

## **Title 27. Transportation**

### **Chapter V. Arkansas Department of Transportation, State Highway Commission**

#### **Subchapter C. Motor Vehicles**

#### **Part 110. General Rules of Practice and Procedure and Special Rules Governing Carriers**

**Codification Notes.** This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"The following General Rules of Practice and Special Rules Governing Carriers are adopted by the Arkansas State Highway Commission\* in accordance with the provisions of Section 6 of Act 397 of the Acts of the General Assembly of 1955; Section 9, 10, and 11 of Act 132 of the Acts of the General Assembly of 1957, and Acts 67 and 153 of the Acts of the General Assembly of 1989."

"\*NOTE: Arkansas State Highway Commission has been substituted for Arkansas Transportation Commission throughout this chapter."

"(Effective December 15, 1981)"

#### **Subpart 1. Rules of Practice — General Information**

##### **27 CAR § 110-101. Scope of part.**

This part shall govern procedure before the State Highway Commission in proceedings under rail, motor, and all other carrier regulator acts passed by the General Assembly of the state conferring jurisdiction upon the commission, unless otherwise directed by the commission in any proceeding.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-102. Definitions.**

As used in this part:

- (1) "Acts" means, unless the context otherwise indicates, any statute which the State Highway Commission administers in whole or in part;
- (2) "Applicant" means a person filing an application;
- (3) "Defendant" means a carrier or other person against whom a complaint is filed;
- (4) "Interested parties" shall in all cases include all carriers operating over the routes or any part thereof or in the territory involved in any application for a certificate of convenience and necessity or permit, or any application to file or change any schedule of rates, charges, fares, or any rule, regulations, or practice, and such other parties as may be deemed interested in the particular matter;
- (5) "Intervener" means a person permitted to intervene;
- (6) "Officer" means a commissioner or other person empowered by the State Highway Commission to act for it;
- (7) "Petitioner" means any person seeking relief otherwise than by complaint or application;
- (8) "Plaintiff" means a person filing a complaint;
- (9) "Pleading" means:
  - (A) A complaint;
  - (B) An answer;
  - (C) A reply;
  - (D) An application;
  - (E) A protest;
  - (F) A motion other than motion orally made at a hearing or argument;
  - (G) A petition; or
  - (H) A document supplementing oral hearing;
- (10) "Proceeding" shall include:
  - (A) An informal or formal complaint alleging violation of any provision of

any act or of any rule, regulation, or requirements made pursuant to a power granted by such act, including petitions;

(B) An application for:

(i) The granting of any right, privilege, authority, or relief under or from any provision of any act or of any rule or requirement made pursuant to a power granted by such act; or

(ii) The consideration of any submission required by law to be made to the State Highway Commission;

(C) An investigation instituted, or requested to be instituted, by the State Highway Commission;

(D) Modified procedure;

(E) Show cause orders;

(F) Rulemaking; and

(G) Promulgation of rules and procedures for assessing public carriers and review of assessments of public carriers;

(11) "Protestant" means a person opposed to the granting of an application, or to any tariff or schedule becoming effective; and

(12) "Respondent" means a person designated in an investigation.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-103. Liberal construction.**

This part shall be liberally construed to secure just, speedy, and inexpensive determination of issues presented.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-104. Information — Special instructions.**

Information as to procedure under this part, and instructions supplementing this part in special instances, will be furnished upon application made to the secretary of the

State Highway Commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-105. Office of the commission — Business hours.**

(a) The principal office of the State Highway Commission is in Little Rock, Arkansas.

(b) The office shall be open during business hours each day, Saturdays, Sundays, and legal holidays excepted.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-106. Communications and pleadings generally.**

(a)(1) **How addressed.** All communications should be addressed to the State Highway Commission as follows:

Arkansas State Highway Commission  
P.O. Box 2261  
Little Rock, AR 72203

(2) All communications should clearly designate the docket number and style of case, if any.

(3) The person communicating shall state his or her address and the party he or she represents, if any.

(b) **Timely filing required.**

(1) Pleadings, requests, or other papers or documents required or permitted to be filed under this part must be received for filing at the commission's offices at Little Rock, Arkansas, within the time limits, if any, for such filing.

(2) The date of receipt at the office of the commission, and not the date of deposit in the mail, is determinative.

(c) **Disposition of — When defective.** In any proceeding when, upon inspection, the commission is of the opinion that a pleading, document, or paper tendered for filing does not comply with this part, or if it be an application, does not sufficiently set forth required information, or is otherwise insufficient, the commission may decline to accept the pleading, document, or paper for filing and may return it unfiled, or the commission may accept it for filing and advise the person tendering it of the deficiency and require that the deficiency be corrected.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-107. General sessions.**

General sessions of the State Highway Commission for the transaction of its business will be held at its principal office on regular business days as scheduled by the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-108. Special sessions.**

Special sessions of the State Highway Commission for consultation or for the transaction of business may be held at any time and place as may be scheduled by the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-109. Hearing, inquiry, or investigation.**

The State Highway Commission may, by one (1) or more of its members especially authorized, or by such other representatives as it may designate and authorize, conduct in any part of the State of Arkansas any inquiry, investigation, hearing, or other proceedings necessary to perform its duties and functions.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-110. Secretary — Duties.**

The secretary shall have custody of the State Highway Commission's seal and official records and shall be responsible for the maintenance and custody of the docket, files, and records of the commission, including the transcripts of testimony and exhibits with all papers and requests filed in proceedings, the minutes of all actions taken by the commission and all of its:

- (1) Findings;
- (2) Determinations;
- (3) Reports;
- (4) Opinions;
- (5) Orders;
- (6) Rules; and
- (7) Approved forms.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-111. Secretary — Authentication.**

All orders and other actions of the State Highway Commission shall be authenticated or signed by the secretary or such other person as may be authorized by the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-112. Numbers assigned to proceedings.**

The secretary shall assign to each proceeding a number and title descriptive of the subject matter, which number and title will be placed on all notices issued, orders made, and papers filed in each proceeding.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-113. Dismissal of appeal — Notice to commission.**

(a) Any party appealing an order of the State Highway Commission who shall subsequently dismiss such appeal, shall promptly notify the commission in writing of the dismissal of such appeal.

(b) Any party appealing on order of the commission from a circuit court decision to an appellate court of the State of Arkansas shall promptly notify the commission in writing of such appeal being taken.

(c) Any party that has appealed an order of the commission to the circuit court or to an appellate court shall notify the commission within a reasonable time, not to exceed ten (10) days, of the decision entered by the circuit or appellate court.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-114. Use of gender and number.**

(a) Words importing the singular number may extend to and be applied to several persons or things.

(b) Words importing the plural number may include the singular.

(c) The words importing the masculine gender may be applied to females.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-115. Continuances.**

(a) After any proceeding has been set for hearing, no motion for continuance will be granted except for good cause shown.

(b) A motion for continuance shall be in writing and shall set forth the grounds for request.

(c) In no case will an agreement for continuance of a cause be recognized by the State Highway Commission unless the consent of the commission has been procured.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-116. Criteria for review of applications.**

In reviewing any application for a new certificate or permit, the following criteria shall be used to determine whether the present or future public convenience and necessity will be served by the granting of such application:

- (1) The ability of the applicant and his or her sense of responsibility toward the public;
- (2) The financial condition of the applicant;
- (3) The current level of service being maintained by any carrier authorized to provide such service;
- (4) The stability of the applicant organization and the likelihood of permanent and continuous service being provided by the applicant;
- (5) The effect of the proposed service upon other forms of transportation;
- (6) The lack of service for a specific need within the area or business community; and
- (7) Any other matters tending to show the need, or lack of need, of the proposed service.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 2. Pleading Specifications Generally**

**27 CAR § 110-201. Typographical specifications.**

(a)(1) Except as otherwise provided, all pleadings, documents, and papers to be filed under this part shall be printed or typewritten, with a clear margin at the top and bottom.

(2) If typewritten, they shall be on paper eight and one-half inches by eleven inches (8 1/2" x 11") in size.

(b) Where exhibits may require a larger sheet, those exhibits should be subject to reduction so that they may be clearly placed upon paper no larger than eight and one-half inches by eleven inches (8 1/2" x 11").

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-202. Copies.**

Except when otherwise required in specific instances, there shall be filed an original and nine (9) copies of every pleading, document, or paper required or permitted to be filed under this part.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-203. Attestation and verification.**

(a) All applications or amendments thereto shall be verified and all other pleadings or documents filed shall be verified except as provided in subsection (b) of this section.

**(b) Attorney's signature.**

(1) If a party is represented by an attorney, each pleading, document, or paper of such party shall be signed in ink by one such attorney whose address shall be stated.

(2) The signature of an attorney constitutes a certificate by him or her that:

(A) He or she has read the pleading, document, or paper;

(B) He or she is authorized to file it;

(C) To the best of his or her knowledge, information, and belief, there is good ground for it;

(D) It is not interposed for delay; and

(E) With respect to a complaint, he or she files it with the distinct knowledge and specific consent of plaintiff.

(3) A pleading, document, or paper thus signed need not be verified or accompanied by affidavit except as otherwise provided.

**(c) When no attorney's signature.**

(1) A pleading, document, or paper not signed by an attorney must be signed in ink, the address of the signed shall be stated, and the facts alleged in a pleading must be verified under oath by the person in whose behalf it is filed.

(2) Signature and verification in such manner must be made by at least one (1) plaintiff if the pleading is a complaint.

(3) A pleading, document, or paper filed on behalf of a corporation or other organization authorized to make complaint under the act which is not signed by an attorney must be signed in ink, and the facts alleged in a pleading must be verified by an executive officer of such corporation or organization.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-204. Affirmation in lieu of oath.**

Whenever under this part an oath is required, an affirmation in judicial form will be accepted in lieu thereof.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-205. Pleadings part of record.**

(a) Recitals of material and relevant facts in a pleading filed prior to hearing in any proceeding, unless specifically denied in a counterpleading filed under this part, shall constitute evidence and be a part of the record without special admission or incorporation therein, but, if the request is seasonably made, a competent witness must be made available for cross examination on the allegations so included in the record.

(b) A filing under 27 CAR § 110-316 shall not be considered a pleading for the purpose of this section.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-206. Amendments.**

Leave to file amendments to any pleading will be allowed or denied by the State Highway Commission as a matter of discretion.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-207. Time — Computation.**

(a) In computing any period of time prescribed or allowed by this part, the day of the act, event, or default after which the designated period of time begins to run is not to be included.

(b) The last day of the period so computed is to be included, unless it is a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Sunday nor a holiday.

(c) A half holiday shall not be considered as a holiday.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-208. Replies — Time of filing.**

Except that a reply to a reply is not permitted, and except as otherwise provided, an adverse party may file and serve a reply to any pleading permitted under this part within ten (10) days after service of the pleading to which the reply is responsive.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-209. Service — Pleadings and papers to show.**

(a) Every pleading, protest, intervention, or verified statement filed by any party and tendered to the State Highway Commission for filing shall include a certificate of the party or his or her attorney showing simultaneous service thereof upon all parties to the proceeding made by registered or certified mail with return receipt required.

(b) The return receipt or a photocopy thereof shall be filed with the commission.

(c) Applications, formal complaints, supplemental complaints, amended complaints, cross complaints, and letters to the commission relating to oral arguments and subpoenas, when service is required, may be served by depositing same in the United States Postal Service with sufficient postage attached thereto to ensure delivery and a certification of such service signed by the applicant or his or her attorney.

**Authority.** Arkansas Code § 23-13-208.

### **Subpart 3. Commencement of Proceedings**

#### **27 CAR § 110-301. Informal complaints.**

##### **(a) Form and content.**

- (1) Informal complaints may be by letter or other writing.
- (2) No form of informal complaint is suggested but, in substance, the letter or other writing must contain the essential elements of a formal complaint.
- (3) It may embrace supporting papers.
- (4) It need not be verified.

(b) **Correspondence handling.** If the informal complaint appears to be susceptible of settlement, a copy of a statement of the substance thereof will be transmitted by the State Highway Commission to each person complained of in an endeavor to have it satisfied by correspondence and thus obviate the filing of a formal complaint.

(c) **Discontinuance without prejudice.** A proceeding thus instituted on the informal docket is without prejudice to plaintiff's right to file and prosecute a formal complaint, in which event the proceeding on the informal docket will be discontinued.

**Authority.** Arkansas Code § 23-13-208.

#### **27 CAR § 110-302. Formal complaints — Copies.**

The original of each formal complaint, amended or supplemental formal complaint,

or cross complaint must be accompanied by copies in sufficient number to enable the State Highway Commission to serve one (1) copy upon each defendant and retain nine (9) copies in addition to the original.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-303. Formal complaints — Joinder.**

(a) **Causes of action.** Two (2) or more grounds of complaint concerning the same principal, subject, or state of facts may be included in one (1) complaint but should be stated separately and numbered.

(b) **Plaintiffs.** Two (2) or more plaintiffs may join in one (1) complaint if their respective causes of action are against the same defendant or defendants and concern substantially the same alleged violation of the act and a like state of facts.

(c) **Defendants.**

(1) If complaint is made with respect to through transportation by continuous carriage or shipment, all persons subject to the act participating therein and against whom an order is sought should be made defendants.

(2) If complaint is made of a classification or any provision thereof, ordinarily it will suffice to make defendants the persons operating one (1) or more through routes between representative points of origin and destination.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-304. Formal complaints — Allegations generally.**

(a) A formal complaint should be so drawn as fully and completely to advise the parties, defendant, and the State Highway Commission in what respects the provisions of the act have been or are violated or will be violated and should set forth briefly and in plain language the facts claimed to constitute such violation.

(b) If two (2) or more acts or requirements established pursuant thereto are alleged to be violated, the facts claimed to constitute violation of each act or

requirement should be stated separately whenever that can be done by reference or otherwise without undue repetition.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-305. Formal complaints — Discrimination, preference, and prejudice.**

A complaint that alleges an act is violated because of an undue or unreasonable preference of advantage, undue or unreasonable prejudice or disadvantage, or unjust discrimination should specify clearly the particular elements stated in the act as constituting such violation and the facts which complainant relies upon to establish it.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-306. Formal complaints — Other specification.**

The several rates, fares, charges, schedules, classifications, rules, or practice of which complaint is made should be set out by specific reference to the tariffs or schedules in which they appear, whenever that is practicable.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-307. Formal complaints — Prayers for relief.**

(a) A formal complaint in which relief for the future is sought should contain a detailed statement of the relief desired.

(b) Relief in the alternative or several different types may be demanded, but the issues raised in the formal complaint should not be broader than those to which the complainant's evidence is to be directed at the hearing.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-308. Amended and supplemental formal complaints.**

An amended or supplemental complaint may be tendered for filing by a plaintiff against a defendant or defendants named in the original complaint, stating a cause of complaint alleged to have accrued within the statutory period immediately preceding the date of such tender, in favor of plaintiff and against the defendant or defendants.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-309. Service of formal and cross complaints.**

(a) The State Highway Commission will serve formal complaints.

(b) It will also serve supplemental, amended, and cross complaints when it has granted leave to file such pleadings.

(c) If no agent has been designated, service may be made by posting in the office of the secretary of the commission.

(d) If the complaint involves only the lawfulness of rates, fares, charges, classifications, or practices, service may be made upon an attorney in fact of a carrier or freight forwarder who has filed a tariff or schedule on behalf of such carrier or freight forwarder.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-310. Answers and cross complaints.**

(a) **Generally.**

(1) An answer may simultaneously be responsive to a formal complaint and to any amendment or supplement thereof.

(2) It should be drawn fully and completely so as to advise the parties and the State Highway Commission of the nature of the defense and should admit or deny specifically and in detail each material allegation of the pleading answered.

(3) An answer may embrace a detailed statement of any counterproposal which a defendant may desire to submit.

(b) **Cross complaint.** A cross complaint alleging that other persons, parties to the proceedings, have violated the act or requirements established pursuant thereto, or seeking relief against them under the act, may be tendered for filing by a defendant with its answer.

(c) **Time for filing.** Unless otherwise directed by the commission, an answer to a complaint:

(1) Should be filed within ten (10) days after the day on which the complaint to which answer is filed was served; and

(2) Must show service of a copy thereof on each complainant or his or her attorney by registered mail.

