

advertised. If the submission is found unacceptable, the municipality may make the necessary corrections and re-submit the project for approval to advertise.

(e) Within 30 calendar days following the award of the contract to the lowest responsible bidder, the municipal government shall submit the following to the appropriate district office:

1.-2. (No change.)

3. An invoice for a percentage of the award amount, or a percentage of the project allotment, whichever is less as specified by the appropriate district office. The initial payment amount shall be determined as follows:

i. Municipalities may invoice up to 75 percent of the award amount, or 75 percent of the project allotment, whichever is less.

(f) When all information relative to the bidding has been approved by the Department, the municipal government will be provided an award concurrence date through SAGE, and the Department will process initial payment for projects using municipal local aid or discretionary local aid funds.

1.-2. (No change.)

(g) Municipalities may also perform work using their own workforces. In order to do so, the municipality must demonstrate to the Department that the force account method is more cost effective than contracting through competitive bidding and efficiently uses labor, equipment, materials, and supplies to assure the lowest overall cost.

1. When the force account method is requested, the municipality must supply the following:

i. Sufficient cost information, so that a cost-effectiveness determination can be made by comparing the total cost for the agency to perform the work versus the total cost using competitively bid prices. The project or contract completion time is to be equal for both municipality and contract work estimates in order to provide a fair price comparison;

ii. The determination that the municipality has the experience, resources, and demonstrated ability to complete the work with the same level of quality as that expected on a competitively bid contract;

iii. The ability to comply with the appropriate design, construction, and material quality standards; and

iv. Documentation of compliance that the level of quality is the same as that which is required for competitively bid contracts.

2. All force account work requests must be reviewed and approved by the Department prior to the start of construction.

3. If the force account method is approved, the municipality shall enter into a force account agreement with the Department. Any construction undertaken by the force account method prior to Department approval and execution of a force account agreement shall be subject to non-participation.

4. The Department's participation shall not exceed the approved project amount.

16:20B-6.4 Contract completion and final payment

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

(c) The Department, if it chooses, may inspect the work for compliance with the terms of the municipal local aid agreement. The Department will notify the municipality, in writing, that it will either inspect the project or waive project inspection.

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

(h) In the event that a request for final reimbursement is not received within six months after notification by the Department, the municipal local aid agreement will be closed and any remaining funds allocated to the project shall be rescinded.

(i) Any funds remaining after final payment or rescission shall be reallocated by the Department at the Commissioner's discretion, except for those funds programmed for Urban Aid funding. These funds will be held by the Department for reallocation to the recipient.

SUBCHAPTER 7. RECORDKEEPING AND AUDIT

16:20B-7.1 General provisions

(a) Municipalities shall maintain complete documentation of projects for a period of three years after final reimbursement or notification by the Department of municipal local aid agreement closure.

Recodify existing (a)-(c) as (b)-(d) (No change in text.)

(a)

**MOTOR VEHICLE COMMISSION  
REGULATORY AFFAIRS (COMMERCIAL  
PASSENGER TRANSPORTATION)**

**Practices and Procedures Before the Office of  
Regulatory Affairs**

**Readoption with Amendments: N.J.A.C. 16:51  
Adopted Repeals: N.J.A.C. 16:51-3.8 and 3.9**

Proposed: October 7, 2013, at 45 N.J.R. 2181(a).

Adopted: April 16, 2014, by the Motor Vehicle Commission, Raymond P. Martinez, Chairman.

Filed: April 16, 2014, as R.2014 d.085, **with substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

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

Effective Dates: April 16, 2014, Readoption;

May 19, 2014, Amendments and Repeals.

Expiration Date: April 16, 2021.

**Summary of Public Comment and Agency Response:**

Carol Katz, Owner, Katz Government Affairs, LLC, submitted written comments to the Commission regarding the notice of proposal:

COMMENT: The commenter, who represents the Bus Association of New Jersey, supports the notice of proposal, and requests that the Commission restore the use of the word "utility" that had been substituted in the notice of proposal with the word "company." The commenter feels that using the word "utility" as used in current statutes regarding commercial passenger transportation would eliminate any confusion. For the reasons stated, the commenter would like the Commission to restore the word "utility."

RESPONSE: The Commission proposed the word "company," as that is the word often associated with those entities that provide commercial passenger transportation. However, to reflect the statutory use of the word "utility," the Commission will remove the word "company" throughout and replace it with "utility" in accord with the commenter's request.

**Summary of Agency-Initiated Changes:**

At N.J.A.C. 16:51-1.3, the definition of "omnibus 2 vehicles" paragraph 1, medical livery, is expanded by inserting the words "which may include transport to and from a medical day care center" in order to offer additional potential types of uses.

**Federal Standards Statement**

A Federal standards analysis is not required because the amendments contained in this adoption do not exceed applicable Federal standards.

