

MOTOR CARRIER ACT AND THE MOTOR CARRIER RULES

APPLICABLE TO CARRIERS WHO:

- (1) Have Registered Interstate Operations
AND**
- (2) Have Intrastate General Commodity
Authority
AND**
- (3) Do Not Have Intrastate Household
Goods Authority**

This version of the Motor Carrier Act and Motor Carrier Rules has been revised pursuant to the direction in T-1273, dated August 27, 1998 and T-1848, dated January 30, 2007 by deletion of those provisions of Michigan law that the Commission found have been preempted by federal law. Revised for P. A. 2007, No.33, Eff. 7/10/07. Revised for P. A. 2008, No. 584, Eff. 1/16/09.

**MOTOR CARRIER ACT
TABLE OF CONTENTS**

<u>SUBJECT</u>	<u>PAGE NOS.</u>
TITLE	1
ARTICLE I	
GENERAL DEFINITIONS AND PURPOSE	
475.1 Motor carrier act; definitions.	1-2
475.1a Short Title.	2
475.2 Purpose and policy; power and authority of commission.	3
475.3 Temporary authority for motor carrier services; temporary approval of consolidation or merger.	3
475.4 Proceedings before commission; time periods for completion of proceedings and decisions.	4
475.5 Deadlines for evidentiary proceedings and decisions; extension.	4
ARTICLE II	
MOTOR CARRIERS	
476.1 Certificate of authority; necessity	5
476.2 Certificate of authority; determination; issuance.	5
476.3 Application for certificate of authority.	5
476.4 Notice of filing of application; hearing; notice.	5
476.5 Certificate of authority; issuance; findings; protests; petitions to intervene; burden of proof.	6
476.7b Motor carriers operating through routes; rules; facilities; compensation.	6
476.9 Civil liability for violation of act.	7
476.10 Powers of commission generally; promulgation of rules.	7
476.12 Interstate commerce.	7
ARTICLE IV	
FEES	
478.1 Application for certificate of authority; fee.	7
478.1a Protest to application for certificate of authority or permit; fee.	8
478.6 Funds; crediting; appropriation.	8
478.7 Carriers engaged in interstate or foreign transportation; registration, fees, reciprocal agreements, etc.	8

**MOTOR CARRIER ACT
TABLE OF CONTENTS**

<u>SUBJECT</u>	<u>PAGE NOS.</u>
ARTICLE V	
POLICY OF STATE, EXEMPTIONS, LIMITATIONS, GENERAL REGULATIONS AND PROCEDURE; PENALTIES; MISCELLANEOUS	
479.2	Exemptions; corporate family defined; reciprocity. 8-10
479.3	Control by cities and villages; local business. 11
479.4	Highway commissioners; duty to furnish information. 11
479.5	Certificates; construction, transfer. 11
479.6	Commission; promulgation of rules, biweekly bulletin. 11-12
479.9	Insurance, bonds. 12
479.11	Records of motor carriers; examination, preservation; witnesses; confidential information; public files; penalty. 12-13
479.12	Impounding of motor vehicles, release. 13
479.13	Enforcement of act, rules and regulations; assistance. 13
479.14	Complaints and investigations; notices, findings. 13-14
479.15	Procedure; witness fees; depositions; record. 14-15
479.16	Criminal penalties, venue. 15
479.18	Revocation or alteration of findings or orders, certificates or permits; assessments; rehearings; deposit of assessments. 15-16
479.19	Injunctive relief. 16
479.20	Review of commission orders or decrees. 16
ARTICLE VI	
479.41	Supervision and regulation of safety; rules. 16
479.42	Review of operation by state police. 17
479.43	Safety rating system. 17

TITLE

An act to promote safety upon and conserve the use of public highways of the state; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles operated by carriers of property for hire upon or over such highways; to preserve, foster, and regulate transportation and permit the coordination of motor vehicle transportation facilities; to provide for the supervision, regulation, and control of the use of such highways by all motor vehicles for hire for such purposes; to classify and regulate carriers of property by motor vehicles for hire upon such public highways for such purposes; to give the commission jurisdiction and authority to require registration, conduct audits, and assess fees for motor carrier for unified carrier registration; to give the Michigan Public Service Commission jurisdiction and authority to prevent evasion of this act through any device or arrangement; to prescribe the powers and duties of said commission with reference thereto; to provide for appeals from the orders of such commission; to confer jurisdiction upon the circuit court for the county of Ingham for such appeals; to provide for the levy and collection of certain privilege fees and taxes for such carriers for such purposes and the disposition of such fees and taxes; and to provide for the enforcement of this act; and to prescribe penalties for its violations.

ARTICLE I

GENERAL DEFINITIONS AND PURPOSE

475.1 Motor carrier act; definitions.

Sec. 1. The words and phrases used in this act shall be construed as follows, unless the context shall otherwise require:

(a) "Motor vehicle" means any automobile, truck, trailer, semi-trailer, truck tractor, road tractor, or any self-propelled or motor or mechanically driven vehicle, or any vehicle in anywise attached to, connected with, or drawn by any self-propelled or motor or mechanically driven vehicle, used upon any public highway of this state for the purpose of transporting property.

(b) "Public highway" means any public highway, road, street, avenue, alley, or thoroughfare of any kind, or any bridge, tunnel, or subway used by the public.

(c) "Commission" means the Michigan public service commission.

(d) "Person" means any individual, partnership, association, or corporation and their lessees, trustees, or receivers appointed by any court.

(e) "For hire" means for remuneration or reward of any kind, paid or promised, either directly or indirectly.

(f) "Motor common carrier of property" means any person who holds himself or herself out to the public as being engaged in the business of a for hire common carrier as at the common law, either directly or through any device or arrangement, including but not limited to those who operate over fixed routes or within 1 mile of a fixed route or between fixed termini, in the transportation by motor vehicle from place to place upon or over the highways of this state, the property, or any property, or any class of property of others who may choose to employ the person.

(g) "The public" means that part or portion of the general public which the motor carrier is ready, able, willing, and equipped to serve.

(h) "Motor contract carrier of property" means any person providing motor vehicle transportation upon the highways of this state for a series of shipments under continuing agreement of not less than 1 year with a person which agreement provides for the assignment of motor vehicles exclusively for each such person while the vehicle is in the service of such person and which agreement is designed to meet the distinct needs of each such person. A motor contract carrier that possesses a motor common carrier certificate of authority of that class set forth at section 5(6)(a) of article II may commingle authorized contract carrier shipments while providing common carrier service over fixed routes, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport packages or articles weighing 70 pounds or less for 1 or more contract shippers may commingle such authorized packages or articles weighing 70 pounds or less in the same vehicle with commodities transported as a common or contract carrier, without assigning any vehicle exclusively for the person or persons for whom contract service is provided. A motor contract carrier authorized to transport coin, currency, or food stamps for 1 or more contract shippers, may commingle such authorized coin, currency, or food stamps in the same vehicle with commodities transported as a common or a contract carrier, without assigning any vehicle exclusively for the person for whom contract service is provided.

(i) "Motor carrier" means both motor common carriers of property and motor contract carriers of property. Motor carrier does not include any person engaged in the transportation of property by motor vehicle upon public highways where the transportation is incidental to, or in furtherance of, any commercial enterprise of the person, other than transportation.

(j) "Certificate of authority" means a certificate issued to a motor carrier, which certificate is issued under the terms of this act.

(l) "Through any device or arrangement" means any and all methods, means, agreements, circumstances, operations, or subterfuges under which any person undertakes for hire to conduct, direct, control, or otherwise perform the transportation by motor vehicle of property upon the public highways of this state.

(m) "Modified procedure" means that administrative procedure by which the commission may consider evidence and testimony submitted in the form of verified statements in motor carrier matters without the necessity for oral hearing. The commission may delegate decision-making authority to any employee of the commission staff, so that decisions in modified procedure may be issued under the signature of the employee without a formal commission order.

(n) "Occasional accommodative service" means service limited to operations conducted by persons not regularly engaged in the transportation business of a motor common carrier or a motor contract carrier.

(p) "Fit", as applied to a proposed motor carrier service, means safe, suitable, and financially responsible as determined by the commission.

(v) "Intrastate-only motor carrier of property" means a motor carrier of property that is not a UCR motor carrier.

(w) "Intrastate motor vehicle" means a motor vehicle that is operated by 1 of the following:

(i) An intrastate-only motor carrier of property.