(d) **When issue joined.** If any defendant answers or fails to file and serve answer within the period specified in subsection (c) of this section, issue thereby is joined as to such defendant.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-311. Motions to make more definite and certain.**

(a) **As to complaint.** Before filing his or her answer, a defendant may file a motion that the allegations in the complaint be made more definite and certain, such motion to point out the defects complained of and the details desired.

(b) **As to answer.** No replication to the answer shall be filed, but any party may file within ten (10) days after the service of an answer, a motion that the answer, or defendant's statement, as the case may be, be made more definite and certain, such motion to point out the defects complained of and the details desired.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-312. Interventions — Petitions.**

(a) **Content generally.**

(1) A petition for leave to intervene must set forth:

- (A) The grounds of the proposed intervention;
- (B) The position and the interest of the petitioner in the proceeding; and
- (C) Whether petitioner's position is in support of or opposition to the relief

sought.

(2) If the proceeding be by formal complaint and affirmative relief be sought by petitioner, the petition should conform to the requirements for a formal complaint.

**(b) When filed.**

(1) A petition for leave to intervene in any proceeding should be filed not less than twenty (20) days after the official date of filing, except for good cause shown.

(2) Such intervention must show service of a copy on the interested parties or their attorneys by registered or certified mail with return receipt required.

(3) The return receipt or a photocopy thereof must be filed with the State Highway Commission by said intervener.

**(c) Broadening issues — Filing.** If the petitioner seeks a broadening of the issues and shows that they would not hereby be unduly broadened, and in respect thereof seeks affirmative relief, the petition should be filed in season to permit service upon an answer by the parties in advance of the hearing.

**(d) Disposition.**

(1) Leave will not be granted to intervene except on averments reasonably pertinent to the issues already presented and which do not unduly broaden them.

(2) If leave is granted, the petitioner thereby becomes an intervener and a party to the proceeding.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-313. Satisfaction of complaint.**

If a defendant satisfies a formal complaint either before or after answering, a statement to that effect signed by the opposing parties must be filed (original only need be filed), setting forth when and how the complaint has been satisfied.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-314. Applications.**

**(a) Contents.**

(1) Forms for applications for certificates, permits, and transfers may be obtained from the State Highway Commission upon request.

(2) An application filed with the commission shall set forth with specificity the:

(A) Grounds upon which the application is made;

(B) Interest of the applicant in the subject matter; and

(C) Relief sought by the applicant.

**(b) Date of filing.**

(1) The official date of filing of any application with the commission shall be the third calendar day after the date contained within the notice of filing sent to the newspaper for publication and all interested parties.

(2) This date shall be used for the purpose of calculating all dates upon which other matters to be filed as part of the application process are due.

**(c) Verified statements.**

(1)(A) The verified statement of the applicant and each known supporting witness shall be filed with the commission fifteen (15) calendar days from filing date.

(B) The requirement of a verified statement may be waived at the discretion of the commission upon written request by the applicant.

(2) Verified statement of the applicant shall contain but not be limited to the following:

(A) Legal name and business address;

(B) Identity and qualifications of testifying witness;

(C) Authority sought;

(D)(i) General scope of presently authorized operations (attach copies of pertinent operating rights);

(ii) Duplicating authority resulting from grant of application.

(iii) Dual operations resulting from grant of application.

(iv)(a) Affiliation with other carriers and persons affiliated with carriers.

(b) Indicate pertinent MC numbers and docket number of finance proceedings.

(c) Identify common and contract carriers as such;  
(E) Pertinent terminal facilities and communications network;  
(F) Pertinent equipment;  
(G) Safety program;  
(H) Service now provided to supporting witnesses;  
(I) Type of service offered, e.g., LTL, bulk, multiple delivery, interline, etc.;

(J) Financial data (current balance sheet and income statement);  
(K) Feasibility of operation;  
(L) Any other information deemed pertinent;  
(M) Argument (if desired);  
(N) Verification; and  
(O) Certificate of service and list of parties' names and addresses.

(3) Verified statements of supporting shippers shall contain, but not be limited to, the following:

(A) Legal name and business address of supporting party or firm;  
(B) Identity and qualifications of testifying witness;  
(C) General description of the business of the supporting shipper and its operations;  
(D) The specific commodity shipped or received by that business;  
(E) The volume and frequency of traffic;  
(F) The amount of traffic to be tendered to the applicant, giving specific or representative origins and destinations;  
(G) How the traffic now moves in intrastate commerce;  
(H) The type of service required from the applicant, e.g., bulk, LTL, multiple delivery, etc.;

(I) The existing service available and specific information on discrepancies in service from currently authorized carriers;

(J) Similar applications supported, including pertinent docket numbers;

(K) Any other information deemed pertinent by the witness; and

(L) Verification and certificate of service.

(d) **Witness list.**

(1) A list of witnesses to be called by the applicant in support of its application shall be filed with the commission at a time set out in the written policy and procedure of the commission.

(2)(A) Only those witnesses whose names appear on the list supplied by the applicant will be allowed to testify at the hearing before the commission.

(B) Other witnesses may be allowed to testify by leave of the commission.

(3) A list of witnesses filed by the applicant shall be exchanged with the protestant five (5) working days prior to hearing date.

(4) Failure of the applicant to provide the protestant or other parties the list of witnesses to be called may be grounds for dismissal or postponement of the case.

(e) **Refiling after denial.** When an application for a permit or certificate has been denied in whole or in part, or has been granted, and an order of the commission granting the same has been quashed or set aside, another application by the same petitioner or applicant over the same route or territory will not be considered by the commission within ninety (90) days from the date of the order denying the same or the judgment of the court quashing or setting aside the order.

**Authority.** Arkansas Code § 23-13-208.

**Codification Notes.** "LTL" means less-than-truckload.

**27 CAR § 110-315. Protests against applications.**

(a) **Contents.** A protest against the granting of any application filed before the State Highway Commission shall set forth specifically the grounds upon which the

protestant relied and shall further state concisely the interest of the protestant in the proceedings.

(b) **Time of filing.** Any protest or intervention must be filed with the commission on or before the tenth day following the date of notice of application, pursuant to 27 CAR § 110-314(b).

(c) **Verified statements.**

(1) Verified statements of the protestant and each known supporting witness shall be filed with the commission twenty-five (25) calendar days from filing date.

(2) The requirement of a verified statement may be waived at the discretion of the commission upon written request by the protestant.

(3) Verified statements of the protestant shall contain but not be limited to the following:

(A) Legal name and business address;

(B) Identity and qualifications of testifying witness;

(C) Specific pertinent conflicting authority;

(D) Pertinent terminals and communications network;

(E) Pertinent equipment;

(F) Type of service offered, e.g., LTL, bulk, interline, etc.;

(G) Traffic subject to diversion if application is granted, including specific information on attempts of the protestant to secure the business of the supporting shipper;

(H) Any other information pertinent to the application; and

(I) Verification and certificate of service.

(d) **Witness list.**

(1) A list of witnesses who will appear on behalf of the protestant shall be filed with the commission at a time set out in the written policy and procedure of the commission.

(2)(A) Only those witnesses whose names appear on the list supplied by the protestant shall be allowed to testify at the hearing before the commission.

(B) Other witnesses may be allowed to testify by leave of the commission.

(3) A list of witnesses filed by the protestant shall be exchanged with the applicant five (5) working days prior to the hearing date.

(4) Failure to provide the other party or parties with a list of witnesses to be called may be grounds for dismissal or postponement of the case.

(e) **When rule disregarded.** For good cause shown, an application may be set down for hearing without waiting for the filing of a protest or a reply thereto, and may also be disposed of without regard to subsection (c) of this section unless a hearing is required by the Arkansas Motor Carrier Act, 1955, Arkansas Code § 23-13-201 et seq.

**Authority.** Arkansas Code § 23-13-208.

**Codification Notes.** "LTL" means less-than-truckload.

## **27 CAR § 110-316. Petitions for suspension of tariffs or schedules.**

### **(a) Content.**

(1) The protested tariff or schedule sought to be suspended should be identified by making reference to the name of the publishing carrier, freight forwarder, or agent, to the State Highway Commission number, and to the specific items or particular provisions protested.

(2) Reference should also be made to the tariff or schedule and the specific provisions thereof proposed to be superseded.

(3) The protest should:

(A) State the grounds in support thereof;

(B) Indicate in what respect the protested tariff or schedule is considered to be unlawful; and

(C) State what protestant offers by way of substitution.

### **(b) Time of filing.**

(1) A protest against, and a prayer for suspension of, any tariff or schedule filed under the act ordinarily will not be considered unless made in writing with the commission at least ten (10) days prior to the effective date of the tariff or schedule.

(2) In an emergency satisfactorily shown by protestant, and within the time limits herein provided, a telegraphic protest may be sent to the commission and to the publishing carrier, freight forwarder, or agent stating the grounds relied upon, but such telegraphic protest must immediately be confirmed by protest filed and served in accordance with this part.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-317. Petitions not otherwise covered.**

When the subject matter of any desired relief is not specifically covered by this part, a petition seeking such relief and stating the reasons therefor may be served and filed.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-318. Service of investigation order — Default where failure to comply.**

(a) An order instituting an investigation will be served by the State Highway Commission upon respondents.

(b) If within a time period stated in that order a respondent fails to comply with any requirement specified therein, respondent shall be deemed in default and to have waived any further hearing.

(c) Thereafter the investigation may be declared without further proceedings.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 4. Petitions Seeking Institution of Rulemaking Proceedings**

**27 CAR § 110-401. Petitions seeking institution of rulemaking proceedings.**

(a) Any person may file a petition requesting the State Highway Commission to institute a proceeding, or the commission on its own motion may institute a proceeding for the purpose of issuing statements or rules of general applicability and significance designed to implement or interpret law or to formulate general policy for future effect.

(b) No reply to such a petition may be filed.

(c) Whether a proceeding shall be instituted as requested is within the discretion of the commission and the ruling on the petition will be final.

**Authority.** Arkansas Code § 23-13-208.

### **Subpart 5. Modified Procedure**

#### **27 CAR § 110-501. Modified procedure — How initiated.**

(a) **Petition on commission initiative.** Modified procedure will be ordered in a proceeding upon the State Highway Commission's initiative or upon its approval of a petition filed by any party that the modified procedure shall be observed.

(b) **Order directing modified procedure.**

(1) An order directing modified procedure will list the names and addresses of the persons who at that time are parties to the proceeding and direct that they comply with the modified procedure rules.

(2) As used in 27 CAR §§ 110-705, 110-707, and 110-709, the term "complainant" shall comprehend the term "applicant" or "respondent", and the term "dependent" shall include the term "protestant" according to procedure under 27 CAR §§ 110-701 – 110-710 inclusive may be ordered in a particular proceeding.

**Authority.** Arkansas Code § 23-13-208.

#### **27 CAR § 110-502. Modified procedure — Effect of order.**

(a) **Relief from answer rule.** Issuance of an order directing modified procedure shall relieve defendant from the obligation of answering as provided in 27 CAR § 110-

309.

(b) **Default where failure to comply.**

(1) If within any time period provided in the modified procedure rules a party fails to file a pleading required by those rules, or otherwise fails to comply therewith, such party shall be deemed to be in default and to have waived any further hearing.

(2) Thereafter, the proceeding may be disposed of without further notice to the defaulting party and without other formal proceedings as to such party.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-503. Modified procedure — Intervention.**

Persons permitted to intervene under modified procedure shall file and serve pleadings in conformity with the provisions relating to the parties in whose behalf they intervene.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-504. Modified procedure — Joint pleadings.**

Parties having common interests may arrange for joint preparation of pleadings ruled under modified procedure.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-505. Modified procedure — Content of pleadings.**

(a) **Generally.**

(1) A statement ruled under the modified procedure after that procedure has been directed shall state separately the facts and arguments and include the exhibits upon which the party relies.

(2) If no answer has been filed pursuant to the waiver provision of 27 CAR § 110-702, defendant's statement must admit or deny specifically and in detail each

material allegation of the complaint.

(3) In addition, defendant's statement and complainant's statement in reply shall specify those statements of facts and arguments of the opposite party to which exception is taken and include a statement of the facts and arguments in support of such exception.

(4) Complainant's statement of reply shall be confined to rebuttal of the defendant's statement.

(b) **Exhibit identification.** In addition to being in compliance with 27 CAR § 110-901, an exhibit which is part of any pleading filed under modified procedure shall serially be numbered and bear the notation, properly filled out, in the upper right-hand corner:

Complainant (Defendant) \_\_\_\_\_  
Exhibit No. \_\_\_\_\_  
Witness \_\_\_\_\_

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-506. Modified procedure — Verification.**

(a) The facts asserted in any pleading filed under modified procedure must be sworn to by persons having knowledge thereof, which latter fact must affirmatively appear in the affidavit.

(b) Except under unusual circumstances, such persons should be those who would appear as witnesses orally to substantiate the facts asserted should hearing become necessary.

(c) The original of any pleading filed under modified procedure must show the signature, capacity, and impression seal, if any, of the person administering the oath and the date thereof.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-507. Modified procedure — When pleadings filed and served.**

(a) Within twenty (20) days from the date of an order requiring modified procedure, applicant shall serve upon the other parties a statement of all of the evidence upon which it relies.

(b) Within thirty (30) days thereafter, protestant shall serve its statement.

(c) Within ten (10) days thereafter, applicant shall serve its statement in reply.

(d) No further reply may be made by any party except by permission of the State Highway Commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-508. Modified procedure — Copies of pleadings.**

(a) The original and nine (9) copies of any statement made pursuant to 27 CAR § 110-707 shall be filed with the State Highway Commission.

(b) Subsequent pleadings are subject to 27 CAR § 110-710.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-509. Modified procedure hearings.**

**(a) Request for cross examination or other hearing.**

(1) If cross examination of any witness is desired, the name of the witness and the subject matter of the desired cross examination shall, together with any other request for oral hearing, include the basis therefor and be stated at the end of the defendant's statement or complainant's statement in reply as the case may be.

(2) Unless material facts are in dispute, oral hearing will not be held for the sole purpose of cross examination.

(b) **Hearing issues limited.** The order setting the proceeding for oral hearing, if hearing is deemed necessary, will specify the matters upon which the parties are not in

agreement and respecting which oral evidence is to be introduced.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-510. Modified procedure — Subsequent procedure.**

Procedure subsequent to that provided in the modified procedure rules shall be the same as that in proceedings not handled under modified procedure.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 6. Notice of Hearing, Subpoenas, and Depositions**

**27 CAR § 110-601. Notice of hearing.**

(a) On orders of the State Highway Commission, the secretary shall issue all notices of hearings and other process as may be directed by the commission.

(b) All notices of sessions and hearings shall be served upon the parties and such other interested parties as may be entitled to receive notice and shall show the time and place of the hearing.

(c) All such hearings before the commission or examiners shall be open to the public.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-602. Subpoenas.**

(a) **Issuance.**

(1) Subpoenas requiring the attendance of a witness from any place in the state at any designated place of hearing for the purpose of taking the testimony of such witness orally before the State Highway Commission or one (1) or more commissioners or examiner may be issued by any commissioner, examiner, or the secretary.

(2) Subpoenas for the production of books, accounts, papers, and other

documents, unless directed to be issued by the commission upon its own motion, will only be issued in the discretion of the commission, commissioners, or examiner upon written petition which shall state as nearly as possible the books, accounts, papers, and other documents desired to be produced and the purpose of their production.

(3) No original subpoenas shall be issued by the commission or any of the officers authorized to issue subpoenas unless the applicant therefor first establishes that he or she has a proper relation to the matter, and unless said applicant for subpoena gives the names and addresses of all witnesses for whose attendance the power of the commission is invoked, which names and addresses shall be inserted in the original subpoena.

(4) Copy of said original subpoena shall be filed in the papers in the proper action.

(5) Request by mail or wire from proper applicant conforming to this section is sufficient.

(6) In no case shall blank-signed and sealed original subpoenas be issued to anyone.

(7) When a witness is present, he or she may be called by either party or by the commission.