**Full text** of the readopted rules can be found in the New Jersey Administrative Code at N.J.A.C. 16:51.

**Full text** of the adopted amendments follows (additions to proposal indicated in boldface with asterisks **\*thus\***; deletions from proposal indicated in brackets with asterisks **\*[thus]\***):

CHAPTER 51

PRACTICES AND PROCEDURES BEFORE THE DIVISION OF  
INSPECTION SERVICES BUS UNIT

SUBCHAPTER 1. GENERAL PROVISIONS

16:51-1.1 Scope

(a) The rules in this chapter shall govern the filing of all pleadings and the practice and procedure of matters before the Motor Vehicle Commission of the State of New Jersey unless otherwise ordered.

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

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

## 16:51-1.2 Construction

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

(b) In special cases and for good cause shown, the Division may relax or permit deviations from this chapter.

## 16:51-1.3 Definitions

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

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

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

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

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

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

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

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

“Movant” means a person that has filed a motion with the Division.

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

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

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

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

1. Medical livery, which provides transport for ambulatory individual(s)\*, **which may include transport to and from a medical day care center,\*** for the purpose of mental health assessment or other

non-emergency medical treatment, not including transportation in a mobility assistance vehicle (MAV) or an ambulance;

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

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

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

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

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

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

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

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

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

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

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

“Petitioner” means a person who has filed a petition with the Division or, in the case of a petition for transfer, the person that is the proposed certificate holder.

“Regular route” or “regular route bus operation” means and includes the operation of an autobus between fixed termini, on a regular schedule, and with a provision for convenient one-way fare/transportation in either direction, and shall also include all existing regular route operations to and from any casino licensed under the Casino Control Act, P.L. 1977, c. 110 (N.J.S.A. 5:12-1 et seq.) unless that operation to and from casinos has been determined by the Division to be other than a regular route operation.

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

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

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

## 16:51-1.4 Communications

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

(b) (No change.)

(c) Except as otherwise stated in this chapter, all such pleadings and correspondence shall be deemed to be officially received when delivered to the Division.

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

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

16:51-1.5 Appearance

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

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

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

16:51-1.6 Ethical conduct and ex parte communications

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

(b) (No change.)

16:51-1.7 Former employees

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

SUBCHAPTER 2. PLEADINGS

16:51-2.1 Pleadings generally

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

16:51-2.2 Formal requirements for pleadings

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

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

(d) (No change.)

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

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

2. (No change.)

(f) Attestation and verification shall be as follows:

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

2.-4. (No change.)

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

16:51-2.3 Time for filing

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

(b) The date of filing shall mean the date upon which the pleading is received by the Division.

16:51-2.4 Amendments

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

(b) (No change.)

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

16:51-2.5 Service and notice of proceedings

(a) Unless otherwise provided by statute or by this chapter, or unless otherwise ordered or permitted by the Division, the following provisions shall govern service of pleadings:

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

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

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

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

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

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

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

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

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

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

SUBCHAPTER 3. PETITIONS

16:51-3.1 Petitions generally

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

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

2.-8. (No change.)

16:51-3.2 Petitions for the granting of Certificates of Public Convenience and Necessity to Conduct Autobus Operations

(a) The Certificate of Public Convenience and Necessity (CPCN) application form is for both Omnibus 1 and Omnibus 2 applicants, except charter bus operations. The CPCN application form is required to be submitted to the Division before registration of the first vehicle in the fleet. In addition to the information required pursuant to N.J.A.C. 16:51-3.1(a)1 through 7 and the application form, all petitions for the granting of Certificates of Public Convenience and Necessity to Conduct Autobus Operations shall include the following:

1.-6. (No change.)

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

(d) In addition to the information included in (a) above, the following information shall be included in all petitions for the granting of a Certificate of Public Convenience and Necessity to Conduct Autobus Operations:

1.-3. (No change.)

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

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

16:51-3.3 Petition for the approval of modification of a Certificate of Public Convenience and Necessity to Conduct Autobus Operations

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

(b) (No change.)

(c) The Division may impose restrictions as public convenience and necessity requires.

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

1. For approval of a minor modification without filing a petition, the autobus \*[company]\* \*utility\* seeking the modification shall request the

same by letter to the Division, in which letter the minor modification is set forth.

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

16:51-3.4 Petitions for approval of the transfer, including merger, or consolidation, of a Certificate of Public Convenience and Necessity to Conduct Autobus Operations

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

(b) (No change.)

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

(a) Except as provided in (b) and (c) below, upon receipt of a completed petition accompanied by the appropriate fee, the Division will assign and advise the petitioner of the docket number and will provide the petitioner with a service list of entities to be served pursuant to N.J.A.C. 16:51-2.5 with a copy of the entire petition, including the docket number and including all attachments, exhibits, schedules, and amendments, but not including a copy of the check or money order by which fees were remitted to the Division, as follows:

1.-4. (No change.)