(x) "UCR motor carrier" means a person that is required to pay fees and file information under section 4305 of the federal unified carrier registration act of 2005, 49 USC 1450a.

(y) "Unified carrier registration agreement" means the interstate agreement developed under the unified carrier registration plan governing the collection and distribution of registration and financial responsibility information provided and fees paid by UCR motor carriers, motor private carriers, brokers, freight forwarders, and leasing companies under section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a.

(z) "Unified carrier registration plan" means the organization of state, federal, and industry representatives responsible for developing, implementing, and administering the unified carrier registration agreement under section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a.

(aa) "Broker" means that term as defined in 49 USC 13102.

(bb) "Freight forwarder" means that term as defined in 49 USC 13102.

(cc) "Motor private carrier" means that term as defined in 49 USC 13102.

(dd) "Commercial motor vehicle" means that term as defined in 49 USC 14504a.

(ee) "Leasing company" means that term as defined in 49 USC 14504a.

475.1a Short title.

Sec. 1a. This act shall be known and maybe cited as "the motor carrier act."

475.2 Purpose and policy; power and authority of commission.

Sec. 2. It is hereby declared to be the purpose and policy of the legislature in enacting this law to confer upon the commission the power and authority and to make it its duty to supervise and regulate the transportation of property by motor vehicle for hire upon and over the public highways of this state in all matters whether specifically mentioned herein or not, so as to: (a) Relieve all future undue burdens and congestion on the highways arising by reason of the use of the highways by motor vehicles operated by motor carriers; (b) protect and conserve the highways and protect the safety and welfare of the traveling and shipping public in their use of the highways; (c) promote competitive and efficient transportation services; (h) promote inter-modal transportation; (j) promote greater participation by minorities in the motor carrier system; (l) prevent evasion of this act through any device or arrangement; (n) promote the use of jointly considered and initiated rates, classifications, divisions, allowances, charges, or rules of motor carriers under commission approved agreements.

475.3 Temporary authority for motor carrier services; temporary approval of consolidation or merger.

Sec. 3. (1) The commission may, upon a proper application, in its discretion and without hearings or other proceedings, grant temporary authority by a motor carrier by motor vehicle. The temporary authority, unless suspended or revoked for good cause, shall be valid until the commission has made a determination to grant or deny permanent authority. If after hearing permanent authority is granted, then corresponding temporary authority may be continued until the permanent authority becomes effective. The grant of temporary authority does not create a presumption that corresponding permanent authority will be granted thereafter.

(3) Pending the determination of an application filed with the commission for approval of a consolidation or merger of the properties of 2 or more motor carriers, the commission may, in its discretion and without hearing or other proceedings, grant temporary approval, for a period not exceeding 60 days, of the operation of the motor carrier properties sought to be acquired by the person proposing in the pending application to acquire the properties, if it appears that failure to grant the temporary approval may result in destruction of or injury to the motor carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public.

(4) Transportation rendered under temporary authority shall be subject to all applicable provisions of this act and to the rules of the commission.

475.4 Proceedings before commission; time periods for completion of proceedings and decisions.

Sec. 4. (1) This section applies to all matters before the commission for which the commission has jurisdiction under article II or V.

(2) The commission or an employee to whom has been delegated the authority to make an initial decision in a matter related to a motor carrier:

(a) Shall, in any case in which an oral hearing is held, complete all evidentiary proceedings related to the matter not later than 180 days following institution of the proceedings, shall issue in writing the proposal for decision not later than 270 days following institution of the proceeding, and shall issue in writing the final decision not later than 300 days following institution of the proceeding.

(b) Shall, in the case in all other proceedings subject to this section, issue in writing the proposal for decision not later than 120 days following institution of the proceeding, and shall issue in writing the final decision not later than 180 days following institution of the proceeding.

(3) In extraordinary circumstances the commission may extend a time period established by this section. However, the total of all extensions with respect to any matter subject to this section shall not exceed 90 days.

475.5 Deadlines for evidentiary proceedings and decisions; extension.

Sec. 5. (1) This section applies to all matters before the commission for which the commission has jurisdiction under article III.

(2) The commission or an employee to whom has been delegated the authority to make an initial decision in the matter related to a motor carrier:

(a) Shall, in any case in which an oral hearing is held, in which the fitness of an applicant is not at issue, complete all evidentiary proceedings related to the matter not later than 90 days following institution of the proceeding; shall issue in writing the proposal for decision not later than 120 days following institution of the proceeding; and shall, issue in writing the final decision not later than 180 days following institution of the proceeding.

(b) Shall, in any case in which an oral hearing is held, in which the fitness of the applicant is at issue, complete all evidentiary proceedings related to the matter not later than 150 days following institution of the proceeding; shall issue in writing the proposal for decision not later than 210 days following institution of the proceeding; and shall issue in writing the final decision not later than 240 days following the institution of the proceeding.

(c) Shall, in the case of all other proceedings subject to this section, issue in writing the final decision not later than 60 days following institution of the proceeding.

(3) In extraordinary circumstances the commission may extend the time period established by this section. However, the total of all extensions with respect to any matter subject to this section shall not exceed 90 days.

ARTICLE II

MOTOR CARRIERS

476.1 Certificate of authority; necessity

Sec. 1. A motor carrier of property shall not operate any motor vehicle for the transportation of property for hire on any public highway in this state except in accordance with the provisions of this act. A motor carrier of property shall not operate upon any public highway without first having obtained from the commission a certificate of authority.

476.2 Certificate of authority; determination; issuance.

Sec. 2. The commission, upon the filing of an application for a certificate of authority, shall ascertain and determine, under reasonable rules as it promulgates, whether to issue the certificate of authority.

476.3 Application for certificate of authority.

Sec. 3. An application for a certificate of authority shall be in writing, verified by affidavit, stating the experience of the applicant as a motor carrier, if any, the ownership and condition of the equipment and physical property of the applicant proposed to be used, that the vehicles of the applicant have passed an inspection within the immediately preceding 12 months pursuant to the requirements of the motor carrier safety act, Act No. 181 of the Public Acts of 1963, being Sections 480.11 to 480.21 of the Michigan Compiled Laws, and 49 C.F.R. Part 396, and shall contain other information as the commission requires. The commission may request supplemental information from an applicant regarding accident records and citations issued to the applicant or drivers of the applicant within the immediately preceding 12 months when that information is considered necessary to make findings regarding the fitness of the applicant. Each application shall be accompanied by the required fees, proof of insurance before operations are commenced, and all other things required by law and the rules of the commission.

476.4 Notice of filing of application; hearing; notice.

Sec. 4. Upon the filing of an application for a certificate of authority to operate as a motor carrier, the commission shall cause notice of the filing of the application to be published in a biweekly bulletin. The commission may schedule a hearing on the application or proceed under modified procedure. If a hearing is scheduled, notice shall be given in the same manner as the notice of filing of an application.

476.5 Certificate of authority; issuance ; findings; protests; petitions to intervene; burden of proof..

Sec. 5. (1) Except as provided in this section, the commission shall issue certificate of authority to an applicant authorizing that it provide transportation subject to the jurisdiction of the commission under this article as a motor carrier of property if the commission finds all of the following:

(a) The character and condition of the vehicles proposed to be operated by the applicant is such that they may be operated safely upon the public highways.

(b) That the applicant is fit to provide the transportation to be authorized by the certificate and to comply with this act and rules and regulations of the commission.

(d) That the service proposed is consistent with the transportation policy set forth in section 2 of article I.

(2) In making a finding under subsection (1), the commission shall consider and, to the extent applicable, make findings on at least all of the following:

(a) The transportation policy set forth in section 2 of article I.

(b) The character of the bond or insurance proposed to be given to insure the protection of the public.

(c) Whether the applicant is fit.

(3) A motor carrier may not protest an application to provide transportation filed under this section unless all of the following requirements are met:

(a) The protest is filed with the commission not later than 20 days following publication of the notice of the filing of the application in the biweekly bulletin.

(4) The commission may grant leave to intervene to a person other than a motor carrier or an applicant for a certificate of authority or permit upon a showing of other interests that are consistent with the transportation policy set forth in section 2 of article 1. A petition to intervene shall not be granted unless filed with the commission not later than 20 days following publication of the notice of the filing of the application in the biweekly bulletin except for good cause shown.