(b) **Service.** The original subpoena shall be exhibited to the person served and shall be read to him or her if he or she is unable to read, and a copy thereof shall be delivered to him or her by the officer or person making service.

(c) **Return.**

(1) If service of subpoena is made by court officer or his or her deputy, such service shall be evidenced by his or her return thereon.

(2) If made by any other person, such person shall make affidavit thereof, stating the date, time, and manner of service, and return such affidavit on, or with, the original subpoena.

(3) In case of failure to make service, the reasons for the failure shall be stated on the original subpoena.

(4) The written acceptance of a subpoena by the person named therein shall

be sufficient without other evidence of return.

(5) The original subpoena, bearing or accompanied by the required return, affidavit, statement, or acceptance of service, shall be returned forthwith to the secretary of the commission or, if so directed on the subpoena, to the officer presiding at the hearing at which the person subpoenaed is required to appear.

(d) **Witness fee.** A witness who is summoned and responds thereto is entitled to the same fee as is paid for like service in the courts of the State of Arkansas, such fee to be paid by the party at whose instance the testimony is to be taken at the time the subpoena is served.

**Authority.** Arkansas Code § 23-13-208.

#### **27 CAR § 110-603. Depositions.**

(a) The testimony of a witness may be taken by deposition at the instance of any party in any proceeding pending before the State Highway Commission or at the instance of the commission.

(b) All depositions shall be taken and filed with the same formalities and notice as are required in instances where depositions are taken for use in courts of law or equity, unless taken by consent.

**Authority.** Arkansas Code § 23-13-208.

### **Subpart 7. Hearings**

#### **27 CAR § 110-701. Prehearing conference.**

(a) **Purposes.** Upon written notice by the State Highway Commission in any proceeding or upon written or oral instruction of an officer, parties or their attorneys may be directed to appear before an officer at a specified time and place for a conference prior to or during the course of a hearing or in lieu of personally appearing to submit suggestions in writing for the purpose of formulating issues and considering:

- (1) The simplification of issues;
- (2) The necessity or desirability of amending the pleading either for the purpose of clarification, amplification, or limitation;
- (3) The possibility of making admissions of certain averments of fact or stipulations concerning the use by either or both parties of matters of public record, such as annual reports and the like, to the end of avoiding the unnecessary introduction of proof;
- (4) The procedure at the hearing;
- (5) The limitation of the number of witnesses;
- (6) The propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; and
- (7) Such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

(b) **Facts disclosed privileged.** Facts disclosed in the course of the prehearing conference are privileged and, except by argument, shall not be used against participating parties either before the commission or elsewhere unless fully substantiated by other evidence.

(c) **Recordation and order.** Action taken at the conference, including a recitation of the amendments allowed to the pleadings and the agreements made by the parties as to any of the matters considered and defining the issues, shall be recorded in an appropriate order unless the parties enter into a written stipulation as to such matters or agree to a statement thereof made on the record by the officer.

(d) **Objections to the order — Subsequent proceedings.**

(1) If an order is entered, a reasonable time shall be allowed to the parties to present objections on the ground that it does not fully or correctly embody the agreements reached at such conference.

(2) Thereafter, the terms of the order or modification thereof and the written stipulation or statement of the officer, as the case may be, shall determine the subsequent course of the proceeding, unless modified to prevent manifest injustice.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-702. Stipulations.**

(a) Apart from the procedure contemplated by the prehearing provisions (27 CAR § 110-714), and upon permission granted, the parties may by stipulation in writing filed with the State Highway Commission at any stage of the proceeding, or orally made at the hearing, agree upon any pertinent facts in the proceeding.

(b) It is desired that the facts be thus agreed upon so far as and whenever practicable.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-703. Authority of officer.**

(a) An officer to whom any matter has been referred may grant leave to amend or to file any pleadings or to intervene, upon request tendered at the hearing, but in no event shall an officer grant such leave if thereby the issues would be so narrowed as to make a referred matter one which would properly be referred to a different officer.

(b) An officer shall have no power to decide any motion to dismiss the proceeding or other motion which involves final determination of the merits of the proceeding.

(c) The officer shall regulate the procedure in the hearing before him or her and take all measures necessary or proper for the efficient performance of the duties assigned him or her.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-704. Appearances.**

(a) Any individual may appear for himself or herself and any member of a partnership which is a party to any proceeding may appear for such partnership upon adequate identification.

(b) A bona fide officer or a full-time employee of a corporation, association, or of

an individual may appear for such corporation, association, or individual by permission of the officer presiding at the hearing.

(c) A party may be represented by:

(1) An attorney licensed to practice before the Supreme Court; or

(2) An attorney not licensed to practice before the Supreme Court, but who is licensed to practice before the highest court of the state of his or her residence, provided such attorney associates with local counsel admitted to practice before the Supreme Court, to assist him or her in the conduct of any proceeding before the State Highway Commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-705. Witness examination — Order of procedure.**

(a) Witnesses will be orally examined under oath before the State Highway Commission or officer unless their testimony is taken by deposition.

(b) In formal complaint, application, and investigation proceedings, complainant, applicant, and respondent, respectively, shall open and close the hearing.

(c) Interveners shall follow the party in whose behalf the intervention is made.

(d) The foregoing order of presentation may be varied by the commission or officer who also shall designate the order of presentation in any other type of proceeding, of any other party to any proceeding, or of parties to several proceedings being heard upon a consolidated record.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-706. Evidence — Admissibility generally.**

(a) Any evidence which would be admissible under the Arkansas Code of 1987, as amended, or under the rules of evidence governing proceedings in matters not involving trial by jury in the courts of the state, shall be admissible in hearings before the State Highway Commission.

(b) The rules of evidence shall be applied to any proceeding to the end that needful and proper evidence shall be conveniently, inexpensively, and speedily produced, while preserving the substantial rights of the parties.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-707. Evidence — Cumulative restriction.**

The right is reserved to limit the number of witnesses whose testimony may be merely cumulative.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-708. Evidence — Official records.**

(a) An official record or an entry therein, when admissible for any purpose, may be:

(1) Evidenced by an official publication thereof or by a copy attested by the officer having the legal custody of the record, or by his or her deputy; and

(2) Accompanied with a certificate that such officer has the custody.

(b) If the office in which the record is kept is within the United States or within a territory or insular possession subject to the dominion of the United States, the certificate may be made by a judge of a court of record of the district or political subdivision in which the record is kept, authenticated by the seal of the court, or may be made by any public officer having a seal of office and having official duties in the district of political subdivision in which the record is kept, authenticated by the seal of his or her office.

(c) If the office in which the record is kept is in a foreign state or country, the certificate may be made by a secretary of embassy or legation, consul general, consul, vice consul, or consular agent or by any officer in the foreign service of the United States stationed in the foreign state or country in which the record is kept, and authenticated by the seal of his or her office.

(d) A written statement signed by an officer having the custody of an official record or by his or her deputy that after diligent search no record or entry of a specified tenor is found to exist in the records of his or her office, accompanied by a certificate as above provided, is admissible as evidence that the records of his or her office contain no such record or entry.

(e) This section does not prevent the proof of official records or of entry or lack of entry therein or official notice thereof by a method authorized by any applicable statute or by the rules of evidence.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-709. Evidence — Entries in regular course of business.**

Any writing of record, whether in the form of any entry in a book or otherwise, made as a memorandum or record of any act, transaction, occurrence, or event will be admissible as evidence thereof if it shall appear that it was made in the regular course of business and that it was the regular course of business to make such memorandum or record at the time such record was made within a reasonable time thereafter.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-710. Evidence — Documents containing matter not material.**

(a) When material and relevant matter offered in evidence is in a document containing other material not relevant, the offering party shall:

- (1) Produce the document at the hearing;
- (2) Plainly designate the matter so offered; and
- (3) Accord an opportunity to inspect it.

(b) Unless it is desired to read such matter into the record and the State Highway Commission or the officer so directs, true copies in proper form of the material and relevant matter taken from the document may be received as an exhibit, but other

parties shall be afforded an opportunity to introduce in evidence, in like manner, other portions of such document if found to be material and relevant.

(c) The document itself will not be received.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-711. Evidence — Documents in commission’s files.**

(a) **In general.** If any matter contained in a report or other document, not a tariff or schedule, open to public inspection in the files of the State Highway Commission is offered in evidence, such report or other document need not be produced, but in other respects the provisions of 27 CAR § 110-710 will apply.

(b) **Tariffs and schedules — Official notice in investigation proceedings.**

(1) If any matter contained in a tariff or schedule on file with the commission is offered in evidence, such tariff or schedule need not be produced or marked for identification, but the matter so offered shall be specified with particularity in such manner as to be readily identified and may be received in evidence subject to check by reference to the original tariff or schedule.

(2) Official notice will be taken without offer or production of that portion of any tariff or schedule which is the subject matter of an order of investigation and suspension.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-712. Evidence — Records in other commission proceedings.**

(a) If any portion of the record before the State Highway Commission in any proceeding other than the one on hearing is offered in evidence, a true copy of such portion shall be presented for the record in the form of an exhibit unless:

(1) The party offering the same agrees to supply such copy later at his or her own expense if and when required by the commission;

(2) The portion is specified with particularity in such manner as to be readily

identified;

(3) The parties represented at the hearing stipulate upon the record that such portion may be incorporated by reference, and that any other portion offered by any other party may be incorporated by like reference subject to subdivisions (a)(1) and (2) of this section; and

(4) The commission or officer directs such incorporation.

(b) Any such portion so offered, whether in the form of an exhibit or by reference, shall be subject to objection.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-713. Evidence — Abstracts of documents.**

When documents such as freight bills or bills of lading are numerous, the State Highway Commission or officer may refuse to receive in evidence other than a limited number of such documents said to be typical.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-714. Evidence — Exhibits.**

(a) **Generally.**

(1) Exhibits of a documentary character may have a maximum of twenty-two inches (22") in width by twelve and one-half inches (12 1/2") in height.

(2) Whenever practicable, the sheets of each exhibit and the lines of each sheet should be numbered.

(3) If the exhibit consists of five (5) or more sheets, the first sheet or title page should be confined to a brief statement of what the exhibit purports to show, with reference by sheet and line as illustrative or typical examples contained herein.

(4) The exhibit should bear an identifying number, letter, or short title which will readily distinguish it from other exhibits offered by the same party.

(5) It is desirable that, whenever practicable, rate comparisons and other

evidence should be condensed into tables.

(6) Whenever practicable, especially in proceedings in which it is likely that many documents will be offered, all the documents produced by a single witness should be assembled and bound together, suitably arranged, and indexed so that they may be identified and offered as one (1) exhibit.

(7) Exhibits should not be argumentative and should be limited to statements of fact and be relevant and material to the issue, which can better be shown in that form than by oral testimony.

(b) **Reference to tariff authority — Routes and distances.** All exhibits showing rates, fares, charges, or other tariff or schedule provisions must, by appropriate State Highway Commission number reference, indicate the tariff or schedule authority therefor and, if distances are shown, must also show the authority therefor and, by lines, highways, and junction points, the routes over which the distances are computed, except that the routes over which the distances are computed need not be shown when such distances are specifically published in a tariff or schedule lawfully on file with the commission, or with the commission showing rates prescribed by the commission and based on short-line distances, or short highway distances, provided the exhibit make specific reference to such tariff or schedule as provided by this part.

(c) **Copies.**

(1) Unless the commission or the officer shall otherwise direct, the original and nine (9) copies of each exhibit of a documentary character shall be furnished for the use of the commission.

(2) The original is to be delivered to the reporter and the copies to the commission or officer.

(3) Unless the commission or officer for cause directs otherwise, a reasonable number of copies shall be furnished to counsel in attendance at the hearing.

(d) **Interchange prior to hearing.** Whenever practicable, the parties should interchange copies of exhibits or other pertinent material or matter before or at the commencement of the hearing.

**(e) When excluded how treated.**

(1) In case an exhibit has been identified, objected to, and excluded, the commission or officer will determine whether the party offering the exhibit withdraws the officer and, if so, permit the return of the exhibit to him or her.

(2) If the excluded exhibit is not withdrawn, it should be given an exhibit number for identification and be incorporated in the record.

(3) Exhibit numbers once used for identification will not be duplicated thereafter.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-715. Record in referred matter unaffected by a second reference.**

If for any reason an order referring a matter to a particular officer is vacated and the matter referred to a different officer, any testimony already taken in such proceeding shall be part of the record along with any testimony which thereafter may be taken.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-716. Evidence — Filing of subsequent to hearing — Copies.**

(a) Except as provided below or as expressly may be permitted in a particular instance, the State Highway Commission will not receive in evidence or consider as part of the record any documents, letters, or other writings submitted for consideration in connection with any proceeding after close of the hearing and may return any such documents to the sender.

(b) Before the close of a hearing, the commission or officer may, at the request of a party or upon his or her own motion or upon agreement of the parties, require that a party furnish additional documentary evidence supplementary to the existing record within a stated period of time.

(c) Documentary evidence thus to be furnished will not be assigned an exhibit number at the hearing, but the document will be given an exhibit number at the time of filing and the parties accordingly advised.

(d) Unless otherwise directed by the commission or officer, the original and nine (9) copies of such submission shall be filed with the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-717. Evidence — Objections to.**

(a) Formal exception to a ruling of the State Highway Commission or an officer at a hearing is unnecessary.

(b) It is sufficient that a party, at the time the ruling is made or sought, make known the action which he or she desires the commission or the officer to take or his or her objection to the action of the commission or officer and his or her grounds therefor.

(c) An objection not pressed in brief will be considered as waived.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-718. Oral argument.**

(a) If oral argument before the State Highway Commission or the officer is desired, notice should be given at or before the hearing and may arrange to hear the argument at the close of the testimony within such limits of time as may be determined, having regard to other assignments for hearing.

(b) Such argument will be transcribed and bound with the transcript of testimony and will be available to the commission for consideration in deciding the case.

(c) The making of an argument before an officer shall not preclude oral argument before the commission, and request therefor may be made as provided in 27 CAR § 110-804.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-719. Adjournment of hearing.**

A continuance may be granted if it is impossible to conclude a hearing within the time available or for any reason a continuance is necessary or advisable.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 8. Briefs — Oral Arguments**

**27 CAR § 110-801. Briefs — Content and arrangement.**

(a) **Due date.** The due date of each brief must appear on its front cover or title page.

(b) **Table of contents — Citations.** A brief of more than twenty (20) pages shall contain on its front flyleaves a table of contents to be supplemented by a list of citations, alphabetically arranged, with references to the pages where they appear.

(c) **Sketch or chart.** In proceedings wherein misrouting or undue prejudice or preference are alleged, the complainant should include as part of the brief a small sketch or chart adequately reflecting the situation.

(d) **Evidence abstract.**

(1) A brief filed after a hearing should contain an abstract of the evidence relied upon by the party filing it, preferably assembled by subjects, with reference to the pages of the record or exhibit where the evidence appears.

(2) The abstract should follow the statement of the case and precede the argument.

(3) In the event the party elects not to include a separate abstract in his or her brief, he or she should give specific reference to the portions of the record, whether transcript or otherwise, relied upon in support of the respective statements of fact made throughout the brief.

(e) **Requested findings.** Each brief should include such requests for specific findings, separately stated and numbered, as the party desires the State Highway

Commission to make.

**(f) Exhibit reproduction.**

(1) Exhibits should not be reproduced in the brief but may, if desired, be shown, within reasonable limits, in an appendix to the brief.

(2) Analyses of such exhibits should be included in the abstract of evidence under the subjects to which they pertain.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-802. Briefs — Time of filing.**

(a) In a proceeding which has been the subject of hearing, the State Highway Commission or officer may, subject to variation for cause shown, fix times for filing and serving the respective briefs as follows: for the opening brief, thirty (30) days from the close of hearing; for the brief of any opposing party, fifteen (15) days after the date affixed for the opening brief; and for the reply brief, ten (10) days after the date fixed for the brief of the opposing party; or may fix the same time for filing and serving of briefs of all parties.

(b) Where the same time is fixed, within fifteen (15) days after expiration of the time so fixed, reply briefs may be filed, and such briefs must be confined strictly to reply and contain no new matter, provided, however, that no reply brief may be filed in an investigation and suspension proceeding.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-803. Briefs of interveners.**

Briefs of interveners shall be filed and served within the time fixed for the brief of the party in whose behalf the intervention is made or as may be otherwise directed by the officer.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-804. Oral argument before commission.**

(a) **Request — How made.** Request for oral argument before the State Highway Commission must be made at the hearing.