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

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

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

PLEASE TAKE NOTICE \_\_\_\_\_  
(petitioner's name)

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

for \_\_\_\_\_ autobus operations using  
(type of operation)

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

will be provided in

\_\_\_\_\_  
(municipalities if regular route/counties if special)

Objections and other comments may be submitted within thirty days to the Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680 and to

this petitioner at \_\_\_\_\_ under  
(petitioner's address)

Docket No. \_\_\_\_\_  
(docket number)

(f) Original green certified receipt cards and an affidavit of publication shall be forwarded by the petitioner to the Division upon receipt and shall

**TRANSPORTATION**

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be deemed proof of service; in the event that a certified mailing is returned undeliverable, the entire sealed envelope with green card shall be forwarded to the Division.

**16:51-3.6 Ex parte or emergency relief**

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

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

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

**16:51-3.7 Complaint petitions**

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

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

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

**16:51-3.8 Petitions for discontinuance of service**

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

1.-3. (No change.)

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

PLEASE TAKE NOTICE that \_\_\_\_\_

(petitioner)

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

(type of operations)

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

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

(type of equipment)

Objections and other comments may be submitted within thirty days to the Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, PO Box 680, Trenton, NJ 08666-0680 and to

this petitioner at \_\_\_\_\_.

(petitioner's address)

(b) No petitions for discontinuance of service shall be granted before the expiration of 30 days from the filing of the petition unless the petitioner can demonstrate to the satisfaction of the Division that another

autobus \*[company]\* \*utility\* in good standing is ready and able to assume operations of the service during the pendency of the petition.

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

**16:51-3.9 Joinder of requests for relief**

(a) (No change.)

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

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

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

1.-3. (No change.)

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

i. (No change.)

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

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

**16:51-3.11 Tariff petitions that propose increases in charges to customers**

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

1.-8. (No change.)

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

(b) (No change.)

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

1.-2. (No change.)

**16:51-3.12 Office location and statutory agent**

(a) The location where the petitioner will continue to maintain an office within the State of New Jersey for the convenience of its customers

to pay bills, file complaints, and conduct other business with the autobus \*[company]\* \*utility\*.

(b) (No change in text.)

16:51-3.13 Filing that proposes a change of name

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

1.-2. (No change.)

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

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

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

16:51-3.14 Procedure upon completion of filing and service or petition or notice of filing

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

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

#### SUBCHAPTER 4. MOTIONS: INTERVENTION

16:51-4.1 Motions; generally

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

1.-2. (No change.)

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

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

(a) (No change.)

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

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

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

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

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

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

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

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

(a) (No change.)

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

#### SUBCHAPTER 5. REHEARING OR RECONSIDERATION

16:51-5.1 Motions for rehearing or reconsideration

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

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

2. (No change.)

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

16:51-5.2 Motions and answers on rehearing

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

(b) (No change.)

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

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

#### SUBCHAPTER 6. CONFERENCES

16:51-6.1 Purpose

(a) (No change.)

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

#### SUBCHAPTER 7. REPORTING ACCIDENTS

16:51-7.1 Procedures

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

1. Report by mail to the Division of Inspection Services Bus Unit, New Jersey Motor Vehicle Commission, 225 East State Street, P.O. Box 680, Trenton, NJ 08666-0680, on the form prepared for this purpose within 48 hours of the occurrence of the accident. (Forms may be obtained from the Division of Inspection Services Bus Unit); and

2. Notify the Unit immediately by telephone or email at [CBIU@dot.state.nj.us](mailto:CBIU@dot.state.nj.us), in the case of any of the following:

i.-v. (No change.)

(b) (No change.)

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

#### SUBCHAPTER 8. PROVISION OF SERVICE

16:51-8.1 Commencement of operations

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

(b) (No change.)

16:51-8.2 Change of route

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

## 16:51-8.3 Discontinuance of service

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

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

## 16:51-8.4 Interruption of service

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

## 16:51-8.5 Emergency equipment

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

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

1. (No change.)

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

3. (No change.)

## 16:51-8.6 Stops before grade crossings

All autobus \*[companies]\* \*utilities\* shall have their vehicles come to a full stop before crossing the tracks of any railroad at grade: such stop to be made not less than 15 feet nor more than 50 feet from the nearest rail, the stopping point to be determined by the physical conditions at the crossing, which conditions permit a view of approaching trains from the near rail of the tracks before proceeding from stop position.

## 16:51-8.7 Doors to be closed

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

## 16:51-8.8 Drivers conversing

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

## 16:51-8.10 Certificate of Public Convenience and Necessity of limited duration for emergencies

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

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

1.-6. (No change.)

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

(c) (No change.)