(5) Any motor carrier having timely filed a protest or any intervenor having timely filed a petition to intervene may participate in person or by counsel, cross-examine witnesses, and offer testimony in support of, or in opposition to, the grant of a certificate of authority.

(7) The burden of proof shall be on the protestant to meet the requirement of subsection (2)(c).

476.7b. Motor carriers operating through routes; rules; facilities; compensation.

Sec. 7b. A motor carrier subject to the jurisdiction of the commission that establishes a through route with another carrier shall establish rules for its operation and provide both of the following:

(a) reasonable facilities for operating the through route.

(b) reasonable compensation to persons entitled to compensation for services related to the through route.

476.9 Civil liability for violation of act.

Sec. 9. If a motor carrier does or causes or permits to be done any act or thing in this act prohibited or declared to be unlawful, or omits to do any act or thing required to be done by the motor carrier under this act or under any lawful order made by the commission, the motor carrier is liable to the person, firm, or corporation injured to the extent of the actual amount of damages sustained in consequence of the violation. A recovery as provided in this section shall not affect a recovery by the state of the penalty prescribed for the violation.

476.10 Powers of commission generally; promulgation of rules.

Sec. 10. (1) The commission shall supervise and regulate all motor carriers of property; regulate the safety of operations of each motor carrier; require the filing of annual and other reports and data by the motor carriers; supervise and regulate motor carriers in all matters affecting the

relation between the motor carriers, and the public and between motor carriers; and promulgate rules for the purpose of promoting safety upon the highways and the conservation of their use to the end that the provisions of this act may be fully and completely carried out. The commission, by general order or otherwise, shall promulgate rules in conformity with this act applicable to all motor carriers, and to do all things necessary to carry out and enforce this act.

476.12 Interstate commerce.

Sec. 12. This act shall apply to persons and motor vehicles engaged in interstate commerce, except only insofar as it may be inconsistent with, or shall contravene, the constitution or the laws of the United States.

ARTICLE IV

FEES

478.1 Application for certificate of authority; fee.

Sec. 1. Each application filed with the commission for a certificate of authority, as required by this act, shall be accompanied by a fee of \$100.00. Each application filed with the commission shall be accompanied by a fee for the administration of this act, and shall be retained by the commission and deposited with the state treasurer, whether or not the certificate is granted.

478.1a Protest to application for certificate of authority or permit; fee.

Sec. 1a. A motor carrier filing a protest to an application for a certificate of authority shall submit a fee of \$50.00 for the administration of this act. This fee shall be retained by the commission and deposited with the state treasurer.

478.6 Funds; crediting; appropriation.

Sec. 6. All money received under the provisions of this act shall be placed to the credit of the commission. The legislature shall appropriate such moneys to the commission and the department of state police a manner that is consistent with the requirement of section 4305 of the unified carrier registration act of 2005, 49 USC 14504a, that a state demonstrate that it uses an amount at least equal to the revenue derived from its participation in the unified carrier registration agreement for motor carrier safety programs, enforcement, and the administration of the uniform carrier

registration plan and agreement.

478.7 Carriers; registration, compliance with federal unified registration plan and agreement; deposit in truck safety fund

Sec. 7. (1) A UCR motor carrier, motor private carrier, broker, freight forwarder, leasing company, or other person subject to the requirements of section 4305 of the federal unified carrier registration act of 2005, 49 USC 14504a, shall not conduct operations or otherwise provide transportation services in this state without first having registered under, and met the obligations imposed by, the unified carrier registration plan and agreement.

(2) Not less than \$750,000.00 or 10% of the fees collected pursuant to this section, whichever is greater, shall be deposited in the truck safety fund established in section 25 of 1951 PA 51, MCL 247.675.

ARTICLE V

POLICY OF STATE, EXEMPTIONS, LIMITATIONS, GENERAL REGULATIONS AND PROCEDURE; PENALTIES; MISCELLANEOUS

479.2 Exemptions; corporate family defined; reciprocity.

Sec. 2. (1) Except as provided in section 7 of article IV, this act does not apply to any the following:

(a) A vehicle operated entirely within a city or village of this state; or to a motor carrier of property whose operations may extend a distance of not more than 8 miles beyond the boundary of a city or village having a population of less than 500,000, if the origin and destination of the property being transported is within an 8-mile radius of the city or village. The territory within the external corporate limits of a city, even though it includes and embraces the area of 1 or more separately organized and existing cities, shall be considered a single city. Notwithstanding any other provision of this sub-division, a certificate or permit issued under this act is required for the operation of a vehicle of a motor carrier, other than a vehicle exempted under subdivisions (b) to (q), in the transportation of property between a city having a population of 500,000 or more and a city or village located within the commercial zone of a city having a population of 500,000 or more, or between cities or villages within that commercial zone. As used in this subdivision, "commercial zone" means the area within an 8-mile radius of a city having a population of 500,000 or more and includes all cities and villages, any part of which are located within that 8-mile radius.

(b) A vehicle owned or operated by the state or the United States, or by a state or federal corporation, agency, or instrumentality.

(c) A vehicle owned or operated by an incorporated city, village, or school district, or by a county or township in the state or by a corporation, agency, or instrumentality of the state, for

governmental purposes.

(d) A vehicle used exclusively for carrying United States mail.

(e) A vehicle used for the transportation of farm products, including livestock, when transported by other than the owner, from the farm to the market in the raw state, or used for the transportation of milk from the farm to milk stations, or trucks owned by a farmer bearing a farm truck license issued under section 801(1)(c) of the Michigan vehicle code, 1949 PA 300, MCL 257.801, when being used by the farmer in hauling farm produce, livestock, or farm equipment, and supplies for other farmers for remuneration in kind or in labor, but not for money.

(f) A vehicle used for the transportation of fruits, eggs, poultry, fish and seafood, grain, vegetables, seeds, nursery stock, horticultural products, and sugar beets. This subdivision shall not exempt a vehicle transporting the commodities described in this subdivision in other than the raw state.

(g) A vehicle used for occasional accommodative service including seasonal transportation of perishable commodities even though the cost of the accommodative service and seasonal transportation of perishable commodities may be paid by the person accommodated.

(h) A dump truck having not more than 4 axles or any dump vehicle moving directly to and from a public highway, airport, or railroad or bridge construction site, when used for the transportation of sand, gravel, slag, stone, limestone, crushed stone, marl, pebbles, cinders, bituminous aggregates, asphalt, blacktop, dirt, or fill material, or any dump vehicle transporting commodities generally transported in the dump vehicle operating within an 8-mile radius of a city having a population of 500,000 or more and including all other cities or villages, any part of which is located within the 8-mile radius.

(i) A vehicle used to transport a vehicle which is temporarily disabled from a point within an 8-mile radius of a city having a population of 500,000 or more and including all other cities or villages, any part of which is located within the 8-mile radius to another point within that radius.

(j) A vehicle used for the transportation of pulpwood, logs, wood chips, bark, and sawdust when the vehicle is being used to move the commodities from a forest, woodlot, cutting site, sawmill, or chipping site to a market or railroad siding of not more than a 140-mile radius from the place where the vehicle is loaded.

(k) A vehicle having a manufacturer's rating of not more than 1-1/2 tons capacity or the equivalent gross vehicle weight rating used for the transportation of newspapers.

(l) A vehicle towing a disabled motor vehicle from the location at which it was disabled to another location or a vehicle towing a motor vehicle involved in an accident from the location of the accident to another location.

(m) A vehicle used in the transportation of livestock, poultry feed, chemicals, pesticides, and fertilizers on movements directly to a farm for use in agricultural production.

(n) A vehicle used for the transportation of property for compensation provided by a person who is a member of a corporate family for other members of the corporate family, if all of the following conditions are met:

(i) The parent corporation notifies the commission annually of its intent or the intent of 1 of its subsidiaries to provide the transportation.

(ii) The notice described in subparagraph (i) contains a list of participating subsidiaries and

an affidavit that the parent corporation owns directly or indirectly a 100% interest in each of the subsidiaries.

(iii) The notice described in subparagraph (i) is accompanied by a fee of \$100.00.

(iv) The commission publishes the notice described in subparagraph (i) in the biweekly bulletin.

(v) A copy of the notice described in subparagraph (i) is carried in the cab of all vehicles conducting the transportation.

(o) A vehicle transporting animal and poultry feed or feed ingredients to sites of agricultural production or to a business enterprise engaged in the sale to agricultural producers of goods used in agricultural production.