(b) **Request for time allotment.**

(1) If the petition is granted, argument may be made at once or a notice will be served by the commission upon the parties setting the date for the oral argument.

(2) At least ten (10) days before any set date, any party desiring to participate in the oral argument must make request by letter (original only need be filed with the commission) for an allotment of time.

(3) Only those making request in this manner will be permitted to participate.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 9. Order Compliance — Show Cause Orders**

**27 CAR § 110-901. Compliance with commission orders.**

(a) When in consequence of proceedings under any act, the State Highway Commission has by its order directed a defendant or a respondent to do or desist from doing a particular thing, such defendant or respondent must notify the commission on or before the date upon which such order becomes effective whether or not compliance has been made therewith.

(b) If a change in rates or schedule is required, the notification must be given in addition to the filing of proper tariffs or schedules and must specify the commission numbers of the tariffs or schedules so filed.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-902. Issuance of show cause orders.**

Upon its own motion, the State Highway Commission may issue show cause orders

setting forth the matters complained of and requiring a party to appear and show cause why a particular order should not be issued.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-903. Procedure upon show cause order.**

(a) Upon the issuance of a show cause order, the State Highway Commission shall immediately serve a copy thereof upon each defendant, which shall constitute notice to each defendant requiring that the matter complained of be satisfied, or show cause order be answered, in writing, within ten (10) days of the date of such service, provided that the commission may in particular cases require the answer to be filed within a shorter time, and provided further that the commission may, for good cause shown, extend the time in which the answer may be filed.

(b) Any defendant failing to file answer within the period shall be deemed in default and all relevant basic facts stated in said show cause order shall be deemed admitted.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-904. Satisfaction of show cause order.**

(a) If the party against whom a show cause order has been issued shall make satisfaction before answering, he or she may in his or her answer state, without more, the fact and manner of satisfaction.

(b) If satisfaction is made after the filing and service of an answer, a supplemental answer setting forth only the fact and manner of satisfaction must be filed immediately upon such satisfaction.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 10. Rules Governing Carriers — General Information**

**27 CAR § 110-1001. Definitions.**

As used in this subpart:

(1) "Assigned, transferred, or hypothecated in any manner", as used in Arkansas Code § 23-13-232, means to include the sale, assignment, transfer, or hypothecation of the majority of stock in a corporation operating in intrastate commerce under a certificate or permit issued by the State Highway Commission;

(2) "Certified carriers" refers to common carriers holding certificates of convenience and necessity issued by the State Highway Commission and includes contract carriers holding permits issued by the State Highway Commission;

(3) "Closed doors", when used by regulatory authorities in connection with the operation of motor carriers, generally means the operation of a common carrier motor vehicle between designated points or over designated routes without receiving passengers or property, originating between such points or any such routes or discharging passengers or property between such points on such routes; and

(4) "Household goods" means:

(A) Personal effects and property used or to be used in a dwelling when a part of the equipment or supply of such dwelling;

(B) Furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; and

(C) Articles including objects of art, displays, and exhibits, voting machines and tabulating machines, including such auxiliary machines or component parts as are necessary to the performance of a complete tabulating process via punches, sorters, computers, verifiers, collators, reproducers, interpreters, multipliers, wiring units, and control panels and spare parts therefor, which because of the unusual nature or value require specialized handling and equipment usually employed in moving household goods.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1002. Shipper certification in support of applications.**

(a)(1) Every application for a certificate or permit shall indicate whether the application will be supported by shippers or others who will present evidence in support of the application as to their need for the service proposed.

(2) Such shipper certification shall not be substituted for the witness list required by 27 CAR § 110-314(d).

(b)(1) Certifications by each supporting shipper shall be filed at the time the application for permanent authority is filed.

(2) Such certification shall include but not be limited to:

(A) The business name of the supporting shipper;

(B) Its address;

(C) The name and title of the person who will be testifying on behalf of that supporting shipper; and

(D) The commodities to be transported by the applicant.

(3) In the event that the applicant secures additional supporting shippers prior to the time verified statements of supporting shippers are due, the applicant shall file a supplemental certification of supporting shipper for each supporting shipper.

(c) Noncompliance with the aforementioned requirements, absent a showing of good cause for failing in their observance, will result in the disallowance of testimony and evidence proffered by public witnesses upon whose behalf certifications or identifications (by name and location) have not been filed.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1003. Departure from general rules — Special conditions.**

(a) Every motor carrier must comply with the orders, tariffs, and rules of the State Highway Commission.

(b) If any motor carrier has any special conditions applying in the case of any of its

operations which justify departure by it from the general rules or tariffs of the commission, such motor carrier must present such special conditions to the commission by application.

(c) If, upon such application, it is shown that the special conditions exist and are such as to justify authority to a motor carrier to depart from the general rules and tariff requirements of the commission, on a hearing, after proper notice to persons who might be affected by such change of, or departure from the general rules, tariffs, and orders of the commission, such authority may be granted.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1004. Application to interstate commerce.**

All of the general rules of practice and special rules governing carriers as herein stated, and all orders of the State Highway Commission now in force or which may hereafter be made, and rules hereafter promulgated by the commission, shall apply equally to intrastate and interstate transportation for hire, and to all operators and motor vehicle carriers engaged in intrastate and interstate commerce, subject only to any reciprocity statutes or any other statutes of this state or the Interstate Commerce Act, Pub. L. No. 49-41, as amended.

**Authority.** Arkansas Code § 23-13-208.

**Codification Notes.** The Interstate Commerce Act is codified generally at 49 U.S.C. § 10101 et seq.

**27 CAR § 110-1005. Interruption of service.**

(a) Any interruption of regularly scheduled service which likely will continue for more than twenty-four (24) hours shall be reported promptly to the State Highway Commission together with a full statement of the cause of the interruption and its possible duration.

(b) No such interruption in service shall be suffered, except when beyond the control of motor vehicle carriers, without first securing the approval of the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1006. Changes in intrastate tariffs and schedules.**

(a) This section is not applicable to motor common carriers of passengers whose rates, rules, or practices are subject to United States Surface Transportation Board jurisdiction under Subchapter II of 49 U.S.C. §§ 10501 – 10562.

(b)(1) Changes in intrastate tariffs and schedules or any rule governing the same can be made by placing on file with the State Highway Commission according to Tariff Circular of the commission and the provisions of the Arkansas Motor Carrier Act, 1955, Arkansas Code § 23-13-201 et seq., or any amendment thereto, provided, changes in such intrastate tariffs and schedules can also be made by obtaining approval of the commission after application has first been made to the commission for approval of any proposed change in an intrastate tariff and schedule.

(2) In case of actual emergency, the commission may permit any proposed changes to become effective without the necessity of a formal hearing.

(c) No change in any intrastate tariff and schedule shall be granted by the commission after application therefor, except after public hearing held at least thirty (30) days after the date of first publication of the notice of hearing provided for above, unless the commission shall first find that an actual emergency exists as provided in subsection (b) of this section.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1007. Superhighways rules — Motor carriers.**

(a) All certificates of public convenience and necessity authorizing the transportation of persons or property, with or without exceptions, over a regular service route or routes, issued by the State Highway Commission pursuant to the provisions of

the Arkansas Motor Carrier Act, 1955, Arkansas Code § 23-13-201 et seq., shall be construed as authorizing operations over superhighways as defined below, including highways connecting such superhighways with the carrier's authorized regular service routes between the point of departure from the point of return to the carrier's authorized regular service route, provided that the superhighway route extends in the same general direction as the authorized service route and is wholly within twenty-five (25) airline miles of the carrier's authorized service route, and provided further, that the use of superhighways authorized herein shall not be construed as authorizing abandonment or curtailment of service at points previously authorized to be served.

(b) Motor carriers conducting operations over superhighways under subsection (a) of this section shall not receive or deliver freight from or to any person at any point not otherwise specifically authorized to be served by them.

(c) A superhighway is defined as any limited-access highway with split-level grade crossings and access ramps or completed portion thereof.

(d)(1) If upon the filing of a petition by any interested person and a determination of the issues presented thereby, the commission shall find that operations by any motor carrier under the provisions of subsection (a) of this section have resulted or are reasonably certain to result in either destructive competition or in the provision of inadequate transportation service by the carrier at any authorized service point, an appropriate order may be entered requiring the said motor carrier either to discontinue such operations in whole or in part, or to conduct its operations in compliance with the terms, conditions, and limitations in its certificate in the manner described in said order.

(2) Upon the establishment by the petitioner that a motor carrier's service at a point on its underlying service route has been discontinued or curtailed, the burden of showing that the discontinuance or curtailment is reasonable is upon the motor carrier engaged in operations under this section.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1008. Discontinuance of service.**

(a) Whenever no business is conducted under any permit, certificate, or license issued by the State Highway Commission for a period of one (1) year, such failure to render reasonably continuous service under the authority shall subject the holder of such authority to a hearing.

(b) The hearing will be for the purpose of determining whether or not the authority shall be continued or canceled.

(c) All holders of any permits, certificates, or licenses shall report discontinuance of service to the commission on forms provided if there has been no use of the pertinent authority or any part thereof for a period of one (1) year or longer.

**Authority.** Arkansas Code § 23-13-208.

## **Subpart 11. Applications**

### **27 CAR § 110-1101. Applications for certificates.**

(a) Every application for a certificate of convenience and necessity shall be in writing.

(b) Such application shall contain or be accompanied by the following:

(1) The name (and trade name, if any) and address or location of the principal office or place of business of applicant;

(2) A statement giving full information concerning the ownership, reasonable value, and physical condition of vehicles and other property proposed to be used by applicant;

(3) A full and complete financial statement giving detailed information concerning the financial condition of applicant;

(4)(A) A complete statement describing the service proposed to be rendered including points of territory to be served and commodities to be transported.

(B) If regular route authority is sought, such routes shall be specifically described.

(C) If irregular route authority is sought, the general territory to be served

shall be described;

(5) If regular route authority is sought, at least one (1) copy of a map or chart designating the routes over which the applicant desires to operate;

(6) The proposed time schedule, if a passenger application;

(7)(A) If applicant is a partnership, a copy of the partnership agreement.

(B) If no written partnership agreement has been entered into, a statement summarizing the agreement between the parties.

(C) If applicant is a corporation, a copy of its articles of incorporation;

(8) If applicant is not a resident of this state, a designation in writing of the name and address of a person maintaining a residence within this state upon whom service of process may be had; and

(9) Remittance of the statutory filing fee.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1102. Applications for permits.**

(a) Every application for a permit as a contract carrier shall be made in writing.

(b) The application shall contain or be accompanied by:

(1) The applicant's:

(A) Name (and trade name, if any); and

(B) Address and location of his or her or its principal place of business;

(2) A statement giving full information concerning the ownership, reasonable value, and physical condition of vehicles and other property to be used by applicant;

(3) A full and complete financial statement giving detailed information concerning the financial condition of applicant;

(4) A completed statement describing the service proposed to be rendered including points or territory to be served and commodities to be transported;

(5) At least one (1) copy of a map showing the routes over which, or the area in which, applicant proposes to operate;

(6) A statement showing proposed rates and charges applicant proposes to file

for approval by the State Highway Commission;

(7)(A) If applicant is a partnership, a copy of the partnership agreement.

(B) If no partnership agreement has been entered into, a statement summarizing the agreement between the parties.

(C) If applicant is a corporation, a copy of its articles of incorporation; and

(8) Remittance of the statutory filing fee.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-1103. Contracts of contract carriers — Contents —**

#### **Approval.**

(a) All contracts or agreements under which a contract carrier proposes to operate in intrastate commerce in this state shall be submitted to the State Highway Commission and approval of such contracts obtained before operations are begun.

(b) Each contract shall be reduced to writing and a duly executed duplicate original or a certified true copy thereof shall be furnished to the commission.

(c) Each contract shall be bilateral and impose specific obligations upon both the contract carrier and the other parties to the contract.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-1104. Applications for transfer or lease of certificate or permit.**

(a) Certificates, permits, and licenses shall not be assigned, transferred, or leased without prior authorization of the State Highway Commission and on written application.

(b) The application for transfer or lease must be accompanied by:

(1) The name and address or location of the principal office or place of business of each of the applicants;

(2)(A) A full and complete financial statement giving detailed information concerning the financial condition of the transferee.

(B) If the transferee is a partnership, a complete financial statement giving detailed information concerning the financial condition of each of the partners.

(C) If the transferee is a corporation, a copy of a certificate of good standing from the Secretary of State in which the corporation is domiciled and a financial statement of the corporation;

(3) A statement completely describing the authority sought to be transferred, including commodities authorized to be transported and the routes authorized to be served;

(4) A statement describing all property to be sold, transferred, or assigned and the amount to be paid therefor;

(5) A copy of all contracts, agreements, and other stipulations between the transferee and transferor;

(6) If the transferee is not a resident of this state, a written designation of a resident agent for service of process;

(7) If any party to the transfer of a certificate or permit is acting in a fiduciary capacity, proof of his or her authority to so act;

(8) A statement from the Treasurer of State, Commissioner of Revenues, or county collector to the effect that there are no outstanding and unpaid taxes of any nature;

(9) A joint affidavit that there are no unpaid taxes, station rents, wages, or other indebtedness incident to the vendor's operation, or if such is not the case will be assumed by the vendee; and

(10) Remittance of statutory filing fee.

(c)(1) No transfer or lease of the certificate or permit, or any part thereof, shall be granted by the commission unless there has been filed with the commission a statement by the Treasurer of State and/or the Commissioner of Revenues or his or her authorized deputy, certifying that there are no delinquent taxes outstanding against the transferor or against the certificate or permit sought to be transferred.

(2) Notwithstanding the above provisions, the requirements of subdivisions (b)(8) and (9) of this section shall not apply in any respect to either the vendor or

vendee where the vendor has filed for protection under the federal bankruptcy laws and is transferring the authority as a part of a reorganization or liquidation under an order directing the sale entered under the federal bankruptcy laws.

(d)(1) The transfer, lease, or assignment of the permit, certificate, or license shall not be authorized when the commission finds that the action will be inconsistent with the public interest or will have the effect of destroying competition or creating a monopoly.

(2) The transfer, lease, or assignment will not be authorized where it appears that reasonably continuous service under the authority or that part of the authority granted by the permit, certificate, or license which is sought to be transferred has not been rendered by the current holder of the permit, certificate, or license prior to the application for transfer, assignment, or lease.

(e)(1) Prior to the sale of a business or the addition of partners by any individual or business holding a certificate or permit, such change in the ownership structure of the carrier shall be reported to the commission in writing.

(2) Prior to the sale of stock in a publicly traded corporation, such sale shall be reported to the commission if the sale will constitute fifty percent (50%) or more of the outstanding shares or stock in the corporation in one (1) transaction or in a series of related transactions.

(3) The commission shall review the sale of the stock or the addition of a partner or any other change in the ownership structure of the business operating in intrastate commerce under a certificate or permit issued by the commission.

(4) Such documentation as is necessary for a full and complete review of the change in the ownership structure may be requested from the business by the commission.

(f)(1) Prior to the hypothecation of a certificate or permit, or the pledge of any assets of a business holding intrastate authority from the commission, a notice of the hypothecation or pledge of the assets shall be filed with the commission.

(2) The commission will acknowledge receipt of the notice of hypothecation and may request additional documentation as is necessary for a full and complete

review of the pledge of the asset of the certificate or permit.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1105. Approval of lease of certificate or permit.**

(a) Unless unusual circumstances are found by the State Highway Commission, a lease of operating rights will not be approved for longer than a period of one (1) year.

(b) During this time, the parties shall be expected to consider and determine whether or not they want to enter into a transaction of sale and purchase of the rights conferred under the certificate or permit.

(c) At the end of the lease period, lessee shall file with the commission a statement of intent as to the plans of the lessee as they pertain to future use of the permit.

