, the following words and terms, when used in this Subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Applicant" means any person making an application with the Oklahoma Corporation Commission seeking to license a fleet pursuant to the IFTA.

"Application" means a filing with the Oklahoma Corporation Commission, seeking a license with the Commission pursuant to the IFTA.

"Audit" means a physical examination of record and source documents supporting a licensee's reports.

"Carrier" means a fleet operator, which engages in the transportation of passengers or property for compensation or hauls its own commodity.

"Commission" means the Oklahoma Corporation Commission

"Credentials" means IFTA identification license and decals.

"Fleet" means one or more vehicles

"Grace period" means two months following the expiration of the license year.

"Interstate" means between or through two or more jurisdictions.

"Intrastate" means from one point within a jurisdiction to another point within the same jurisdiction.

"IFTA" means the International Fuel Tax Agreement. The IFTA is a reciprocity agreement between states of the United States and provinces of Canada that sets forth the procedures for licensing, reporting and enforcement of qualified motor carriers. The IFTA requires member jurisdictions cooperate to ensure that each member receives motor fuel tax revenue due it.

"Operations" means actual movement of a vehicle. For purposes of this Subchapter, operations may be classified as interstate or a combination of interstate and intrastate.

"Person" means an individual, corporation, partnership, association, trust, or other entity

"Qualified Motor Vehicle" means a motor vehicle used, designed, or maintained for transportation of persons or property and:

(A) Having two axles and a gross vehicle weight or registered gross vehicle weight exceeding 26,000 pounds or 11,797 kilograms; or

(B) Having three or more axles regardless of weight; or

(C) Is used in combination, when the weight of such combination exceeds 26,000 pounds or 11,797 kilograms gross vehicle or registered gross vehicle weight.

Qualified Motor Vehicle does not include recreational vehicles.

"Recreational Vehicle" means vehicles such as motor homes, pickup trucks with attached campers, and buses when used exclusively for personal pleasure by an individual. In order to qualify as a recreational vehicle, the vehicle shall not be used in connection with any business endeavor.

"Records" means all documents, files, and work product and includes but is not limited to, operational records.

"Registration" means the qualification of motor vehicles normally associated with a prepayment of fees for the privilege of using the highway and the issuance of license plate and a registration card or temporary registration-containing owner and vehicle data.

"Registration agent" means a person hired by a licensee to prepare and/or file applications, reports and other documents required for IFTA licensing and reporting in Oklahoma.

"Reporting Period" means a period of time consistent with the calendar quarterly periods of January 1 – March 31, April 1 – June 30, July 1 – September 30, and October 1 - December 31.

"Revocation" means withdrawal of a license and privileges by the licensing jurisdiction.

"Temporary Permit" means a permit issued by the Oklahoma Corporation Commission or its agent to be carried in a qualified vehicle in lieu of carrying the IFTA license and the display of the permanent annual decals. A temporary permit is valid for a period of 30 days to give the carrier adequate time to affix the annual permanent decals.

165:30-21-3. Application and renewal

Any person based in Oklahoma operating a qualified motor vehicle(s) in two or more member jurisdictions is required to license under this Agreement, except as indicated in IFTA Articles of Agreement Sections R310 and R500.

165:30-21-4. Trip permits

(a) In lieu of motor fuel tax licensing under this Agreement, persons may elect to satisfy motor fuels use tax obligations on a trip-by-trip basis.

(b) Trip permits valid for a period of 120 hours from the time of issuance, may be obtained from the Commission or one of the authorized trip permitting services.