(p) A vehicle transporting recyclable materials to or from a resource recovery facility. The terms "recyclable materials" and "resource recovery facility" have the meanings attributed to these terms in part 115 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.11501 to 324.11550, except that the term recyclable materials does not include industrial scrap metal. This subdivision shall not be construed to exempt from this act a vehicle transporting new products.

(q) A vehicle transporting property for, or on behalf of, a nonprofit charitable institution or for a house of public worship.

(2) As used in subsection (1)(n), "corporate family" means a group of corporations consisting of a parent corporation and all subsidiaries in which the parent corporation owns directly or indirectly a 100% interest.

(3) None of the exemptions in this section, where applicable, apply to a vehicle entering this state from another state, foreign country, or subdivision of a state or foreign country which does not extend similar exemptions to vehicles from this state entering the state, foreign country, or subdivision.

479.3 Control by cities and villages; local business.

Sec. 3. Nothing herein contained shall be construed to interfere with the right of any city or village to the reasonable control by general regulation applicable to all motor vehicles of its streets, alleys and public places; or to authorize a motor carrier to do a local business without the consent of the municipality in which such local business is wholly carried on.

479.4 Highway commissioners, duty to furnish information.

Sec. 4. It shall be the duty of the state highway commissioner and of the several county road commissioners, upon request of the commission, to obtain and furnish information relating to the highways and congestion thereon and the bridges, tunnels and subways located in any territory designated in any application for a certificate or a permit, as well as such other information as the commission may deem pertinent upon the hearing of such application.

479.5 Certificates; construction, transfer.

Sec. 5. No certificate issued under the terms of this act shall be construed to be a franchise nor to be irrevocable, and no such certificate shall be assigned or otherwise transferred without the approval of the commission: Provided, however, that upon the death or bankruptcy of any individual holding a currently valid certificate, the commission shall authorize the transfer of said certificate to the legal representative of such person upon due proof of such death or bankruptcy and upon due proof of the qualifications of such legal representative to act in such matter. Nothing contained herein shall abrogate the provisions of sections 10, 14 and 18 of this article.

479.6 Commission; promulgation of rules; biweekly bulletin.

Sec. 6. (1) The commission shall prescribe the forms of applications for certificates and promulgate rules pertaining to the contents and filing of applicants, and is empowered to administer and enforce all provisions of this act, and to establish and enforce rules affecting the operations of all motor carriers subjected to the provisions of this act affecting their use of the highways, and affecting the conduct of investigations and hearings authorized in this act, and also in respect of all matters pertaining to the proper enforcement of all provisions and purposes of this act. The rules shall be promulgated and become effective only pursuant to and in compliance with Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.315 of the Michigan Compiled Laws. The rules may be rescinded, suspended, modified, and amended at any time at the discretion of the commission and in accordance with Act No. 306 of the Public Acts of 1969, as amended, to effectuate the purposes of this act. All rules promulgated by the commission shall be given and shall have the force and effect of law.

(2) The commission shall provide for the issuance of a bulletin of notices of hearings, applications, and notices of the transfer of certificates, and any other matters relating to its powers and duties regulating transportation. The bulletin shall be issued biweekly and mailed to each holder of an intrastate motor carrier authority from the commission. The mailing of the bulletin to the motor carrier at its registered place of business is to constitute official notice to the motor carrier of the applications, hearings, transfer of certificates, and other official business of the commission as appears in the bulletin, and no other notice thereof need be given the motor carriers except as is otherwise in this act expressly required. The bulletin shall be furnished and mailed to the public upon payment by anyone subscribing for the bulletin of an annual fee to be fixed by the commission with due regard to cost and the interest of the public in its activities.

479.9 Insurance, bonds.

Sec. 9. The commission shall have full power and authority to make and shall make such

insurance or bond requirements for intrastate-only motor carriers of property as it may deem necessary to protect the interests of the public.

479.11 Records of motor carriers; examination, preservation; witnesses; confidential information; public files; penalty.

Sec. 11. (1) Commission may examine all records, books, accounts, and files of each motor carrier to whom a certificate has been issued under this act, having to do with the business of transportation conducted by the carrier. The records, books, accounts, and files or other data or information, by order of the commission, shall be produced at any hearing or proceeding before the commission for use at the hearing or proceeding. The records, books, accounts, and files shall be preserved at least 3 years, except that delivery receipts and delivery records and bills of lading shall be preserved at least 1 year. The commission may compel the attendance and testimony of witnesses and do all things necessary to carry out and enforce all the provisions of this act.

(2) A member of the commission, clerk, officer, or employee of the state shall not divulge or make known, in any manner whatsoever not provided by law, to any person the operations, style of work, or any other information regarding the operations of carriers visited or inspected by him or her in the discharge of his or her official duties, or to permit any report, books, documents, accounts, files, or other data examined or inspected by him or her to be seen or examined by any person, except as provided by law. The information as may be obtained under this section shall be and remain inviolate, except for the purposes of carrying out the provisions of this act, it being the express legislative intent to permit the use of the information by the commission, but to prevent its publication in any manner, except when lawfully presented in open hearings either before the commission or some member of the commission, or before a court of law. Nothing in this section shall be construed to apply to the public files of the commission pertaining to the application for and the certificate of any motor carrier, or to quarterly or other reports, which files and reports shall during office hours be open to inspection by any motor carrier, shipper, or consignee.

(3) A person who violates this section is guilty of a misdemeanor.

479.12 Impounding of motor vehicles, release.

Sec. 12. In order to prevent continued unlawful operation over the highways, the commission may direct the impounding of any motor vehicle of any motor carrier who fails or refuses to comply with all applicable law, the provisions of this act, and any lawful rule or regulation or order of the commission. Any inspector or any peace officer shall be empowered, upon an order of the commission, to impound such vehicles at the expense of the owner. Such vehicles may be released only upon order of the commission and payment by the owner of the reasonable impounding expenses.

479.13 Enforcement of act, rules and regulations; assistance.

Sec. 13. The commission may use any and all available legal and equitable remedies of a civil nature to enforce the provisions of this act or any lawful order, rule or regulation made in pursuance thereof. The commission is empowered to employ and appoint from time to time such experts, assistants, inspectors and other help as may be deemed necessary with the aid of the enforcing agencies of this state, to enable it at all times properly to administer and enforce this act. The inspectors so appointed by the commission shall have all the powers conferred upon peace officers by the general laws of this state. A record shall be kept by the commission showing the daily activities, violations found, and arrests made as to each inspector. No employee of the commission shall ask or receive any fee from any person for the taking of acknowledgments or any other service. It shall be the duty of the law enforcement department or agency of every division, branch or commission of the state government, and of every county and municipality within the state, to see that the provisions of this act, and the orders, rules and regulations of the commission thereunder are enforced; and every peace officer shall arrest, on sight or upon warrant, any person found violating or having violated, any provision of this act, or any order, rule or regulation of the commission; and it shall be the duty of the attorney general of the state and of the prosecuting attorneys of the counties of the state to prosecute all violations of this act, or any order, rule or regulation of the commission thereunder.

479.14 Complaints and investigations; notices; findings

Sec. 14. (1) Upon complaint in writing by any person, firm, corporation, association, mercantile, agricultural or manufacturing society, or by any body politic, municipal organization, or motor carrier, that this act or any order, rule, or practice established by the commission applicable to the motor carrier in any respect has been violated or deviated from, or is being violated or deviated from by such motor carrier the commission shall notify the parties complained of that complaint has been made, and shall furnish a copy of the complaint with the notice, and 20 days after the notice has been given, the commission may proceed to investigate the complaint as provided in this section. Before proceeding to make the investigation, the commission shall give the motor carrier and the complainants at least 10 days' notice of the time and place when and where the matters will be considered and determined, and the parties shall be entitled to be heard and shall have process to enforce the attendance of witnesses. The order shall further provide that the parties complained of shall cease and desist from the violation and conform to the terms of the order. The commission shall cause a certified copy of each order to be delivered to the parties affected thereby, which order shall of its own force take effect and become operative 20 days after the service of the order. Certified copies of all other orders of the commission shall be delivered to the parties affected in like manner, and, unless otherwise prescribed in this act, shall take effect within the time thereafter as the commission prescribes.