(d) Should the lessee request an extension of operating rights beyond the one (1) year approved herein, such extension shall be requested in the statement filed by the lessee at the end of the lease period.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1106. Application for approval of finance matters.**

(a) Each application by a motor carrier for authority to issue stocks, bonds, notes, or other evidence of indebtedness payable at a period of more than twelve (12) months from the date thereof, or for authority to create a lien for any purpose upon its property situated in this state, shall be in writing.

(b) An original and nine (9) copies of such application shall be furnished, and the application must contain or be accompanied by:

(1) The name and address or location of the principal office or place of business of the applicant;

(2) A general description of the operating authority held by the motor carrier under its existing certificates or permits;

(3) A full and complete financial statement or balance sheet giving detailed

information concerning the financial condition of applicant;

(4) A full and complete operating statement of applicant, showing in detail its operating results for the twelve-month period just prior to the date of filing of the application;

(5) A copy of the proposed note, bond, stock certificate, mortgage, etc., proposed to be issued; and

(6) A complete statement of the use to be made of the proceeds of such financing.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1107. Applications for temporary authority.**

(a) Every application for temporary authority shall be in writing on the forms provided by the State Highway Commission and shall be duly verified by the applicant, or in the case of a corporation or partnership, by one (1) of the principal officers or by one (1) of the partners.

(b) Such applications shall contain or be accompanied by:

(1) A statement of the facts relied upon to establish:

(A) That there is an immediate and urgent need for the service proposed;

and

(B) That there is no other duly authorized carrier ready, willing, and able to fulfill such need;

(2) A statement as to the duration of the period of time the emergency can be expected to exist;

(3) A complete statement describing the service proposed including the:

(A) Points or territory to be served;

(B) Routes to be traversed; and

(C) Commodities to be transported;

(4) A statement giving the proposed fares and rates to be charged if applicant is not a party to agency tariffs;

(5) If applicant is not a resident of this state, a designation in writing of the name and address of a person maintaining a residence within this state upon whom service of process may be had in all actions arising in this state;

(6) A verified statement from shippers and receivers to show there is an urgent and immediate need for the proposed service;

(7) Remittance of the statutory fee; and

(8) A statement showing amount and kind of equipment to be used and a financial statement and any other information to establish fitness and ability of applicant.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1108. Applications for registration of interstate authority.**

(a) Every motor carrier using any of the public highways of this state for the transportation of persons or property in interstate commerce shall make application to the State Highway Commission for a certificate or permit, whichever is applicable, authorizing such operation.

(b) Such application shall be in writing, verified under oath, and shall contain or be accompanied by the following:

(1) The name (and trade name, if any) and address or location of the principal office or place of business of applicant;

(2) A copy of applicant's authority granted by the United States Surface Transportation Board;

(3) A complete description of the type of service rendered by the applicant;

(4)(A) If applicant is a corporation, the state in which incorporated, and the name and address of its president and secretary.

(B) If applicant is a partnership, the name and address of its partners;

(5) If applicant is not a resident of this state, a designation in writing of the name and address of a person maintaining a residence within this state upon whom service of process may be had in all actions arising in this state; and

(6) Remittance of the statutory filing fee.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1109. Application for transporting United States Surface Transportation Board exempt commodities.**

(a) Every motor carrier using any of the public highways of this state for the transportation of property exempted under Section 203(b) of the Interstate Commerce Act, Pub. L. No. 49-41, shall make application to the State Highway Commission for a certificate or permit, whichever is applicable, authorizing such operation.

(b) Such application shall be in writing, verified under oath, and shall contain or be accompanied by the following:

(1) The name (and trade name, if any) and address or location of the principal office or place of business of applicant;

(2) A statement giving full information concerning the ownership, reasonable value, and physical condition of vehicles and other property to be used by applicant;

(3) A full and complete financial statement giving detailed information concerning the financial condition of applicant;

(4) A complete statement describing the service proposed to be rendered including points or territory to be served and the commodities to be transported;

(5)(A) If applicant is a partnership, a copy of the partnership agreement.

(B) If no partnership agreement has been entered into, a statement summarizing the agreement between the parties.

(C) If applicant is a corporation, a copy of its articles of incorporation;

(6) If applicant is not a resident of this state, a designation in writing of the name and address of a person maintaining a residence within this state whom service of process may be had in all actions arising in this state; and

(7) Remittance of the statutory filing fee.

**Authority.** Arkansas Code § 23-13-208.

**Codification Notes.** The Interstate Commerce Act is codified primarily at 49 U.S.C. § 10101 et seq.

**27 CAR § 110-1110. Failure to commence operation.**

(a) Failure on the part of any motor vehicle carrier to commence operation of any route or routes specified in any permit or certificate within ninety (90) days after the issuance of the same, shall automatically cancel said permit or certificate and render same null and void.

(b) In the event a permit or certificate is rendered void under this part, a new permit or certificate will be issued to the carrier only upon compliance with all rules necessary for the issuance of an original permit or certificate.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1111. Failure to comply with tariff, schedule, or insurance requirements.**

If compliance is not made by an applicant with the tariff, schedule, and insurance requirements within ninety (90) days from the date notice is given by the State Highway Commission to the applicant or his or her attorney of the extent of the authority to be granted by the commission, the order granting such authority will become null and void, provided notice of appeal has not been filed, or the commission has not granted an extension of time upon a showing of good cause.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1112. Application for hazardous waste transportation permit.**

(a) Every application for a hazardous waste transportation permit shall be made in writing.

(b) The application shall contain or be accompanied by:

(1) The applicant's name (or trade name, if any) and address or location of his or her or its principal place of business;

(2) A statement giving full information concerning the ownership, reasonable values, and physical condition of vehicles and other property to be used by the applicant;

(3) A full and complete financial statement giving detailed information concerning the financial condition of the applicant;

(4) A full and complete statement giving detailed information concerning the hazardous waste to be transported and services, if any, proposed to be rendered by the carrier;

(5) A detailed list of equipment that will be used to transport such materials;

(6) A statement that such equipment meets specifications set by the United States Department of Transportation for use in transporting such materials;

(7) A statement showing proposed rates and charges applicant has filed, or will file, for approval by the State Highway Commission;

(8)(A) If applicant is a partnership, a copy of the partnership agreement.

(B) If applicant is a corporation, a copy of its articles of incorporation;

(9) If applicant is not a resident of this state, a designation in writing of the name and address of a person maintaining a residence within this state upon whom service of process may be had in all actions arising in this state; and

(10) Remittance of a fifty-dollar filing fee.

**Authority.** Arkansas Code §§ 23-13-208, 23-13-219.

**27 CAR § 110-1113. Applications of common carriers for armored car service — Contents — Approval.**

(a) Armored car companies making application for intrastate authority may apply as common carriers, notwithstanding the fact that contracts may be or have been entered into between the applicant and shippers.

(b) Armored car companies are expressly allowed as common carriers to enter into an unlimited number of contracts with shipping financial institutions.

(c) Contracts entered into between armored car common carriers and shippers shall be subject to review by the State Highway Commission.

(d) Review of the contracts shall include but not be limited to:

(1) Uniformity of rates between shippers, taking into consideration the:

(A) Location;

(B) Frequency of service; and

(C) Minimum delivery clauses;

(2) Conformity with filed tariffs;

(3) Duration of contracts;

(4) Cancellation clauses, including any opportunity to cure service complaints;

(5) Adequacy of service provided; and

(6) Any terms requiring exclusive use of the armored car carrier's services.

(e) Contract provisions as to schedule of stops and size of shipments will not be reviewed.

(f) **Guidelines for this section.**

(1) Contracts entered into between armored car common carriers and shippers shall be reviewed by the commission.

(2) The review shall include the following:

(A) All rate increases and reductions which form the basis for all charges set out in the terms of armored car contracts shall be filed according to current commission rules;

(B) Contracts must conform strictly to all rates and rules set forth in approved tariffs, supplements and revisions thereto, and reissues thereof;

(C)(i) Terms of contracts or agreements shall be no more than twelve (12) months in duration and contain a cancellation clause requiring thirty (30) calendar days' written notice on behalf of either party.

(ii) The reason or reasons for cancellation of contract shall be enumerated to allow an opportunity to cure service complaints;

(D) All contracts shall contain any special arrangements or additional services agreed upon by both executing parties for which carrier has established rates and charges in its approved tariff or tariffs;

(E) Contracts shall not contain minimum shipment clauses as a prerequisite for beginning and continued service;

(F) No contract shall contain any provision requiring exclusive use of the carrier's service;

(G) A true and correct copy of all new contracts shall be made available to the rate analyst for review no later than ten (10) days following execution, or additionally, upon request; and

(H) All existing contracts shall be made available upon request of the commission staff for further review.

(3)(A) Contract provisions regarding schedule of stops and size of shipments will not be subject to review by the commission.

(B) This information should be deleted or detached before submission.

**Authority.** Arkansas Code § 23-13-208.

## **Subpart 12. Registration and Identification of Vehicles**

### **27 CAR § 110-1201. Registration of vehicles.**

(a) No vehicle shall be operated under any certificate or permit without being accompanied by valid evidence of payment of the regulatory fee required by the State Highway Commission.

(b) Except for driveaway operations, evidence of payment of the regulatory fee shall be issued in the form of an identification stamp affixed to the Form D Cab Card and shall be issued only to motor carriers holding a valid certificate or permit from the commission.

(c) The mere presence of such identification stamp is evidence only of payment of the required regulatory fee and creates no presumption that the vehicle is being

operated by the purchaser of the regulatory stamp or pursuant to proper operating authority issued by the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1202. Applications for regulatory stamps.**

(a) Each common and contract carrier of persons and property shall annually on or before the first day of June make application in writing for regulatory stamps which shall contain the following information:

(1) Name and address of the carrier;

(2) The number of the permit or certificate issued by the State Highway Commission under which the applicant is operating; and

(3) The number of regulatory stamps desired by the carrier.

(b) Remittance shall accompany all applications for regulatory stamps made payable to the commission in sufficient amount to equal the amount produced by five dollars (\$5.00) multiplied by the number of vehicles to be used by the carrier in line-haul operations in this state, except in the following instances:

There shall be collected from each common or contract carrier of passengers and/or property holding a certificate or permit issued pursuant to this Act, or any Act prior hereto, and from each interstate carrier of passengers and/or property subject to this Act, an annual regulatory fee of five (\$5.00) dollars for each bus, truck, or truck-tractor used by such carrier in line-haul operations; provided, however, if the state of domicile of such interstate carrier requires payment of a greater amount by carriers domiciled in this State than five (\$5.00) dollars per annum per bus, truck, or truck-tractor for like or similar purposes, then the regulatory fee imposed by this section upon vehicles domiciled in the State imposing the higher fee, shall be increased to equal the amount imposed by such State; and provided further, evidence of payment of the regulatory fee herein imposed shall not be issued by the Arkansas State

Highway Commission or its successor until the carrier files with said Commission a receipt or certified statement from the Arkansas Commissioner of Revenues that all ad valorem taxes due and payable to the State of Arkansas have been paid by such carrier, or a certificate showing that the certification of taxes due has been duly protested by such carrier and/or that litigation thereon is pending. Holders of temporary intra- state-authority shall pay the same fees reduced proportionately as the period for which such temporary authority is granted shall bear to one (1) year.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1203. Regulatory cards for driveaway operations.**

(a) No motor vehicle shall be operated under any certificate or permit in driveaway service without being accompanied by an annual regulatory card issued by the State Highway Commission in lieu of a regulatory stamp.

(b) Each common and contract carrier authorized by the commission to engage in for-hire operations in driveaway service shall annually on or before the first day of June make application in writing for regulatory cards which shall contain the following information:

(1) Name and address of the carrier;

(2) The number of the permit or certificate issued by the commission under which the carrier is operating; and

(3) The number of regulatory cards desired.

(c)(1) Remittance shall accompany all application for regulatory cards made payable to the commission in sufficient amount to equal an amount produced by multiplying five dollars (\$5.00) times the number of regulatory cards necessary to place a card with each vehicle transported in driveaway service.

(2) The use of such regulatory cards shall be limited to vehicles being transported in driveaway service and the use thereof for any purpose shall be unlawful.

(3) In the event more than one (1) vehicle is being transported as a unit in such operation, either by saddle-mount or towbar, only one (1) card shall be required for the unit.

(4) The annual regulatory card may be used interchangeably by the holder thereof on all vehicles being operated by him or her or it in driveaway service under proper authority of the commission.

(5) The card shall be carried by the driver of the vehicle and shall be available for inspection by enforcement officers of the commission.

(6) Once an annual regulatory card has been issued, it will not be redeemed, reissued, or replaced for any cause.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1204. Identification of vehicles.**

(a)(1) Each carrier operating under authority of the State Highway Commission must at all times have displayed on both sides of all power units identification of ownership of the vehicle.

(2) If the vehicle is leased, the identification shall indicate the name of the lessee.

(3) Identification of ownership or lessee shall be in characters of such size, shape, and color as to be readily legible during daylight hours from a distance of fifty feet (50') while the vehicle is not in motion and shall be so maintained at all times as to be readily discernible to the public.

(4) Vehicles identified in compliance with the requirements of the United States Surface Transportation Board will be considered as meeting the requirements of this section.

(b) Each carrier operating under authority of a hazardous waste transportation permit must, in addition to the requirements of subsection (a) of this section, have displayed on both sides of all power units the location of the principal office of the operator and the hazardous waste transportation permit number.

**Authority.** Arkansas Code § 23-13-208.

### **Subpart 13. Insurance**

#### **27 CAR § 110-1301. Public liability and property damage endorsement.**

(a)(1) All carriers by motor vehicles are required to file public liability and property damage insurance or, in lieu thereof, a certificate of insurance on the form approved by the State Highway Commission with minimum liability as set out in the Arkansas public liability and property damage endorsement which must be attached.

(2) The endorsement on public liability and property damage insurance shall be on the form prescribed.

#### **(b) Schedule of minimum limits — Liability.**

(1) On each motor vehicle used in the transportation of property:

(A) Fifty thousand dollars (\$50,000) for bodily injuries to or death of one (1) person;

(B) One hundred thousand dollars (\$100,000) for bodily injuries to or death of all persons injured or killed in any one (1) accident; and

(C) Thirty thousand dollars (\$30,000) for loss or damage in any one (1) accident to property of others.

(2) On each motor vehicle used in the transportation of persons having a seating capacity of twelve (12) passengers or less:

(A) Fifty thousand dollars (\$50,000) for bodily injuries to or death of one (1) person;

(B) Eighty thousand dollars (\$80,000) for bodily injuries to or death of all persons injured or killed in any one (1) accident; and

(C) Thirty thousand dollars (\$30,000) for loss or damage in any one (1) accident to property of others.

(3) On each motor vehicle used in the transportation of persons having a seating capacity of thirteen (13) to twenty (20) passengers inclusive:

(A) Fifty thousand dollars (\$50,000) for bodily injuries to or death of one (1) person;

(B) One hundred twenty thousand dollars (\$120,000) for bodily injuries to or death of all persons injured or killed in any one (1) accident; and

(C) Thirty thousand dollars (\$30,000) for loss or damage in any one (1) accident to property of others.

(4) On each motor vehicle used in the transportation of persons having a seating capacity of twenty-one (21) to thirty (30) passengers inclusive:

(A) Fifty thousand dollars (\$50,000) for bodily injuries to or death of one (1) person;

(B) One hundred sixty thousand dollars (\$160,000) for bodily injuries to or death of all persons injured or killed in any one (1) accident; and

(C) Thirty thousand dollars (\$30,000) for loss or damage in any one (1) accident to property of others.

(5) On each motor vehicle used in the transportation of persons having a seating capacity of thirty-one (31) passengers or over:

(A) Fifty thousand dollars (\$50,000) for bodily injuries to or death of one (1) person;

(B) Two hundred thousand dollars (\$200,000) for bodily injuries to or death of all persons injured or killed in any one (1) accident; and

(C) Thirty thousand dollars (\$30,000) for loss or damage in any one (1) accident to property of others.

(6) On vehicles used to transport hazardous material and hazardous waste.

(A)(i) Type of carriage: for-hire and private in interstate, foreign, and/or intrastate commerce.

(ii) Kind of equipment: freight vehicles of ten thousand pounds (10,000 lbs.) or more gross vehicle weight rating.