165:30-21-5. Application for license

A person shall file an application for licensing with the Commission on the prescribed form. The fuel tax license application shall have the following specified content:

- (1) The account identification number specified in IFTA Procedures Manual Section P200;
- (2) Name and social security number of owner(s), partners or corporate officers;
- (3) Legal business name (if different from the name given above);
- (4) Physical location of the business;
- (5) Mailing address of the business;
- (6) Signature and date;
- (7) Number of IFTA decals required by licensee;
- (8) Decal fee, as set forth in OAC 165:5;
- (9) Statement of existence of bulk storage in all member jurisdictions;
- (10) A statement that the applicant agrees to comply with reporting, payment, recordkeeping, and license display requirements as specified in the International Fuel Tax Agreement. The applicant further agrees that base jurisdiction may withhold any refunds due if applicant is delinquent on payment of fuel taxes due any member jurisdiction. Failure to comply with

these provisions shall be grounds for revocation of license in all member jurisdictions; and

(11) A statement to the effect that the applicant certifies with his or her signature that, to the best of his or her knowledge, the information is true, accurate, and complete and any falsification subjects him or her to appropriate penalties of perjury.

(12) The USDOT number of the applicant.

165:30-21-6. Designation of licensee

Tax licensing under the International Fuel Tax Agreement shall be in the name of the licensee. IFTA Articles of Agreement Section R500 designates the party responsible for reporting and payment of fuel taxes in the case of lessors/lessees, independent contractors, and household goods agents.

165:30-21-7. Application processing

(a) Upon receipt of an IFTA fuel tax license application from a new or renewing applicant, the Commission shall check all entries on the application to ensure that they are complete. If the Commission feels more information is required, the licensee should immediately be contacted requesting the required information. Upon being satisfied that the application is correct and all fees prescribed by law or Commission rule have been paid, the Commission shall issue the fuel tax credentials for the fleet.

(b) The Transportation Division may withhold issuing requested decals if fulfilling the request would result in the licensee having over 25% more decals in their possession than their fleet size. If the Division withholds decals under this provision, it will only withhold that portion of the decal request that causes the licensee's decal inventory to exceed the 25% figure.

(c) IFTA licensees are required to account for all decals issued to them under the IFTA program. Licensees must ensure that decals are assigned only to vehicles that are subject to the fuel and distance requirements of the IFTA program of the licensee. Decals, not issued to vehicles subject to fuel and distance requirements, must be produced for inspection upon request of the Transportation Division. Failure to adequately account for decals, or produce decals for inspection, may subject the licensee to penalty of \$250 per decal.

165:30-21-8. Non-issuance of license

A license will not be issued if the applicant has been previously licensed under the IFTA and that license is still under revocation by any member jurisdiction or the application contains any misrepresentation, misstatement, or omission of information required in the application.

165:30-21-9. Bond requirement

To protect the interests of the State of Oklahoma and the member jurisdictions of the International Fuel Tax Agreement, the Corporation may, for cause, require licensees to file a surety bond payable to the State of Oklahoma for motor fuel taxes accruing against the licensee as a result of the IFTA program. Bonds shall be required for failure to file timely returns, or remittances, or when an audit indicates problems severe enough that, in the Commission's discretion, a bond is required to protect the interests of Oklahoma and the member jurisdictions.

(1) Bonds shall be required from licensees who have filed two or more delinquent IFTA tax returns, made two or more delinquent remittances, or made two or more payments drawn on accounts with insufficient funds, within the most recent 12 calendar months.

(2) A surety bond required for one of the above reasons must be in place before a licensee's suspended account can be reinstated.

165:30-21-10. Bond amount

Licensees who are required to post a surety bond shall provide the equivalent of at least twice the estimated average tax liability for the reporting period for which the licensee will be required to file a tax return. The Commission will direct that licensees required to post surety for severe audit problems, provide surety in the amount of the established audit liability, or at least twice the estimated average tax liability for the reporting period for which the licensee will be required to file a tax return depending on the circumstances, or BOTH if the Commission deems the severe enough.

165:30-21-11. License renewal

(a) A renewal license and decals for the following calendar year will be issued upon application and payment of all fees prescribed by law or rules of the Commission, if the license has not been revoked or canceled, all returns have been filed, and all motor fuels use taxes, penalties and interest due have been paid.

(b) Licensees whose renewal application is not received on or before the expiration date shall be subject to enforcement for display of credentials on the day following the expiration date.