(2) When the commission believes that any provision in this act or any rule or order of the commission made in pursuance of this act, has been or is being violated, and that an investigation

relating thereto should be made, the commission may on its own motion or on the application of anyone investigate the suspected violation. Before making the investigation, the commission shall present to the parties alleged to be guilty of the violations a statement in writing setting forth the matters to be investigated. Thereafter, on 10 days' notice to the parties of the time and place of the investigation, the commission may proceed to investigate the matters complained of in the same manner, and make like orders, as if the investigation had been made upon complaint. An investigation, inquiry, or hearing which the commission has power to undertake or to hold may be undertaken or held by or before any commissioner or any employee of the commission when so directed by the commission or its chairperson. The commissioner or employee shall submit findings of fact and conclusions of law to the commission. If the findings of fact and conclusions of law are approved and confirmed by the commission and ordered filed in its office, they shall be the decision and the order of the commission. All investigations, inquiries, or hearings of a commissioner or an employee are considered as the investigation, inquiry, and hearing of the commission.

479.15 Procedure; witness fees; depositions; record.

Sec. 15. (1) Each of the commissioners, for the purposes mentioned in this act, shall have power to administer oaths, certify to official acts, issue subpoenas, compel the attendance of witnesses, and the production of papers, waybills, books, accounts, documents, and testimony. In case of disobedience on the part of any person or persons, or willful failure to comply with any order of the commission or any commissioner or any subpoena, or upon the refusal of any witness to testify regarding any matter upon which the witness may be lawfully interrogated, or to produce any books or papers in the witness's custody or control which the witness shall have been required by any commissioner to produce, a judge of the circuit court, upon application of a commissioner, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from the court, or a refusal to testify in the court.

(2) Each witness who appears before the commission by its order shall receive for his or her attendance the fees and mileage now provided for witnesses in civil cases in circuit court, which shall be audited and paid by the state in the same manner as other expenses are audited and paid, upon the presentation of proper vouchers sworn to by the witnesses and approved by the chairperson of the commission. A witness subpoenaed at the instance of parties other than the commission, shall not be entitled to compensation from the state for attendance and travel, unless the commission certifies that his or her testimony was material and necessary to the matter investigated.

(3) The commission or any party, in any investigation, may cause the depositions of witnesses residing within or without the state to be taken in the manner prescribed by law for like depositions in civil actions in the circuit courts.

(4) A full and complete record of all proceedings held before the commission or any investigation upon complaint, or upon its own motion, shall be kept.

479.16 Criminal penalties, venue.

Sec. 16. Each person to whom this act applies, who violates or who procures, aids, or abets, in the violation of this act, or who fails to obey an order, decision, or rule of the commission, or who procures or aids or abets a person in his or her failure to obey an order, decision, or rule, for which a penalty is not otherwise provided in this act, is guilty of a misdemeanor, punishable by a fine of not exceeding \$500.00, or imprisonment for not more than 90 days, or both. When this act, or an order or decision of the commission has been violated, the offense may be prosecuted in any county, city, or jurisdiction in or through which any motor vehicle implicated was present at the time of the violation.

479.18 Revocation or alteration of findings or orders, certificates or permits; assessments; rehearings; deposit of assessments.

Sec. 18. (1) The commission may, upon application of any person or any motor carrier, or upon its own motion, and upon at least 10 days' notice to the parties affected thereby, for good cause, and after an opportunity to be heard, revoke, suspend, alter, amend, or modify any of its findings or orders. However, a certificate shall only be amended, altered, modified, revoked, suspended, or impaired after like notice and opportunity to be heard and upon clear proof of good, just, and sufficient cause. In addition, beginning January 1, 1989, a person or motor carrier may also be subject to an assessment of not to exceed \$500.00 for each violation of this act, a rule promulgated or an order issued pursuant to this act, or a term or condition of a certificate.

(2) The commission may grant rehearings in all proceedings before it upon petition filed within the time allowed by law to bring proceedings for review. All orders entered pursuant to this section shall be served and take effect as provided in this act for original orders, and the time allowed by law to bring proceedings to review any order of the commission shall continue after the order denying the hearing or after the order made upon a rehearing. The commission shall keep a docket of all causes and proceedings under this act and upon request, upon payment of a reasonable fee, shall furnish any interested party fair copies of any application, answer, petition, motion, order, finding, certificate, on file with, or made or issued by it in any proceeding.

(3) The assessments collected pursuant to this section shall be deposited in the truck safety fund established in section 25 of Act No. 51 of the Public Acts of 1951, being section 247.675 of the Michigan Compiled Laws.

479.19 Injunctive relief.

Sec. 19. Upon the violation of any provision of this act or upon the violation of any rule, regulation, or order of the commission, any judge of the circuit court of any county where such

violation occurs shall have the power to restrain and enjoin the person from further violating any of the said rules, regulations, and orders. Such injunctive relief may be granted upon the application of the commission, the attorney general, the prosecuting attorney of any county, or any person, or any mercantile, agricultural, or manufacturing society or other organization, or any body politic or municipal organization, or any motor carrier aggrieved. No bond shall be required when such injunctive relief is sought upon the application of the commission, the attorney general, or the prosecuting attorney of any county.

479.20 Review of commission orders or decrees.

Sec. 20. Any order or decree of the commission shall be subject to review in the manner provided for in section 26 of Act No. 300 of the Public Acts of 1909, being section 462.26 of the Michigan Compiled Laws.

ARTICLE VI

479.41 Supervision and regulation of safety; rules.

Sec. 1. The commission shall supervise and regulate the safety of operations of each motor carrier. The commission may promulgate rules for the purpose of promoting safety upon the highways and the conservation of their use.

479.42 Review of operation by state police.

Sec. 2. Upon request of the commission, the department of state police shall review the operation of an intrastate motor carrier to determine whether the carrier is in compliance with applicable safety related laws and rules and issue a report within 60 days after completion of its review to the commission.

479.43 Safety rating system.

Sec. 3 The public service commission, in cooperation with the department of state police, will develop and implement by rule or order a motor carrier safety rating system within 12 months after the effective date of this article. In the rating system, an unsatisfactory rating shall not be imposed without an on-site safety review being conducted by the department of state police.

**MOTOR CARRIER RULES
TABLE OF CONTENTS**

<u>SUBJECT</u>	<u>PAGE NOS.</u>
PART 1 - GENERAL PROVISIONS	
Rule 101 Definitions.	1-2
Rule 105 Motor carrier advisory board.	2-3
Rule 106 Meetings; Motor carrier advisory board; posting of notice; minutes.	3
Rule 199 Rescission.	3
PART 2 - APPLICATION FOR MOTOR CARRIER CERTIFICATE	
Rule 201 Information to be submitted.	3
Rule 203 Support for or opposition to application for authority.	4
Rule 204 Contents of the protest.	4-5
Rule 205 Waiver of proposal for decision.	5
Rule 206 Joint pleadings.	5
Rule 208 Contents of the petition to intervene.	5
Rule 209 Filing of reply statement.	5-6
PART 3 - MODIFIED PROCEDURE	
Rule 301 Initiation of modified procedure.	6
Rule 303 Protestant's factual information.	6
Rule 304 Filing of reply statement.	6
Rule 307 Late filings.	7
Rule 308 Applicability of R 460.18205, R 460.18206 and R 460.18207.	7
PART 4 - CERTIFICATES	
Rule 401 Change of names.	7
Rule 405 Primary business.	7
Rule 406 Leasing.	7
Rule 407 Subleasing, leasing, or rental of certificate or permit prohibited.	7
Rule 413 Business address and telephone number; need to maintain current information.	8

**MOTOR CARRIER RULES
TABLE OF CONTENTS**

<u>SUBJECT</u>	<u>PAGE NOS.</u>
PART 6 - TRANSFER OF AUTHORITY	
Rule 601 Definitions	8
Rule 602 Applications generally	8
Rule 603 Applications; statement of claims.	9
Rule 604 Criteria for approval.	9
Rule 606 Publication.	9
Rule 607 Support for or opposition to transfer.	9
Rule 609 Unopposed application.	10
Rule 610 Temporary authority.	10
Rule 611 Consummation of transfers.	10
PART 7 - SHIPPING DOCUMENTS AND PAYMENT OF FREIGHT CHARGES	
Rule 701 Shipping documents; cargo inspection.	10
Rule 703 Freight bills; contents.	11
Rule 705 Collect on delivery charges (c.o.d.).	11
Rule 706 Credit for freight charges.	11-12
Rule 707 Credit for additional charges after freight relinquished.	12
Rule 708 Presentation and payment of freight bills.	12
Rule 711 Inspection of carrier files and reports by commission personnel.	12
PART 9 - TEMPORARY AUTHORITY	
Rule 902 Temporary authority.	12
Rule 903 Application for temporary authority.	13
Rule 906 Notice of filing of application; publication.	13
Rule 907 Filing of protests to temporary authority applications.	13
Rule 910 Proof of security.	13
Rule 911 Revocation of a temporary authority.	13
Rule 912 Grant of temporary authority; presumption.	13
PART 11 - INSURANCE	
Rule 1101 Insurance; liability of third persons.	14
PART 13 - FORMS	
Rule 1301 Sample Forms	
(1) Form A, Certificate of Service	14
(2) Form B, Certificate of Service	15
(3) Form C, Verification	15

PUBLIC SERVICE COMMISSION

MOTOR CARRIERS

Filed with the Secretary of State on March 7, 1988.