(iii) Commodity transported:

(a) Hazardous substances as defined in 49 C.F.R. § 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in

excess of three thousand five hundred (3,500) water gallons;

(b) In bulk Class A or B explosives, poison gas, or compressed gas; or

(c) Highway route-controlled quantity radioactive materials as defined in 49 C.F.R. § 173.403.

(iv) Liability limit: five million dollars (\$5,000,000).

(B)(i) Type of carriage: for-hire and private in interstate or foreign commerce in any quantity, or in intrastate commerce, bulk only.

(ii) Kind of equipment: freight vehicles of ten thousand pounds (10,000 lbs.) or more gross vehicle weight rating.

(iii) Commodity transported:

(a) Oil listed in 49 C.F.R. § 172.101; or

(b) Hazardous waste, hazardous materials, and hazardous substances defined in 49 C.F.R. § 171.8 and listed in 49 C.F.R. § 172.101, but not mentioned above or below.

(iv) Liability limit: one million dollars (\$1,000,000).

(C)(i) Type of carriage: for-hire and private in interstate commerce.

(ii) Kind of equipment: freight vehicles under ten thousand pounds (10,000 lbs.) gross vehicle weight rating.

(iii) Commodity transported:

(a) Any quantity of Class A or B explosives;

(b) Any quantity of poison gas (Poison A); or

(c) Highway route-controlled quantity radioactive materials as defined in 49 C.F.R. § 173.403.

(iv) Liability limit: five million dollars (\$5,000,000).

(c) **Schedule of minimum limits — Cargo.** All common carriers of property by motor vehicle are required to file cargo insurance with minimum liability of five thousand dollars (\$5,000) with cargo endorsement attached.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1302. Qualifications as self-insurer.**

(a) Any motor carrier who shall have qualified as a self-insurer in accordance with the rules and regulations of the United States Surface Transportation Board governing motor carriers engaged in interstate or foreign commerce shall be prima facie deemed qualified as a self-insurer in the State of Arkansas.

(b) When a carrier operates solely in interstate commerce pursuant to a certificate or permit issued by the United States Surface Transportation Board, the owner, lessor, or a corporate officer must certify to the State Highway Commission:

- (1) The name of its liability carrier;
- (2) The policy;
- (3) The effective date of said insurance; and
- (4) Its Arkansas agent for service of process.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1303. Reinstatement of cancelled certificates or permits.**

Permits or certificates cancelled for failure or refusal of the holder to renew and file evidence of security for the protection of the public shall not be reinstated unless such evidence is filed with the State Highway Commission within sixty (60) days from the date of said cancellation order.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 14. Leasing of Vehicles**

**27 CAR § 110-1401. By authorized carriers to shipper or receiver.**

Authorized carriers shall not lease vehicles with or without drivers to shippers or receivers.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1402. By private owner to shipper or receiver.**

(a) In cases where any one (1) of the following situations exist, the purported lessor-lessee relationship shall be deemed to be the relationship of shipper and carrier which will, of course, require the carrier to obtain authority from the State Highway Commission in order that he or she may operate as proposed:

(1) Where the alleged lessor directly or indirectly furnishes or selects the driver or drivers for the vehicles to be used;

(2) Where the lease is for a single, one-way trip, the lessor taking possession of the vehicle for further leasing to another shipper for a return haul or after discharge of the cargo at destination;

(3) Where the lessor assumes responsibility for safe delivery of the cargo transported or furnishes cargo insurance;

(4) Where the lessor recognizes liability for operation of the leased vehicle on the highways and furnishes public liability and property damage insurance payable to lessor-lessee as their interest may appear;

(5) Where lessor collects from purported lessee compensation for the rental of the vehicles, computed in rates in cents per one hundred pounds (100 lbs.) or other unit of measure of property hauled, or any other arrangement which indicates a normal transportation charge instead of a charge for the use of the leased vehicle;

(6) Where the lessor issues receipts or bills of lading to the purported lessee for the contents of the cargo hauled on the leased vehicle;

(7) Where the lessor arranges for the segregation of the drivers' wages and has the shipper pay it, and then credits the amount of such wages on the agreed total compensation to lessor from the purported lessee;

(8) Where the drivers' daily logs are submitted first to the lessor and later transmitted to the lessee;

(9) Where the lessor exercises the principal control over the driver of the vehicles, instead of that control being exercised by the lessee; and

(10) Where the lessee fails to observe the provisions of the written lease relating to the selection of drivers.

(b) In order for the operations to be those of a private carrier, there must be a clear showing that the control and responsibility over the operations of the vehicle pass from the owner, renter, or lessor, to the shipper who, for the period of the agreement, exercises such control and responsibility over the operations of the vehicle as would be exercised by it if it were the owner of the vehicle.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1403. Copy of lease agreement carried in vehicle.**

Each vehicle leased to a carrier shall carry a copy of the lease agreement properly verified.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 15. Carriage of Property**

**27 CAR § 110-1501. Manifests or freight bills to accompany vehicle.**

(a) Each vehicle performing inter-city operations in the transportation of freight for hire shall carry freight bills covering the cargo transported, which freight bills shall be made available for inspection at any point on the route upon demand by authorized representatives of the State Highway Commission.

(b) If for any reason the carrier finds it impractical or inconvenient to furnish the driver with the bills covering the shipments carried at the time the truck is dispatched, the driver shall be furnished in lieu thereof a manifest showing the:

- (1) Name of the consignor and consignee;
- (2) Origin and destination; and
- (3) Articles and weight of each shipment on each truck.

(c) Such manifests shall be made available for inspection upon demand by any

representative of the commission at any point on the route.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1502. C.O.D. shipments.**

(a)(1) In case of C.O.D. shipments handled by common carriers, the full amount due the consignor, as shown by the bills of lading or papers attached thereto, shall be collected at the time the shipment is delivered unless the consignor shall authorize in writing the collection of a lesser amount.

(2) Remittance of the amount so collected shall be made by the delivering carrier direct to the consignor as soon as good and efficient bookkeeping methods will permit.

(3) In no case shall the remittance be delayed longer than ten (10) days.

(4) If the delivering carrier is unable to make collection when the shipment is tendered for delivery, or if for some reason the shipment cannot be delivered, the delivering carrier shall immediately so notify the consignor.

(5) If the consignor does not within ten (10) days instruct the carrier holding the shipment as to what disposition should be made of it, such carrier shall forthwith return the shipment to the consignor and so notify other carriers involved, if any.

(6) In cases where more than one (1) carrier is involved in the handling of C.O.D. shipments, the delivering carrier is responsible for the collection from the consignee and remitting to the consignor of all amounts due, and so notifying other carriers involved, if any.

(b)(1) Each carrier handling C.O.D. shipments shall maintain a C.O.D. register at its general office and enter therein each C.O.D. shipment received.

(2) Each C.O.D. shipment shall be entered and consecutively numbered showing the name and address of the consignor and consignee, the amount due the consignor, the origin and destination of the shipment, the date of receipt thereof, and of delivery to the consignee together with the interline handling, if any.

(3) In the event the shipment is interlined, it is hereby made the duty of the

delivering carrier to supply to the carrier from which the shipment was received such information as may be necessary to complete such C.O.D. register.

(4) It being intended that the information herein specified shall be shown on the C.O.D. register of each carrier handling any C.O.D. shipment.

(5) Such register shall, at all times, be open to inspection of the State Highway Commission and its staff to the same extent as other accounts, records, documents, and memoranda as authorized in Acts 1955, No. 397.

**Authority.** Arkansas Code § 23-13-208.

**Codification Notes.** "C.O.D." means collect on delivery.

**27 CAR § 110-1503. Receipts and records.**

(a) Every motor vehicle carrier of property shall issue a receipt when such property is delivered to the carrier for transportation and shall keep a copy of the same and shall, for collection of the charges of transportation, issue an expense bill which shall show the classification of the property and the rate charged for its transportation and shall keep a copy of same.

(b) Every such carrier shall keep permanent books of account in such manner as to show the rate on every shipment carried by such carrier and in such manner that it may be ascertained from an inspection of said books whether the carrier is applying the lawful rate.

(c) Failure to comply with this section shall be grounds for cancelling operating authority.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1504. Transportation of passengers prohibited.**

No motor carrier holding a permit or certificate authorizing the transportation of property only shall transport passengers, except company employees with or without

compensation.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1505. Claims for loss or damage.**

**(a) Acknowledgment of claims.**

(1) Every carrier of property regulated by the State Highway Commission which receives a written claim for loss of or damage to property transported by it shall acknowledge receipt of such claim in writing to the claimant within thirty (30) calendar days after its receipt by the carrier or the carrier's agent.

(2) The carrier shall at the time such claim is received cause the date of receipt to be recorded on the claim.

**(b) Handling by carrier.**

(1) Every such carrier which receives a written claim for loss or damage to property transported by it shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within one hundred twenty (120) days after receipt of the claim by the carrier or its agent.

(2) Provided that, if for reasons beyond the control of the carrier, the claim cannot be processed and disposed of within one hundred twenty (120) days after the receipt thereof, the carrier shall at that time and at the expiration of each succeeding thirty-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reasons for the delay in the making final disposition thereof, and send a copy of such letter to:

Arkansas State Highway Commission  
P.O. Box 2261  
Little Rock, Arkansas 72203

**(c) Register of loss and damage claims.**

(1) Every such carrier shall maintain a freight claim register showing for each

loss and damage claim received:

- (A) The claim number, date, and amount;
- (B) The waybill or expense bill number and date;
- (C) Name of claimant;
- (D) Address of claimant;
- (E) Kind of commodity;
- (F) Date claim was paid;
- (G) Total amount paid, or date claim was disallowed and reasons for such

disallowance;

- (H) Amount of salvage recovered, if any;
- (I) Amounts reimbursed to insurance companies, connecting carriers, or

others; and

- (J) The amount absorbed by the carrier.

(2) Each claim received shall be entered in the register and shall be supported by the complete file of claim papers.

(3) If the claim papers are retained by insurance companies, connecting carriers, or others, the records of the carrier should contain an acknowledgment from the party retaining the claim file stating that the claim papers are in its possession.

**Authority.** Arkansas Code § 23-13-208.

## **Subpart 16. Special Rules Governing Mobile Home Carriers**

### **27 CAR § 110-1601. Mobile home carriers — Claims procedure.**

The following requirements shall be applicable to intrastate activity of any mobile home mover, hereinafter called "carrier", who has a certificate of public convenience and necessity from the State Highway Commission:

(1)(A) Each carrier shall designate an employee as claims manager and shall file the name, business address, and telephone number of such employee with the commission.

(B) It shall be the responsibility of the claims manager to execute other provisions of this section as agent for the carrier;

(2)(A) Any claim or complaint made to the carrier with reference to loss or damage to property transported by it or services unsatisfactorily rendered by it, however communicated to the carrier, shall be recorded and kept on file by the carrier.

(B) Hereafter, such claim or complaint shall be referred to as a claim, and the complaining party as the claimant.

(C) Such record shall contain the following for each claim:

(i) Name, address, and telephone number of claimant;

(ii) Date of receipt of the claim;

(iii) Specific nature of claim;

(iv) Copies of all correspondence received by the carrier or sent by the carrier to any other party with reference to the claim;

(v) Record of the content of any conversations, by telephone or in person, between the carrier or its agent and the claimant with reference to the claim;

(vi) Record of the pre-move inspection required to be made by 27 CAR § 110-1602; and

(vii) Record of the investigation made by the carrier of the claim;

(3) Every claim received by the carrier, whether by written correspondence, telephone, or otherwise, shall be acknowledged in writing to the claimant within ten (10) calendar days after receipt thereof;

(4)(A) When a claim is filed, the carrier shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within sixty (60) days after receipt of the claim, subject to the provisions of subdivision (5) of this section.

(B) For the purpose of this section, payment of a claim may be satisfied by actual, present repair of damage by the carrier or its agent if such is agreeable to the claimant.

(C) An agreement for future repair to be completed later than sixty (60) days after receiving the claim, if such is agreeable to the claimant, will be considered to be a firm compromise settlement offer if the reason for that delay is the carrier's

unavoidable delay in receiving materials required to make the repair;

(5)(A) If for reasons beyond the control of the carrier, the claim cannot be processed and disposed of within sixty (60) days after receipt thereof as required by subdivision (4) of this section, the carrier, upon becoming aware that processing of the claim will take longer than sixty (60) days, shall notify the claimant in writing of the delay and of the reason for such delay in disposition of the claim.

(B) The carrier shall furnish a copy of this correspondence to the commission, and it shall be indicated on the correspondence to the claimant that the commission has been sent such copy.

(C) That indication shall state the full address and the telephone number of the commission (Arkansas State Highway Commission, P.O. Box 2261, Little Rock, Arkansas, 72203, Telephone No. (501) 569-2000).

(D) At the expiration of each succeeding thirty-day period following original notification to the claimant that the disposition of the claim will be delayed, and for as long as there has been no final disposition of the claim, the carrier shall advise the claimant in writing of the status of the pending claim, and shall send a copy of such correspondence to the commission; and

(6)(A) Upon declining to pay any claim or upon the expiration of a ninety-day calendar period after receipt by a carrier of a claim of which there has been made no final disposition, the carrier shall send to the commission a copy of the full record of the claim which has been kept in accordance with subdivision (2) of this section.

(B) Provided, nothing in this subsection shall be interpreted to require the commission to be informed of any confidential or privileged communication concerning a claim between an agent of the carrier and the carrier or its representative unless such communication forms any part of the basis upon which a claim is denied.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1602. Mobile home carriers — Pre-move inspection.**

(a)(1) Each mobile home carrier certificated by the State Highway Commission or

its agent shall be required to make a pre-move inspection of all mobile homes to be moved intrastate in Arkansas.

(2) Such pre-move inspection shall be made in accordance with the provisions of this section (form found in Chapter 8).

(b)(1) A record of each pre-move inspection shall be made on a form provided by the carrier, which shall comply with that set forth in this section.

(2) Inspection items not required by the form may be included on the form at the option of the carrier.

(3) If such additional items are included, they must be given the same attention by the carrier's agent and the customer as is required by this section for mandatory items specified in the form.

(c)(1) At least two (2) copies of each form shall be provided by the carrier.

(2) Upon completion of the form, at least one (1) copy shall be given to the customer, and at least one (1) copy shall be retained by the carrier or the carrier's agent, to be kept on file by the carrier.

(d)(1) Each inspection item on the form must be completed by the agent of the carrier to reflect the:

(A) Extent and nature of preparation for the move;

(B) Physical problems anticipated in completing the move; and

(C) Condition of the mobile home and other property.

(2) Section I of the pre-move inspection record shall be made prior to the move.

(3) Those inspection items of Section I which may be completed upon telephone inquiry or which require personal inspection of the destination site pursuant to this subsection should, when possible, be completed prior to the day for which the move is scheduled.

(4) Section II of the inspection shall be completed immediately preceding the move.

(5) Items in Section II which can be inspected before the carrier's agent performs any other services, such as unblocking or jacking, should be completed at that

time.

(6) All items in Section II shall be completed before the mobile home is removed from the place of origin.

(e)(1) If at the time of the pre-move inspection the agent of the carrier believes conditions are such that a possibility of damage to the mobile home during movement exists, the carrier must so advise the owner in writing with an explanation of why such damage may occur.

(2) If the agent believes, based upon representations made to him or her by the owner or for some other reason, that damage may occur as a result of difficulty in placing the mobile home at its destination site, he or she or another agent of the carrier must personally inspect that site, or advise the owner that it appears that a wrecker may be needed to place the mobile home at the destination, and that such expense, if necessary, must be borne by the owner.

(f)(1) After completion of the preinspection record, it shall be signed by both the agent of the carrier and the owner or an agent of the owner of the mobile home.

(2) The owner shall not, by signing the completed form, relinquish any rights which should accrue to him or her as a result of damage or loss of property which might occur during the move or at any time during which the carrier or its agent is rendering services to the customer.

(3) The agent's and customer's signature shall indicate, however, that the designations on the form do reflect actual conditions at the time of the pre-move inspection to the extent of the knowledge of each party, and that the agent of the carrier has in fact complied with this section in making the pre-move inspection.