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

## 16:51-8.11 Autobus leases

(a) Any autobus company filing an autobus lease with the Division shall affirm under penalty of perjury that the lease contains the following information:

1. (No change.)

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

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

4.-7. (No change.)

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

i. The duty of parties to notify the Division within five days of the cancellation and/or amendment of a lease;

ii. (No change.)

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

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

10. (No change.)

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

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

## SUBCHAPTER 9. OFFICES

## 16:51-9.1 Location

(a) Each autobus \*[company]\* \*utility\* shall maintain in, or within reasonable proximity of, its service area an office (that is, in addition to any post office box) where application for service, complaints, service inquiries, bill payments, and so forth, will be received. The autobus \*[company]\* \*utility\* shall furnish the street address and telephone number of the office and any changes thereto to the Division.

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

## 16:51-9.2 Personnel to be available

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

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

## 16:51-9.3 Emergency telephone numbers

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

## SUBCHAPTER 10. RECORDS

## 16:51-10.1 Location and examination

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

## 16:51-10.2 Periodic reports

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

reports quarterly and monthly as directed by the Division. Other periodic reports shall be filed on or before the due date noted on the report form.

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

#### SUBCHAPTER 11. NOTICE REGARDING CHANGES IN FARES OR OPERATING SCHEDULES

##### 16:51-11.1 Notice regarding fares

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

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

##### 16:51-11.2 Notices regarding operating schedules

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

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

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

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

i.-ii. (No change.)

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

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

#### SUBCHAPTER 12. COMPLIANCE WITH ORDERS AND DECISIONS

##### 16:51-12.1 Extension of time limits

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

##### 16:51-12.2 Answers to communications

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

## OTHER AGENCIES

(a)

### SOUTH JERSEY TRANSPORTATION AUTHORITY

#### Atlantic City Expressway

#### Adopted New Rules: N.J.A.C. 19:2

Proposed: May 20, 2013, at 45 N.J.R. 1232(b).

Adopted: April 14, 2014, by the South Jersey Transportation

Authority, Frank F. Frankowski, Interim Executive Director.

Filed: April 17, 2014, as R.2014 d.088, **with a substantial change** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 27:25A-7.q and 27:25A-21.g.

Effective Date: May 19, 2014.

Expiration Date: May 19, 2021.

#### Summary of Hearing Officer Recommendations and Agency

##### Response:

Public hearings on the proposal were held on June 5, 2013, in Elwood, New Jersey; June 6, 2013, in Deptford, New Jersey; and June 7, 2013, in Winslow, New Jersey. Lauren R. Staiger, Esq., served as hearing officer. No comments were provided at the hearings, and no recommendations were made by the hearing officer. The record of the hearings may be reviewed by contacting the South Jersey Transportation Authority, P.O. Box 351, Hammonton, NJ 08037.

#### Summary of Public Comment and Agency Response:

The Authority received similar comments from the New Jersey Utilities Association (NJUA) and the Natural Gas Vehicles for America (NGV America).

COMMENT: Both the NJUA and NGV America indicated that the proposed restriction on natural gas powered vehicles limiting fuel weight to 150 pounds has no apparent rationale, as it fails to factor in the weight of the gasoline or diesel fuel in the case of a vehicle operating on more than one motor fuel. They note that there are no restrictions in the Federal HAZMAT rules as they do not apply to the case of fuels stored onboard to power the vehicles and the Federal safety regulations do not impose limits on the amount of fuel that may be stored onboard to power a vehicle. The commenters note that a strict 150 pound exemption would be extremely restrictive and suggest the removal of the 150 pound limit.

RESPONSE: The Authority has thoroughly considered the comments advanced by the NJUA and the NGV America, as well as the United States Department of Transportation's safety standards for compressed natural gas (CNG) vehicle fuel tanks, and will revise the restriction to a gasoline gallon equivalent of 100. The Authority has determined that the use of the gasoline gallon equivalent (GGE) of 100 gallons, which would come out to about 566 pounds, should be allowed versus the weight limit of 150 pounds net weight. The standard metric used by the industry is by gallons, not weight. Weight can be increased or decreased by increasing/decreasing pressure, dependent upon the OEM specifications for the vessel. One hundred GGEs is about the same energy as 100 gallons of gasoline, and regardless of weight or efficiency of the vehicle, all vehicles that contain 100 GGEs store about the same amount of energy. Also, weight can be increased by vehicle based upon pressure, but measuring based upon GGE is a constant, regardless of innovations in technology.

#### Federal Standards Statement

A Federal standards analysis is not required because the expired rules adopted as new rules with amendments are not subject to any Federal requirements or standards. The rules are dictated by the statute that establishes the Authority, N.J.S.A. 27:25A-1 et seq., and its purpose of coordination of the transportation systems of South Jersey.

**Full text** of the expired rules adopted as new rules can be found in the New Jersey Administrative Code at N.J.A.C. 19:2.