These rules take effect 15 days after filing with the Secretary of State.

(By authority conferred on the public service commission by section 6 of article V of Act No. 254 of the Public Acts of 1933, as amended, and section 33 of Act No. 306 of the Public Acts of 1969, as amended, being §§479.6 and 24.233 of the Michigan Compiled Laws)

R 460.18101, R 460.18106, R 460.18201 to R 460.18203, R 460.18303, R 460.18403, R 460.18408, R 460.18409, R 460.18503, R 460.18505, R 460.18610, R 460.18611, R 460.18701 to R 460.18706, R 460.18708, R 460.18801, R 460.18802, R 460.18907, R 460.19019, R 460.19102, R 460.19104, R 460.19105, R 460.19203, R 460.19206, R 460.19211, R 460.19217, R 460.19234, R 460.19246 to R 460.19248, R 460.19250, and R 460.19301 of the Michigan Administrative Code, appearing on pages 564 to 566, 568 to 571, 573, 575 to 580, 586, 588, 589, 592 to 595, 600, 603, 604, and 606 to 615 of the 1984 Annual Supplement to the 1979 Michigan Administrative Code, are amended, and R 460.18413 is added, to read as herein-after set forth.

R 460.18207 of the Michigan Administrative Code, appearing on page 567 of the 1984 Annual Supplement to the 1979 Michigan Administrative Code, is rescinded.

PART I. GENERAL PROVISIONS

R 460.18101 Definitions.

Rule 101. (1) As used in these rules:

(b) "Act" means Act No. 254 of the Public Acts of 1933, as amended, being §475.1 et seq. of the Michigan Compiled Laws.

(d) "Biweekly information bulletin" means the commission's publication containing notices of applications and transfers of certificates and any other matters relating to the commission's powers and duties to regulate motor carriers of property.

(e) "Commission" means the Michigan public service commission.

(f) "Haul" means the movement or act of carriage between points via intrastate routes.

(g) "ICC" means interstate commerce commission.

(h) "Institution of proceeding" means the date of publication of the biweekly information bulletin in which the original or expanded application is noticed.

(i) "Intrastate" means the transportation of property moving between 2 points that are within the boundaries of the state of Michigan, other than traffic that is determined to be interstate and foreign.

(j) "Michigan motor carrier operation" means the physical plant and equipment of an intrastate business enterprise engaged in the transportation for hire of commodities by motor vehicle from place to place upon the public highways of this state.

(k) "Minority" means a person who is black, Hispanic, Asian, American Indian, Alaskan native, female, or handicapped, as defined by Act No. 220 of the Public Acts of 1976, as amended, being §37.1101 et seq. of the Michigan Compiled Laws, and known as the Michigan Handicappers' Civil Rights Act.

(l) "Minority-owned business" means a business enterprise in which more than 50% of the voting shares or interest in the business is owned, controlled, and operated by individuals who are members of a minority and with respect to which more than 50% of the net profit or loss attributable to the business accrues to shareholders who are members of a minority, or to a partner who is a minority.

(m) "Motor carrier regulatory division" means that administrative subdivision of the commission that regulates the operation of motor carriers pursuant to the act.

(n) "Protest" means a written statement objecting fully or in part to any motor carrier matter for consideration before the commission.

(o) "Protestant" means one who files a formal written protest with the commission.

(p) "Shipper" means one who ships or receives goods from one place to another.

(q) "Suitable" means the absence of substantial violations of the act, Act No. 181 of the Public Acts of 1963, as amended, being §480.11 et seq. of the Michigan Compiled Laws, orders of the commission, and all statutes or administrative rules governing the operation of motor carriers.

(2) Terms defined in the act shall have the same meanings when used in these rules.

R 460.18105 Motor carrier advisory board.

Rule 105. (1) A motor carrier advisory board is created to facilitate a continuing and meaningful exchange between the transportation industry, consumers, and the commission staff. The board shall consist of 15 members comprising a representative cross-section of the transportation industry and the shipping public, and shall be appointed by the commission. The term of office of each member of the advisory board shall be 12 calendar months, commencing in January each year. A member appointed to fill a vacancy occurring other than by expiration of a term shall be appointed for the unexpired term. The advisory board shall meet bi-monthly commencing in February 1983, or at the call of the chairperson of the board. Members of the advisory board shall receive no compensation and shall not be reimbursed for any expenses incurred in carrying out their advisory functions.

(2) The advisory board shall provide a forum to discuss generic issues, foreseeable problems, and potential resolutions of matters affecting the motor carrier industry and the public. The board shall not undertake discussions as to the performance of individual commission employees or cases pending before the commission or the courts. Board recommendations shall not be binding and shall be advisory in nature and shall not be binding upon the commission.

(3) The board shall establish procedures for the orderly conduct of its activities.

R 460.18106 Meetings; Motor carrier advisory board; posting of notice; minutes.

Rule 106. (1) All meetings of the motor carrier advisory board shall be open to the public and all persons shall be allowed to attend and to address a meeting. The conditions under which a member of the public is allowed to address the meeting shall be reasonable, flexible, and designed to encourage public expression.

(2) Not less than 8 business days before the date of a regular meeting, notice shall be posted at the commission and published in the biweekly information bulletin. The notice shall contain the date, time, and place of the meeting, and a statement that the meeting is open to the public.

(3) A special meeting may be called by the chairperson of the board. Not less than 2 business days before the date of a special meeting, notice shall be posted at the Commission and shall either be mailed to the board members or provided by telephone. A written notice shall contain the date, time, and place of the meeting, and a statement that the meeting is open to the public. A telephone notice shall provide the date, time, and place of the meeting.

(4) Minutes of each meeting shall be kept and shall be open to public inspection. Copies of minutes shall be available to the public at the reasonable estimated cost of printing and copying.

R 460.18199 Rescission.

Rule 199. (1) R 460.160 to R 460.280, R 460.290 to R 460.407, and R 460.411 to R 460.476 of the Michigan Administrative Code, noted on page 4695 of the 1979 Michigan Administrative Code, are rescinded.

(2) R 460.15001 to R 460.15133 of the Michigan Administrative Code, appearing on pages 4826 to 4845 of the 1979 Michigan Administrative Code, are rescinded.

PART 2. APPLICATION FOR MOTOR CARRIER CERTIFICATE

R 460.18201 Information to be submitted.

Rule 201. (1) A person shall apply for a certificate of authority on forms prescribed by the commission. An application shall include all of the following information:

(a) A statement of the experience of the applicant as a motor carrier.

(b) The ownership and condition of the equipment and physical property of the applicant proposed to be used.

(c) Information required to demonstrate that the applicant is fit.

(2) Failure to comply with the instructions on the application form may result in the rejection, dismissal, or denial of the application.

R 460.18203 Support for or opposition to application for authority.

Rule 203. (1) In evaluating the ability of a carrier to operate safely, the commission will consider, based upon the evidence presented, the incidence of accidents, citations, violations, and vehicles placed out of service by law enforcement agencies. The commission will also consider the results of safety audits conducted by the Michigan State Police and the United States Department of Transportation.

(2) In evaluating an applicant's fitness and suitability, the commission will consider, based upon the evidence presented, all of the following criteria:

- (a) The nature and extent of past violations.
- (b) Whether the conduct has exhibited a knowing disregard for the act or commission orders.
- (c) Whether the applicant has corrected the cause of any violations and is in compliance with the act and commission orders.
- (d) Mitigating circumstances, if any.