(g)(1) The pre-move inspection shall be recorded on a form specified by the commission.

(2) If any additional items permitted by subsection (b) of this section are used by any carrier on the form, they shall be placed after item (21) under the additional heading, "Section III".

(h) A person designated by the owner may act as the owner's representative for the purposes of this section.

(i) When any customer-owner makes a claim or complaint against the carrier, a copy of the completed preinspection record for the move involved shall be placed in the claim file which is required to be kept by 27 CAR § 110-1601(2).

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1603. Mobile home carriers — Customers' complaints to commission.**

For all mobile home movers certificated by the State Highway Commission, both the pre-move inspection record required by 27 CAR § 110-1602 and the customer's copy of the freight bill shall contain the following language on the front side of the bill or record, in bold-faced type:

**NOTICE TO OWNERS**

**CLAIMS**

All claims and complaints not resolved to your satisfaction may be reported to the State Highway Commission for investigation.

Arkansas State Highway Commission

P.O. Box 2261

Little Rock, Arkansas 72203

Telephone: (501) 569-2355

**Authority.** Arkansas Code § 23-13-208.

**Subpart 17. Carriage of Passengers**

**27 CAR § 110-1701. Routes and schedules.**

(a) No motor vehicle carrier transporting passengers shall operate any schedule not on file with the State Highway Commission, nor shall it operate over any routes not approved by the commission.

(b) Provided, this shall not prevent the running of extra vehicles on their regular schedules to handle excess business, or charter operations, if such extra vehicles are fully protected by insurance policies on the same, filed with the commission, and comply with all other rules.

(c) When more than one (1) carrier is operating over the same route, no operating schedule will be approved by the commission if any proposed run is within thirty (30) minutes of any other run of any competing carrier or carriers legally on file with the commission.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1702. Adherence to schedule.**

(a) Motor buses must be operated on schedule and under no condition pass schedule points ahead of time.

(b) If delayed, operators shall not attempt to make up time by exceeding the speed limit allowable.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1703. Changes in operating schedules.**

When changes are proposed in passenger operating schedules on file with the State Highway Commission, notice of the proposed schedule change shall be posted in each station on the route of the schedule proposed to be changed at least thirty (30) days prior to the effective date of such proposed schedule change.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1704. Ejection of passengers.**

(a) Operators are authorized to eject passengers who fail to pay their fare or who make themselves objectionable by disorderly or offensive conduct.

(b) Such ejections must be made only at safe points which shall be at or near regular stops or at or near a place of habitation.

(c) When necessary, operators shall call upon police officers for assistance.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1705. Heating of vehicles.**

Passenger-carrying vehicles shall be equipped with a heating system sufficient to keep the vehicle reasonably comfortable for passengers and shall be so constructed as to prevent gas fumes from entering the vehicle.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1706. Charter coach service.**

(a) **Applicability.** This section shall apply to all common carriers of passengers, authorized by Arkansas Code § 23-13-221 to transport special or chartered parties as an incident to the right to engage in the transportation of passengers by motor vehicle in intrastate commerce over a regular route or routes and between fixed termini, where such regular route operation is authorized by a certificate of public convenience and necessity issued by the State Highway Commission.

(b) **Special or charter operations — Definitions.** As used in this subpart:

(1)(A) "Charter operation" means the providing of transportation for a group assembled by someone other than the carrier, which contracts for the exclusive use of a bus for the duration of a particular trip or tour.

(B) This irregular call-on-demand type of service may not evolve into any regularly scheduled service over fixed routes.

(C) Such charter operation shall be provided at a fixed charge for the vehicle in accordance with the carrier's tariff lawfully on file with the State Highway Commission;

(2)(A) "Special operation" means the type of service generally rendered to a

number of passengers in which the carrier itself has assembled a travel group through its own sales to each individual passenger of a ticket covering a particular trip or tour planned or arranged by the carrier.

(B) Such special service must be the type of service that could not be provided by a passenger carrier operating under regular route authority or under the definition of charter operations found above; and

(3) "Regular route or routes" means the specific highway or highways over which a motor common carrier of passengers is authorized to operate between fixed termini.

**(c) Origin territory and authority.**

(1) Any common carrier of passengers by motor vehicle subject to this part, except as hereinafter limited, may transport special or chartered parties in intrastate commerce which originate at any point or points on the regular route or routes authorized to be served by such carrier.

(2) Any common carrier of passengers by motor vehicle whose certificate is not now or hereafter restricted against special or chartered parties may handle special or chartered parties from any point not on its regular route or routes if such point of origin is not served by a regular route passenger carrier by motor vehicle, provided, the requirements of subsection (e) of this section with respect to deadhead mileage charges are met.

(3) Provided, however, no such common carrier of passengers operating under a certificate issued after the effective date of this rule (1973) shall transport special or chartered parties intrastate, unless such carrier has obtained first a certificate specifically authorizing the transportation of special or chartered parties issued by the commission upon proper proof of public convenience and necessity therefor.

**(d) Destination territory.**

(1) Common carriers of passengers by motor vehicle subject to this section may transport special or chartered parties in intrastate commerce to any place or point in the State of Arkansas.

(2) Special or chartered parties may not be transported from the destination

territory described in this section to origin territory described in subsection (c) of this section, except on return movement of the same special or chartered party as provided therein.

(e) **General provisions.**

(1) Every common carrier of passengers by motor vehicle, subject to this section, shall be governed by the following provisions:

(A) Carriers shall publish in tariffs, lawfully on file with the commission, reasonable rates or charges applicable in connection with the transportation of special or chartered parties within the meaning of Arkansas Code § 23-13-221 for deadhead mileage which shall be the mileage traversed by the bus without passengers from the nearest point at which equipment is held out to be available; and

(B) Such tariffs shall name the points at which the carrier holds out to have equipment available for special or chartered party service, and no equipment shall be held out as available at any point not an authorized on-route point.

(2) Special or chartered parties may be transported on an all-expense basis, provided that the tariffs of carriers offering such service, lawfully on file with the commission, publish transportation rates or charges separately from the charges for:

(A) Meals;

(B) Hotel accommodations; or

(C) Other incidental expenses.

(f) **Limitations of service.**

(1) No common carrier of passengers by motor vehicle subject to this section shall transport special or chartered parties as herein defined between the same points or over the same route so frequently as to constitute a regular scheduled or nonscheduled service.

(2) No common carrier of passengers by motor vehicle subject to this section shall transport passengers to whom individual tickets have been sold or with whom separate and individual transportation arrangements have been made, except between points on its regular route.

(3) The transportation of any passengers under any such arrangement by any

such carrier to or from any point or points not on the regular route or routes except as a member of a special or chartered party as herein defined is not authorized and is hereby forbidden.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1707. Rules governing vanpools.**

Vanpools are defined as a voluntary association of workers who share the expense of commuting from their homes or close proximity of their homes to places of employment in a ride sharing program, and are subject to the following rules:

(1) Vanpools shall be owned or leased and operated by:

(A) An employer for the benefit of the company and ride sharing of employees; and

(B) Employees for their benefit of ride sharing;

(2) Vanpools shall be operated on a share-the-expense basis (nonprofit);

(3) Drivers of vanpool vehicles shall be qualified and licensed by the State of Arkansas to operate a vanpool vehicle;

(4) Each vanpool vehicle shall contain proof of liability and property damage insurance in the amount specified in 27 CAR § 110-1301; and

(5) Vanpool vehicles shall not be used to provide transportation to persons who are not members of the vanpool and who would otherwise use the services of a regular route carrier of passengers.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1708. Rates, rules, or practices of motor common carriers of passengers subject to United States Surface Transportation Board (under Subchapter II of 49 U.S.C. §§ 10501 – 10562).**

(a) Any request to establish a rate, rule, or practice applicable to transportation provided entirely in the State of Arkansas by a motor common carrier of passengers

providing transportation subject to the jurisdiction of the United States Surface Transportation Board under Subchapter II of 49 U.S.C. §§ 10501 – 10562 shall be finally acted on by the State Highway Commission by the one-hundred-twentieth day after the carrier shall have made the request.

(b) When considering whether to grant a request involving a rate, rule, or practice, the commission shall make the following findings of fact, as well as others deemed appropriate by the commission:

(1) Whether such rate, rule, or practice results in the carrier charging a rate for such transportation which is lower than the rate such carrier charges for comparable interstate transportation of passengers;

(2) On the basis of evidence presented by the carrier, whether as a result of such rate, rule, or practice, such carrier receives revenues from such transportation which exceed the variable costs of providing such transportation; and

(3) Whether the most recent general rate increase applicable to transportation provided by motor common carriers of passengers in Arkansas is less than the most recent general rate increase applicable to interstate transportation provided by motor common carriers of passengers under 49 U.S.C. § 10101 et seq.

(c) This section shall not apply to any carrier owned or controlled by the state or a local government.

(d) The commission may deny a proposed rate, rule, or practice of a motor common carrier of passengers only after a full hearing in accordance with the procedures established by the commission.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-1709. Discontinuing bus transportation.**

(a) When a motor common carrier of passengers having intrastate authority under the laws of Arkansas and interstate authority under a certificate issued by the United States Surface Transportation Board to provide transportation over any route to any point in Arkansas has proposed to discontinue providing transportation over such route

to such point or to reduce its level of service over such route to such point to a level which is less than one (1) trip per day (excluding Saturdays and Sundays), the carrier must petition the State Highway Commission and seek permission to discontinue such intrastate transportation or to reduce its level of service to a level which is less than one (1) trip per day (excluding Saturdays and Sundays).

(b) The commission must act finally on the request by the one-hundred-twentieth day after the carrier makes the request.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1710. Schedule changes and rate reductions.**

(a) The State Highway Commission shall not enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation provided by motor common carriers of passengers subject to the jurisdiction of the commission under the United States Surface Transportation Board on an authorized interstate route or relating to the implementation of any reduction in the rates for such transportation except to the extent that notice of thirty (30) days of changes in schedules is required.

(b) This section shall not apply to intrastate commuter bus operations.

**Authority.** Arkansas Code § 23-13-208.

**Subpart 18. Safety Requirements**

**27 CAR § 110-1801. General safety requirements.**

(a) All rules and safety regulations now or hereafter prescribed and adopted by the United States Department of Transportation, Federal Highway Administration, applicable to motor vehicles under the Federal Motor Carrier Safety Regulations as found in 49 C.F.R. pts. 383 – 399, not in conflict with the laws of the State of Arkansas, are hereby adopted and prescribed as the safety rules and regulations applicable to the intrastate

operations of motor vehicles under the jurisdiction of the State Highway Commission.

(b) Notwithstanding the above, the rules and regulations governing the filing of insurance/surety for the public, specifically 49 C.F.R. § 387.15 and 49 C.F.R. § 387.35, shall not apply to those carriers having only Arkansas intrastate authority.

(c) In that case, those intrastate only carriers shall maintain the minimum limits set out in 27 CAR § 110-1301 and 27 CAR § 112-104 of Rules Governing the Transportation of Hazardous Materials In and Through the State of Arkansas, 27 CAR pt. 112.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1802. Safety of passengers.**

No motor vehicle operated by a public carrier for transportation of persons shall be permitted to move except when all doors thereto are closed and properly fastened, and no such vehicle, under any circumstances, shall be permitted to move when any person is aboard such vehicle outside of the body thereof.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1803. Splash guard requirements.**

(a) All trailers, trucks, truck/tractors, and/or semitrailers with a gross vehicle weight rating exceeding ten thousand pounds (10,000 lbs.) operated over the highways of the State of Arkansas, subject to the jurisdiction of the State Highway Commission, shall have attached thereto a splash apron of flexible material directly to the rear of the rearmost wheels, hanging perpendicularly at right angles to the body of the vehicle, and parallel with the rearmost axle.

(b) Said apron shall be of such size, weight, and substance as to prevent the bulk of the spray or other substance picked up from the roadway from being thrown on the windshield of a following vehicle.

**Authority.** Arkansas Code § 23-13-208.

## **Subpart 19. Special Rules Governing Household Goods Carriers**

### **27 CAR § 110-1901. Definitions.**

For purposes of this subpart:

(1) "Household goods" shall be defined in 27 CAR § 110-1001(4), except the transportation of voting machines and tabulating machines shall not be governed by these special rules; and

(2) "Reasonable dispatch" means the performance of transportation on the dates agreed upon by the carrier and the shipper and recorded on the bill of lading, provided, however:

(A) That the defenses of force majeure as construed by the courts shall not be denied the carrier; and

(B) That a shipper shall not be denied the right to choose to ship his or her goods on a carrier convenience basis for a lesser rate than would be applicable if he or she desired expedited service, if such a rate basis is published in the tariff.

#### **(3) Other terms.**

(A) Where any other terms used in this subpart are defined in the Arkansas Motor Carrier Act, 1955, Arkansas Code § 23-13-201 et seq., such definitions shall be controlling.

(B) Terms used in this subpart which are neither defined herein nor in the Arkansas Motor Carrier Act, 1955, shall have the ordinary practical meaning of such terms.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-1902. Reasonable dispatch.**

(a) Each carrier shall cause to be transported with reasonable dispatch as defined in 27 CAR § 110-1901(2) each shipment accepted by it for transportation.

(b) Whenever a carrier is unable to make a pickup of a shipment on the date

specified (or during the period of time specified, where that is permitted under 27 CAR § 110-1901(2)(B)) the carrier shall notify the shipper of the delay and the date on which the shipment will be picked up.

(c) Whenever a carrier is unable to make delivery of a shipment on the date specified (or during the period of time specified, where that is permitted under 27 CAR § 110-1901(2)(B)) the carrier shall notify the shipper of the:

- (1) Delay;
- (2) Reason for such delay;
- (3) General condition and location of the shipment; and
- (4) Date and time on which delivery will be made.

(d) The notice required in subsections (b) and (c) of this section shall be by telephone, telegraph, or in person at the carrier's expense, and shall be given as soon as it becomes apparent to the carrier that a delay is imminent.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-1903. Estimates.**

(a)(1) Every intrastate common carrier of household goods shall be required, upon request of a prospective shipper of household goods, to make an estimate of the charges for any proposed transportation services and additional services when they are required.

(2) Whenever practicable, such estimates shall be made only following visual inspection of goods to be transported.

(3) Whenever it would be impracticable or would cause undue hardship to a carrier to make a visual inspection of goods, a carrier may make an estimate by telephone.

(b)(1) Whenever a carrier has made an estimate following visual inspection of goods, the estimated charges shall be recorded by the carrier on a form executed in duplicate and headed with the words "Estimated Cost of Services".

(2) Whenever a telephone estimate of charges has been made, the estimated

charges shall be likewise so recorded.

(3) On the form shall be recorded at least the following information:

(A) Whether the estimate was made upon visual inspection or by telephone;

(B) Carrier who has made the estimate;

(C) Name of prospective shipper;

(D) Origin and destination of shipment;

(E) Total estimated cost of services;

(F) A list of all services proposed to be performed for the charges which have been estimated, e.g., transportation, packing, unpacking, etc.;

(G) The basis upon which such estimate is made, including any breakdown of separately charged services, both transportation and additional services; and

(H) If the estimate was made by telephone, the description given by the shipper of the goods to be transported.

(c)(1) The estimate form described shall also contain the following language, in bold print:

**This estimate covers only the articles and services listed and is not binding on either carrier or shipper except as provided herein. Actual rates and charges on intrastate transportation of household goods are based upon weight and mileage of shipment and are published in a tariff approved by the Arkansas State Highway Commission. Certificated carriers generally participate in the same tariff or have uniform rates, although some may**

**have**

**other approved rates. If actual charges exceed estimated charges by more than 10% you will be required to pay the amount of estimate plus 10% upon delivery, but you will be allowed an additional fifteen (15) days (excluding Saturdays,**

**Sundays, and holidays) to pay the balance of the actual charges.**

(2) The estimate form shall also contain a receipt worded as follows:

By my signature I acknowledge receipt of this Estimated Cost of Services on this date:

\_\_\_\_\_  
Signature, Shipper or Agent

\_\_\_\_\_  
Date

(d)(1) If an estimate of charges has been made upon visual inspection of goods, the carrier shall, at the time of the inspection, complete the estimate form and obtain the shipper's signature (or signature of agent for shipper) on the receipt.