165:30-21-12. Denial, revocation, and reinstatement

(a) The Administrator of the IFTA Section may deny the issuance of a motor carrier's IFTA license based upon the motor carrier's failure to provide IFTA returns and/or remittances to other member jurisdictions, or to prove it is qualified to obtain an

IFTA license, or may revoke an IFTA license issued under 68 O.S. § 607 (E) if he determines a motor carrier has:

- (1) Made a knowing falsification of a material fact in a uniform application;
 - (2) Failed to timely file a quarterly IFTA tax return;
 - (3) Failed to timely pay in full a liability indicated on a quarterly IFTA tax return;
 - (4) Failed to timely pay in full a liability determined by an audit of the motor carrier's records;
 - (5) Paid any amount due under the IFTA program with a check drawn on an account with insufficient funds;
 - (6) Any other just cause to protect the interests of the State of Oklahoma and/or the IFTA member jurisdictions.
- (b) The Administrator of the IFTA Section may reinstate or deny reinstatement of an IFTA license if the following conditions exist:
- (1) A suspended motor carrier license may be reinstated if the motor carrier remedies the action that caused the suspension and pays the reinstatement fee of \$100.
 - (2) If a bond is required, a suspended motor carrier license shall not be reinstated until the motor carrier has provided said bond.
 - (3) A suspended motor carrier license may be denied reinstatement for habitual violations of this Section.
 - (4) In lieu of requiring a bond, the Administrator may reinstate a license if the licensee agrees to make future remittances in certified funds.
 - (5) A licensee may be suspended for their failure to make remittances under (4) in certified funds.
- (c) A motor carrier who wishes to contest a denial, revocation, or a reinstatement denial is entitled to a hearing under the procedures contained in the Commission's Rules of Practice, OAC 165:5.

165:30-21-13. Reporting requirements

(a) Every person licensed under 68 § 607 shall make and transmit to the Commission, on or before the last day of April, July, October and January of each year, upon a form prescribed and furnished by the Commission, a verified quarterly report, showing the total distance traveled by the licensee in all jurisdictions and the total volume (in gallons) of motor fuel or diesel fuel purchased or received in each jurisdiction on which the motor fuel tax levied by that jurisdiction has been paid to that jurisdiction. The report will also show the total distance and the total taxable distance traveled by the licensee in each IFTA jurisdiction, and the total volume (in gallons) of motor fuel or diesel fuel consumed in each IFTA jurisdiction. The total volume (in gallons) of motor fuel or diesel

fuel purchased or received in each IFTA jurisdiction shall be deducted from the total number of gallons of motor fuel or diesel fuel consumed by the licensee in each jurisdiction to determine the number of gallons of motor fuel or diesel fuel upon which each jurisdiction's motor fuel tax is to be computed and paid. (b) Every person licensed under this article who travels less than ten thousand (10,000) miles distance per year in Oklahoma may, at the option of the Commission, file an annual report in lieu of filing the quarterly report.

165:30-21-14. Due and delinquency dates

Every licensee at the time of filing each quarterly report shall report and pay to the Commission the full amount of tax due for the preceding quarter at the rates provided for on the return. The completed report and tax remittance are due and payable on the first day of the succeeding quarter for which the report is filed, and if not paid, is delinquent from and after the last day of such month. If the last day of the month falls on a Saturday, Sunday, or legal holiday, the next business day shall be considered the final filing date.

165:30-21-15. Penalty

(a) When any licensee fails to submit to the Commission any report required or the full amount of the tax due hereunder before the delinquency date, the licensee shall pay, in addition to the interest provided for herein, a penalty of Fifty Dollars (\$50.00) or 10% of the tax due whichever is greater for each occurrence. (b) Penalty may be waived by the Commission for good cause shown when requested in writing by the licensee within 30 days of assessment or the filing of a return showing penalty due. The Transportation Division is authorized by the Commission to waive penalty amounts equal to or less than \$1,000 for good cause shown. Good cause while not limited to the items below may include:

- (1) Commission error causing the delinquency,
- (2) Extended history of timely filing (at least two years) and payments prior to the delinquency, or
- (3) Natural disaster causing the delinquency.