(3) At the time of hearing or in processing for modified procedure, an applicant for authority shall submit an affidavit or proofs that all of the vehicles proposed to be used in operating the authority have been inspected during the preceding 12-month period and were, at the time of inspection, in compliance with Act No. 181 of the Public Acts of 1963, as amended, being §480.11 et seq. of the Michigan Compiled Laws, or Act No. 300 of the Public Acts of 1949, as amended, being §257.1 et seq. of the Michigan Compiled Laws. A list of those vehicles shall be provided together with the dates of inspections and names of persons or entities conducting the inspections. At the time of filing the application, if an applicant has not identified those vehicles proposed to be used in operating the authority, the affidavit certifying inspection shall be submitted before the issuance of a certificate.

(7) A motor carrier opposing an application shall file a protest together with the fee prescribed in section 1(a) of article IV of the act. A protest shall be filed within 20 calendar days of the publication of the application and include a certificate of service containing all of the information set forth in R 460.19301(1) or (2). The filing date, for purposes of this rule only, shall be, in the case of mailing through the United States postal service, the postmark on the envelope or, in all other forms of delivery, the date actually received by the commission. Failure to file a protest in a timely manner waives participation in the proceeding before the commission.

(8) A person other than a motor carrier or a witness supporting or opposing an application shall file a petition to intervene not later than 20 calendar days after the publication of the notice of filing of the application in the biweekly information bulletin. A certificate of service verifying the date the petition to intervene was mailed by first-class mail, or served in person upon the applicant or the applicant's representative shall be filed with the petition. Failure to file a petition to intervene in a timely manner waives participation in the proceeding before the commission, except for good cause shown.

R 460.18204 Contents of the protest.

Rule 204. A protestant shall submit and verify, in accordance with R 460.19301(3), all of the following information in separately numbered paragraphs:

- (a) The name and address of protestant, including authority number, if any.
- (b) The name, occupation, and qualifications of witness presenting the information.
- (e) A request for oral hearing, if desired.

R 460.18205 Waiver of proposal for decision.

Rule 205. The parties may, by written stipulation, or orally on the record, waive the issuance of a proposal for decision under the provisions of section 81 of Act No. 306 of the Public Acts of 1969, as amended, being §24.281 of the Michigan Compiled Laws, and known as the administrative procedures act of 1969. If the parties choose to waive the issuance of a proposal for decision, they shall do so by means of forms prescribed and furnished by the commission, by letters, or orally on the record, setting forth the information contained in the commission's waiver form. If a proposal for decision is not waived by the parties, a proposal for decision shall be prepared and served upon all parties within the period of time provided in section 4 of article I of the act.

R 460.18206 Joint pleadings.

Rule 206. Where practicable, parties having common interests may jointly prepare and file pleadings.

R 460.18208 Contents of the petition to intervene.

Rule 208. (1) An intervener shall submit both qualifying and factual information and shall include with the filing a verification of the facts asserted in the petition to intervene.

(2) All of the following qualifying information shall be submitted in separately numbered paragraphs:

- (a) The name and address of the intervener.
- (b) The name, occupation, and qualifications of each witness.
- (c) A description of the interest or interests which are consistent with the transportation policy set forth in section 2 of article I of the act.

(3) All of the following factual information shall be submitted in separately numbered paragraphs:

- (a) Information substantiating the intervener's position regarding the fitness of the applicant to comply with appropriate statutes and rules governing its activities.
- (b) Any legal or other argument.
- (c) A request for oral hearing, if desired.

R 460.18209 Filing of reply statement.

Rule 209. If a petition to intervene is filed under this part, the applicant may file a reply statement. This statement shall be filed with the commission within 15 calendar days following filing of the petition to intervene and include a verification of the facts asserted in the reply

statement containing all of the information set forth in R 460.19301(3) and a certificate of service containing all of the information set forth in R 460.19301(1) or (2). The reply shall only explain matters previously raised.

PART 3. MODIFIED PROCEDURE

R 460.18301 Initiation of modified procedure.

Rule 301. (1) Twenty days following publication of an application in the biweekly information bulletin, when no timely protest is filed, when oral hearing is waived by all parties, or when all protests previously filed have been withdrawn, the commission may direct that an application be processed under modified procedure if it appears that substantially all issues of material fact might be resolved by means of written materials and that the efficient disposition of the proceeding can be made without oral hearing.

(2) A protested application shall be scheduled for oral hearing.

(3) A notice directing modified procedure shall be served on all parties to the proceeding directing that they comply with these modified procedure rules.

R 460.18303 Protestant's factual information.

Rule 303. (1) Within 30 calendar days of the service of an applicant's verified statement, protestants shall submit all of the following factual information in separately numbered paragraphs:

(e) Information substantiating that the applicant is not fit to comply with the appropriate statutes and rules governing its activities.

(f) Any legal or other argument.

(2) With the factual information, a protestant shall include a verification of the facts asserted in the statement. The verification shall contain all of the information set forth in R 460.19301(3) and shall be accompanied by a certificate of service containing all of the information set forth in R 460.19301(1) or (2).

R 460.18304 Filing of reply statement.

Rule 304. If a protest or petition to intervene is filed under this part, a reply statement may be filed. This statement shall be filed with the commission within 15 calendar days following receipt of the protestants' or interveners' factual information. The reply shall explain only matters previously raised. The reply statement shall include a verification of the facts asserted in the reply statement containing all of the information set forth in R 460.19301(3) and a certificate of service containing all of the information set forth in R 460.19301(1) or (2).

R 460.18307 Late filings.

Rule 307. Unless otherwise authorized, the failure of an applicant to comply with the provisions of R 460.18302 shall result in dismissal of the application. Unless otherwise authorized, statements of a protestant or intervener which are filed late shall not be considered under this part.

R 460.18308 Applicability of R 460.18205, R 460.18206

Rule 308. R 460.18205, R 460.18206 shall be applicable to this part.

PART 4. CERTIFICATES

R 460.18401 Change of names.

Rule 401. A motor carrier shall not change its name without filing the proper application and receiving commission approval.

R 460.18405 Primary business.

Rule 405. A person engaged in any other business or enterprise who transports property by motor vehicle for business purposes, unless the transportation is within the scope, and in the furtherance, of the person's primary business enterprise, which is not transportation, is deemed to be conducting a motor-carrier-for-hire operation in evasion of the act, unless the transportation has been authorized by the commission pursuant to the act and these rules, or is exempt under the act.

R 460.18406 Leasing.

Rule 406. The leasing of a motor vehicle to be operated by an employee of the lessor for transportation of property to a person other than to a regulated carrier is prohibited as what is defined as "through any device or arrangement" as defined in subsection (1) of section 1 of article I of the act, which shall constitute an evasion of the act unless the parties to the lease conduct their operation according to the terms of the lease agreement, which shall be in writing and provide that the use of the vehicle shall be subject to lessee's supervision, direction, and control for the full period of the lease.

R 460.18407 Subleasing, leasing, or rental of certificate or permit prohibited.

Rule 407. Any subleasing, leasing, or rental of a certificate or permit in whole or in part is prohibited.

R 460.18413 Business address and telephone number; need to maintain current information.

Rule 413. A motor carrier holding a certificate or permit from the commission shall maintain on file with the commission its current principal business address and telephone number and the name of an officer or business agent at that place of business. Failure to comply with this requirement is a violation subject to the penalty provisions of section 16 of article V of the act.

PART 6. TRANSFER OF AUTHORITY

R 460.18601 Definitions.

Rule 601. As used in this part:

(a) "Claims", when used in connection with a transfer of authority, means unpaid claims of shippers arising out of the transferor's failure or neglect to collect and pay over c.o.d. moneys and claims for loss or damage where goods have been damaged after delivery to the transferor and before delivery to the consignee by a person or persons, including other carriers, for whose action the transferor is liable.

(b) "Operating rights" means the right to perform transportation as a motor carrier as authorized by a certificate or permit issued by the commission.

(c) "Transfer of authority" means the sale of intrastate motor carrier operating rights, the merger of 2 or more motor carriers, or the merger of a motor carrier with a noncarrier.

R 460.18602 Applications generally.

Rule 602. A transfer shall be requested in writing on a form prescribed by the commission. The application and the filing fee required by section 1 of article IV of the act shall be filed with the commission. An application shall contain all of the following information:

(a) Full name, address, signature, and title of the transferor.

(b) Full name, address, signature, and title of the transferee.