(2) A copy of the form shall be given to the shipper or his or her agent, and a copy shall be retained for the carrier's files.

(3) Provided, however, that if in the opinion of the estimator he or she will be able to arrive at a more accurate estimate by referring to reference materials to which he or she has no present access, the shipper may be provided with the completed estimate form at the earliest convenient time, but in any event, prior to the time when transportation services are actually performed.

(4) In such a situation, however, the carrier shall also notify the shipper of the estimated cost of services by telephone, where possible, within twenty-four (24) hours after visual inspection is made.

(e)(1) If an estimate has been made by telephone, the estimate form shall be completed by the carrier and a copy thereof shall be delivered to the shipper or his or her agent at the earliest convenient time, but in any event, prior to the time when transportation services are actually performed.

(2) The estimate form shall be signed as received by the shipper or his or her agent prior to the carrier performing any services, and the carrier shall retain a copy of the estimate form.

(f) When actual charges for transportation services exceed the amount estimated

in accordance with the preceding portions of this section by more than ten percent (10%) of the estimated cost, a shipper shall be allowed fifteen (15) extra days (excluding Saturdays, Sundays, and holidays) past the date of delivery to pay the amount by which the actual charges exceed the amount of the estimated charges plus ten percent (10%).

(g) Provided no services have yet been performed, nothing in this section shall prohibit a carrier from making a revised estimate of charges prior to the time when a move is performed if an earlier estimate was made by telephone and if it appears from the completed estimate form that the shipper, by mistake or for any other reason, significantly misrepresented to the carrier the nature of amount of goods which are actually required to be transported.

(h) Provided also that if, during the course of performing services, some condition is discovered by the carrier which could not have been reasonably determined prior to that time and which requires the carrier to perform some unanticipated service for which it must make an additional charge, an estimate may be revised to cover the charge for such services.

**Authority.** Arkansas Code § 23-13-208.

#### **27 CAR § 110-1904. Weights.**

Shipments shall be weighed in a fair manner at the closest convenient scales from the point of origin of the shipment.

**Authority.** Arkansas Code § 23-13-208.

#### **27 CAR § 110-1905. Released Value — Insurance to be offered by carrier.**

(a) Carriers shall not advertise or represent to the public that "all loads are insured" or other similar wording, unless such carrier under its intrastate tariff assumes complete liability against all loss or damage to the shipment.

(b)(1) The carrier's maximum liability shall be either:

(A) One dollar and twenty-five cents (\$1.25) times the actual weight (in pounds) of the shipment or the declared lump sum value, whichever is greater; or

(B) Sixty cents (60¢) per pound for the actual weight of any lost or damaged article or articles, if the shipment has been expressly released by the shipper to such value per article.

(2) Unless the shipper expressly releases the shipment to a value not exceeding sixty cents (60¢) per pound per article, the carrier's maximum liability for loss and damage shall be either the lump sum value declared by the shipper or an amount equal to one dollar and twenty-five cents (\$1.25) for each pound of weight in the shipment, whichever is greater.

(c) The following language must be printed in bold type or stamped in a contrasting color of ink in a prominent spot on the front side of the bill of lading:

**TO OWNER OF GOODS: DO NOT WRITE ON THIS BILL OF LADING  
UNTIL YOU HAVE READ THE PAPER HEADED "NOTICE TO SHIPPERS".**

(d) The released value must be entered on the bill of lading in the following form and may be completed only by the person signing the bill of lading:

The shipment will move subject to the rules and conditions of the carrier's tariff. Shipper hereby released the entire shipment to a value not exceeding\_\_\_\_\_

(To be completed by the person signing below.)

NOTICE: THE SHIPPER SIGNING THIS CONTRACT MUST INSERT IN THE SPACE ABOVE, IN HIS OWN HANDWRITING, EITHER HIS DECLARATION OF THE ACTUAL VALUE OF THE SHIPMENT, OR THE WORDS "60 CENTS PER POUND PER ARTICLE". OTHERWISE, THE SHIPMENT WILL BE DEEMED RELEASED TO A MAXIMUM VALUE EQUAL TO \$1.25 TIMES THE WEIGHT OF THE SHIPMENT IN POUNDS.

---

(Shipper)

---

(Date)

(e)(1) Where the shipper is the employer of the actual owner of the household goods being transported and is responsible for all transportation charges in connection with such a move, the shipper may instruct the motor carrier to release the shipment to a value of sixty cents (60¢) per pound per article:

(A) By inspection made on a purchase order; or

(B) By issuing, in advance of the shipping date, appropriate letters of instruction to the carrier.

(2) In such instances, the motor carrier must incorporate the instructions by reference to the document in subdivisions (e)(1)(A) or (e)(1)(B) of this section in the bill of lading in lieu of the personal signature and handwritten statement relating to released rates.

(3) However, in all movements where the goods are being shipped by an employer of the owner of the goods, the actual owner of the goods being shipped shall be provided with a copy of the Notice to Shippers and shall be permitted to purchase from the carrier a certificate of insurance for the value of the shipment, not less than one dollar and twenty-five cents (\$1.25) per pound.

(f) If the shipper fails to make the entry required in subsection (d) of this section, the shipment will be deemed released to an amount equal to one dollar and twenty-five cents (\$1.25) times the actual weight of the shipment (in pounds).

(g) The released value and the carrier's maximum liability (whether or not loss or damage occurred from carrier negligence), as determined under this section, shall apply to any claims resulting from the performance or failure to perform by carrier of any services, including accessorial services, which carrier has contracted to perform.

(h)(1) When a shipment is not expressly released to sixty cents (60¢) per pound per article as set forth in subsection (d) of this section, or as permitted in subsection (e)

of this section, the carrier shall sell to the shipper a certificate of insurance for the amount of the carrier's maximum liability as determined under subdivision (b)(1)(A) of this section.

(2) This insurance shall be obtained through the carrier at the least expensive rate possible, to be approved by the State Highway Commission, and shall be sold to shippers at a rate which will afford no profit to the carrier.

(3) A carrier must inform a shipper that unless he or she elects to purchase this additional insurance, neither carrier nor insurance company will be fully liable for loss or damage.

(4) Provided, that if the carrier has failed to sell to the shipper a certificate of insurance when the shipment has not been released at sixty cents (60¢) per pound per article, the carrier's maximum liability under the provisions of this section shall not be altered.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1906. Notice to shippers.**

(a) A copy of the Notice to Shippers printed on one (1) side of a single sheet of paper shall be given to shippers (or to owners of goods if the shipper is the employer of the actual owner of the goods to be shipped) at the earliest possible time prior to the time when goods are actually moved.

(b) Specifically:

(1)(A) If an estimate is made upon visual inspection prior to the day when goods are moved, or if any personal contact is made between shipper or his or her agent and carrier or its agent prior to the day when goods are moved, the shipper or his or her agent must sign and date the notice in duplicate at that time.

(B) One (1) executed copy shall be left with the shipper at that time, and one (1) shall be retained by the carrier for its files as evidence of delivery of the notice to the shipper;

(2)(A) If there is no personal contact between shipper and carrier prior to the

day when goods are to be moved but the shipper has requested service at least four (4) calendar days prior to the time when service is required, the carrier shall immediately send the notice to the shipper by certified mail with return receipt requested.

(B) If a return receipt is received prior to the time the shipment is made, it shall be retained in the carrier's records as evidence of delivery of the notice to the shipper; and

(3)(A) If neither subdivision (b)(1) or (b)(2) of this section is applicable, or if a notice has been mailed to a shipper but no return receipt has been received by the carrier prior to the time the shipment is to be made, then the carrier or its agent shall in any event require that the shipper sign and date the notice in duplicate before the shipment is actually moved.

(B) One (1) executed copy shall be left with the shipper at that time and one (1) shall be retained by the carrier for its files as evidence of delivery of the notice to the shipper.

(c) The notice shall duplicate the format herein prescribed as nearly as possible, shall be printed on paper eight and one-half inches by eleven inches (8 1/2" x 11"), and shall be headed with the words "Notice to Shippers" in bold print at least one-half inch (1/2") high (form found in Chapter 8).

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1907. Claims for loss or damage.**

**(a) Claim forms to be made available.**

(1) Carriers shall require a supply of blank claim forms to accompany each shipment of household goods subject to this subpart.

(2) Upon delivery of each shipment of household goods, an agent of the carrier shall, upon request of the shipper or his or her agent, present to the shipper blank claim forms sufficient to enable a shipper to make a written claim to the carrier for loss or damage of goods.

(3) Provided, nothing in this section shall relieve the carrier from the burden of

supplying the shipper with additional claim forms should he or she request them.

**(b) Acknowledgment of claims.**

(1) Every carrier which receives a complaint or claim, in writing or otherwise, for loss or damage shall acknowledge its receipt in writing to the claimant within thirty (30) calendar days after its receipt by the carrier or the carrier's agent.

(2) The carrier shall, at the time such claim is received, cause the date of receipt to be recorded on the claim or the carrier's record of the claim.

(3) Nothing in this section shall prohibit a carrier from requiring that a claimant supplement an oral claim by a writing prior to final disposition of the claim.

**(c) Handling by carriers.** Every such carrier which receives a claim for loss or damage shall pay, decline, or make a firm compromise settlement offer in writing to the claimant within ninety (90) days after receipt of the claim by the carrier or its agent, provided that, if the claim cannot be processed and disposed of within ninety (90) days after the receipt thereof, the carrier shall at that time and upon the expiration of each succeeding thirty-day period while the claim remains pending, advise the claimant in writing of the status of the claim and the reasons for the delay in making final disposition thereof, and send a copy of such letter to the State Highway Commission.

**(d) Register of loss and damage claims.**

(1) Every carrier shall maintain a freight claim register, showing for each cargo:

- (A) Loss and damage claim received;
- (B) The claim number, date, and amount;
- (C) The waybill or expense bill number and date;
- (D) Name of claimant;
- (E) Kind of commodity;
- (F) Date claim was paid;
- (G) Total amount paid or date claim was disallowed and reasons;
- (H) Amount of salvage recovered, if any; and
- (I) Amounts reimbursed by insurance companies, connecting carriers, or

others, and the amount absorbed by the carriers.

(2) Each claim received shall be entered in the register and should be supported by the complete file of claim papers.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1908. Records and reports.**

(a) All carrier records referred to in this subpart shall be made available to the State Highway Commission or its staff upon request.

(b) In addition, the following information shall be reported to the commission as part of its annual report:

(1) Percentage of intrastate shipments on which a claim for loss or damage was filed;

(2) Total dollar amount paid during the calendar year by motor carrier for loss and damage claims;

(3) Total dollar amount paid during the calendar year by insurance carrier for loss or damage claims;

(4) Total dollar amount paid by motor carrier for premiums during the calendar year for insurance sold by carrier to shippers pursuant to 27 CAR § 110-1905; and

(5) Total dollar amount paid by motor carrier for cargo insurance other than for insurance sold to shippers pursuant to 27 CAR § 110-1905.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-1909. Protections.**

Nothing in this subpart shall prohibit a carrier from extending to shippers greater protection than that required in this subpart as approved by the State Highway Commission.

**Authority.** Arkansas Code § 23-13-208.

## **Subpart 20. Special Rules Governing Property Brokers**

### **27 CAR § 110-2001. Applicability.**

This subpart applies to the extent provided therein to all brokers of transportation by motor vehicle as defined in Arkansas Code § 23-13-203 and set out below.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-2002. Definitions.**

As used in this subpart:

(1) "Bona fide agents" means persons who are part of the normal organization of a motor carrier and perform duties under the carrier's directions pursuant to a preexisting agreement which provides for a continuing relationship, precluding the exercise of discretion on the part of the agent allocating traffic between the carrier and others;

(2) "Broker" means any person not included in the term "motor carrier" and not a bona fide employee or agent of any such carrier, who or which, as principal or agent, sells or offers for sale any transportation subject to the Arkansas Motor Carrier Act, 1955, Acts 1955, No. 397, or negotiates for, or holds himself, herself, or itself out by solicitation, advertisement, or otherwise as one who sells, provides, furnishes, contracts, or arranges for such transportation;

(3)(A) "Brokerage" or "brokerage service" is the arranging of transportation or the physical movement of a motor vehicle or of property.

(B) It can be performed on behalf of a:

- (i) Motor carrier;
- (ii) Consignor; or
- (iii) Consignee; and

(4) "Nonbrokerage service" is all other service performed by a broker on behalf of a:

(A) Motor carrier;

- (B) Consignor; or
- (C) Consignee.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-2003. Records to be kept by brokers.**

(a)(1) A broker shall keep a record of each transaction.

(2) The record shall show:

- (A) The name and address of the consignor;
- (B) The name, address, and lead Arkansas authority MC number of the originating motor carrier;
- (C) The bill of lading or freight bill number;
- (D) The amount of compensation received by the broker for the brokerage service performed and the name of the payer;
- (E) A description of any nonbrokerage service performed in connection with each shipment or other activity, the amount of compensation received for the service, and the name of the payer; and
- (F) The amount of any freight charges collected by the broker and the date of payment to the carrier.

(2) For the purpose of this subsection, brokers may keep master lists of consignors and the address and lead Arkansas authority MC number of the carrier, rather than repeating this information for each transaction.

(b) Brokers shall keep the records required by this section for a period of three (3) years.

(c) Each party to a brokered transaction has the right to review the record of the transaction required to be kept by this subpart.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-2004. Misrepresentation.**

(a) A broker shall not perform or offer to perform any brokerage service, including advertising, in any name other than that in which its license is issued.

(b)(1) A broker shall not, directly or indirectly, represent its operations to be that of a carrier.

(2) Any advertising shall show the broker status of the operation.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-2005. Rebating and compensation.**

(a) A broker shall not charge or receive compensation from a motor carrier brokerage service where:

(1) The broker owns or has a material beneficial interest in the shipment; or

(2) The broker is able to exercise control over the shipment because:

(A) The broker owns the shipper;

(B) The shipper owns the broker; or

(C) There is a common ownership of the two.

(b) A broker shall not give or offer to give anything of value to any shipper, consignor, or consignee (or their officers or employees) except inexpensive advertising items given for promotional purposes.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-2006. Duties and obligations of brokers.**

Where the broker acts on behalf of a person bound by law or a State Highway Commission rule as to the transmittal of bills or payments, the broker must also abide by the law or rules which apply to that person.

**Authority.** Arkansas Code § 23-13-208.

### **27 CAR § 110-2007. Transfer of property broker license — Change in**

**control of corporations and associations holding broker licenses — Petitions for reconsideration.**

(a)(1) In order to transfer a property broker license, a transferee must file with the State Highway Commission an application for approval of the transfer.

(2) The application must contain proof that the transferee is fit, willing, and able to perform the duties of a broker and that the transfer will not be contrary to the public interest.

(b) If there is a change in the control of a corporation or association which holds a broker license, an application must be filed with the commission describing the change and offering proof that the change is not contrary to the public interest.

(c) The rules that govern the form and manner of filing of applications, the notice that must be given to the public, and the manner of filing protests are the same as those which apply to an application for operating rights.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-2008. Accounting.**

(a) Each broker who engages in any other business shall maintain accounts so that the revenues and expenses relating to the brokerage portion of its business are segregated from its other activities.

(b) Expenses that are common shall be allocated on an equitable basis, however, the broker must be prepared to explain the basis for the allocation.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-2009. Surety for brokers.**

Each broker holding a license issued by the State Highway Commission under the provisions of Arkansas Code § 23-13-230 shall at all times have a bond or other security approved by and on file with the commission in an amount not less than twenty-five thousand dollars (\$25,000), in order to ensure financial responsibility in the supplying of

authorized transportation services under such broker's license.

**Authority.** Arkansas Code § 23-13-208.

**27 CAR § 110-2010. Assessments.**

(a) Applicable to the assessment of busline, motor freight, airline, water transportation, and private car companies operating in and/or through the State of Arkansas.

(b) As counties complete reassessment and extend the adjusted or rolled back millage rates for the first time, these millage rates shall be incorporated into the average statewide millage rate as determined each year by the Tax Division of the Arkansas Public Service Commission.

**Authority.** Arkansas Code § 23-13-208.