(c) Licensees who desire a waiver of penalty amounts greater than \$1,000 must file an appeal with the Court Clerk's Office in accordance with Commission administrative procedures.

165:30-21-16. Interest

(a) When any licensee fails to make a required tax remittance to the Commission before the delinquency date, the licensee shall pay, in addition to the penalty provided for herein, interest in the amount of one percent per month. When delinquencies of a

fractional month occur, the effected jurisdictions will not receive their tax payments until the following transmittal month. Therefore, interest on delinquencies for a fractional portion of a month shall be calculated at the full month rate.

(b) In accordance with the International Fuel Agreement, the Commission cannot waive interest assessed and/or paid by a licensee on behalf of other jurisdictions. Licensees desiring other jurisdiction(s) interest waivers must receive written authorization from the other jurisdiction(s) and present such waivers to the Transportation Division. Upon confirmation, the Transportation Division may remove the amounts from an assessment, or if previously paid, refund those amounts to the licensee.

(c) Interest due on Oklahoma's portion of fuel taxes remitted on an IFTA quarterly return may be waived by the Commission for good cause show. Good cause, while not limited to the items below, may include:

- (1) Commission error causing the delinquency,
- (2) Extended history of timely filing (at least two years) and payments prior to the delinquency, or
- (3) Natural disaster causing the delinquency.

(d) Licensee's who desire waiver of interest amounts greater than \$1,000 must file an appeal with the Court Clerk's Office in accordance with OCC administrative procedures.

165:30-21-17. Incorporating the International Fuel Tax Agreement

(a) **Reference to the International Fuel Tax Agreement (IFTA).** When reference is made to the International Fuel Tax Agreement or IFTA, it shall mean, unless the context clearly indicates otherwise, the fuel tax reciprocity agreement among various states of the United States and the provinces of Canada, including the Audit Manual, which provides for payment of fuel taxes by licensees based on fuel used by qualified vehicles in the various jurisdictions, to which Oklahoma is a signatory state, as published by International Fuel Tax Association, Inc., as amended.

(b) **Incorporation.** The following Articles are, unless otherwise specifically provided, incorporated by reference in their entirety:

- (1) Articles I through XXI of the International Fuel Tax Agreement (IFTA);
- (2) The International Fuel Tax Agreement Audit Manual; and
- (3) The International Fuel Tax Agreement Procedures Manual.

(c) **Inclusion of IFTA citation and definitions.** When a provision of the IFTA is incorporated by reference, all citations and definitions contained therein are also incorporated by reference.

(d) **Inconsistencies or duplications.** In the case of any inconsistency or duplication between the

requirements of those provisions incorporated by reference in this Section, and rules set out in this Subchapter, the provisions incorporated by reference shall prevail, except where the rules in this Subchapter are more particular. The provisions incorporated by reference are subject to any limitations provided by Oklahoma law.

SUBCHAPTER 23. MOTOR LICENSE AGENTS

165:30-23-1. Responsibility for errors in application and computation

(a) A motor license agent shall be responsible for errors in tax application, computations, and/or fee computations and collections while performing registration of vehicles pursuant to Section 1120 of Title 47 of the Oklahoma Statutes.

(b) Upon demand for payment, the motor license agent must, within 15 days, remit the full amount of any error determined to be due, or if unable to pay the full amount, the agent may make a written request to the Commission for consideration of an extension of time to remit monies due.

165:30-23-3. Responsibility for agency shortages

(a) A motor license agent shall be responsible for paying any balance determined to be due pursuant to Section 1120 of Title 47 of the Oklahoma Statutes as a result of a field audit conducted by the Commission.

(b) Upon demand for payment, the motor license agent must, within 15 days, remit the full amount of any shortage determined to be due, or if unable to pay the full amount, the agent may make a written request to the Commission for consideration of an extension of time to remit monies due.