(c) A copy of the complete intrastate operating authority of transferor, which shall be clearly marked to indicate the authority being transferred and that portion being retained, if any.

(d) A copy of each written agreement covering the proposed transfer, including real estate, equipment, and other property involved in the transaction.

(e) The status of the proceedings for the transfer of any interstate commerce commission authority corresponding to the transfer of intrastate operating rights.

(f) A certified copy of any court order issued to accomplish the transfer or to establish the authority of an executor, trustee, or receiver.

(h) A copy of the articles of incorporation or assumed name certificate for the transferee, unless previously filed.

(i) A statement indicating whether or not the transferee has other motor carrier authority issued by the commission.

R 460.18603 Applications; statement of claims.

Rule 603 The following type of statement shall accompany the application:

(a) A statement containing the written undertaking of the transferee, duly signed, assuming the liability of the transferor and agreeing to pay all such claims against the transferor, as defined in R 460.18601, as of the date of the commission's order approving the transfer.

R 460.18604 Criteria for approval.

Rule 604. A transfer shall be approved if the commission finds compliance with all of the following provisions:

(a) The application complies with the filing requirements, as to form and content, set forth in R 460.18602 and R 460.18603.

(b) The transferee is fit to provide the transportation to be authorized by the certificate and to comply with the provisions of the act and the rules of the commission.

(c) The transfer is consistent with the declared transportation policy set forth in section 2 of article I of the act.

R 460.18606 Publication.

Rule 606. The name and address of the holder of the authority, and the name and address of the transferee shall be published in the biweekly information bulletin.

R 460.18607 Support for or opposition to transfer.

Rule 607. (1) A motor carrier opposing an application for transfer of a certificate shall file a protest setting forth valid reasons therefore and address the criteria for approval or the criteria for disapproval specified in these rules. The filing fee, as prescribed by section 1(a) of article IV of the act, shall be submitted with the protest. A protest shall be filed within 20 calendar days of the publication in the biweekly information bulletin and shall include a certificate of service containing all of the information set forth in R 460.19301(1) or (2). Failure to timely file a protest waives participation in the proceeding before the commission.

(2) A person other than a motor carrier supporting or opposing an application for transfer shall file a petition to intervene not later than 20 calendar days after publication in the biweekly information bulletin and shall include a certificate of service verifying the date the petition to intervene was mailed by first-class mail or served in person upon the transferor and transferee or the representative or representatives of the transferor and transferee. The petition shall set forth valid reasons for the intervention and address the criteria for approval or the criteria for disapproval specified in these rules. Failure to file a petition to intervene in a timely manner waives participation in the proceeding before the commission, except for good cause shown.

R 460.18609 Unopposed application.

Rule 609. If a protest or petition to intervene is not filed, the transfer may be acted upon without hearing.

R 460.18610 Temporary authority.

Rule 610. (1) The commission may grant temporary authority for a period not exceeding 60 days while an application for transfer of authority is pending.

R 460.18611 Consummation of transfers.

Rule 611. When a transfer is approved, the parties shall consummate the transfer within 30 days after service of the commission order, unless extended by special permission of the commission. The parties shall advise the commission in writing, of the date of consummation.

[OPTIONAL]

PART 7. SHIPPING DOCUMENTS AND PAYMENT OF FREIGHT CHARGES

R 460.18701 Shipping documents; cargo inspection.

Rule 701. (1) A motor carrier receiving property for transportation between points on its routes and a shipper tendering property for transportation shall execute a bill of lading, contract, or other freight documents that contain the information required in R 460.18703.

(2) A vehicle operated by a motor carrier shall be accompanied by the original or a copy of the carrier's bill of lading, manifest, travel order, or freight bill, which, individually or collectively, shall contain all of the following information:

- (a) Consignor.
- (b) Consignee.
- (c) Commodity.
- (d) Origin.
- (e) Destination.

(3) With approval of the commission, a motor carrier that provides a data communications network between its stations that supplies the information required by this rule may substitute a driver travel order or trip sheet for the documents otherwise required by these rules, except when transporting hazardous materials.

(4) To ensure that shipping documents are consistent with the cargo being transported all equipment operated by a motor carrier shall be subject to inspection at all reasonable times by employees or agents of the commission.

R 460.18703 Freight bills; contents.

Rule 703. Upon request and payment of freight charges, a motor carrier shall surrender the original freight bill or a copy to the person paying the charges and shall indicate on it the receipt of all charges paid and the date of payment. No specific form is prescribed, but, when presented, the bill shall show all of the following information with respect to the shipments covered by it:

- (a) Point of origin.
- (b) Shipper.
- (c) Destination.
- (d) Consignee.
- (e) Name of transfer point or points, and name or alpha-code of each motor carrier participating in the haul, in a joint line.
- (f) Date of shipment.
- (g) Weight or quantity of shipment or other unit corresponding to the carrier's tariff.
- (h) Proper description of the property transported.
- (i) Any other charge incidental to the transportation.

R 460.18705 Collect on delivery charges (c.o.d.).

Rule 705. (1) The delivering motor carrier shall remit each c.o.d. collection directly to the consignor or other person designated by the consignor as payee within 10 days after delivery of the c.o.d. shipment to the consignee.

(2) A motor carrier handling c.o.d. shipments as a delivering carrier shall maintain a record of c.o.d. shipments received for delivery in a manner and form that will plainly and readily show all of the following information with respect to each shipment:

- (a) Number and date of freight bill.
- (b) Name and address of shipper or other person designated as payee.
- (c) Name and address of consignee.
- (d) Date shipment delivered.
- (e) Amount of c.o.d.
- (f) Date collected by delivering carrier.
- (g) Date remitted to payee.
- (h) Check number or other identification of remittance to payee.

R 460.18706 Credit for freight charges.

Rule 706. Upon taking precautions deemed by a motor carrier to be sufficient to assure payment of the charges within the credit period, the motor carrier may relinquish possession of freight in advance of payment of charges and may extend credit in the amount of the charges to shippers for 15 business days, or other period of time instead of 15 days with special permission of the commission. When the freight bill covering a shipment is presented to the shipper on or before the day of delivery, the credit period shall run from 12 o'clock midnight following presentation of

the freight bill. When the freight bill is not presented to the shipper on or before the date of delivery, the credit period shall run from 12 o'clock midnight following presentation of the freight bill.

R 460.18707 Credit for additional charges after freight relinquished.

Rule 707. When a motor carrier has relinquished possession of freight and collected the charges presented by it as the total amount of such charges and another freight bill for additional freight charges is thereafter presented to the shipper, the motor carrier may extend credit in the amount of the additional charges for 30 calendar days, to be computed from the first 12 o'clock midnight following presentation of the subsequently presented freight bill.

R 460.18708 Presentation and payment of freight bills.

Rule 708. (1) A freight bill for transportation charges shall be presented to a shipper within 7 calendar days after 12 o'clock midnight following delivery of the freight or upon such period of time set by order of the commission after investigation and hearing on the matter. When a freight bill is presented by United States mail, the postmark shall be considered to be the time of presentation of the bill.

(2) Mailing by a shipper of a valid check, draft, or money order, or an electronic transfer of funds, which is satisfactory to the motor carrier, in payment of freight charges within the credit period constitutes collection of the charges within the credit period. The postmark shall be considered as the time of mailing.

R 460.18711 Inspection of carrier files, and reports by commission personnel.

Rule 711. The files and reports required by statute to be available for inspection shall be available during normal business hours at the carrier's principal place of business or at such time and place as directed by the commission. The carrier shall notify the commission of its current business office address.

PART 9. TEMPORARY AUTHORITY

R 460.18902 Temporary authority.

Rule 902. A motor carrier may apply for temporary authority while an application for permanent authority is pending or a certificate or permit is being processed.

R 460.18903 Application for temporary authority.

Rule 903. An application for temporary authority shall be filed on forms prescribed and furnished by the commission or in letter form containing the information required by the rules in this part. An application filed under R 460.18902 does not require a filing fee.

R 460.18906 Notice of filing of application; publication.

Rule 906. Notice of the filing of an application for temporary authority shall be given by publication in the biweekly information bulletin.

R 460.18907 Filing of protests to temporary authority application.

Rule 907. (1) A motor carrier opposing an application for temporary authority may file a protest. A protest filed under this rule does not require a filing fee. The protest shall be filed with the commission within 10 calendar days of publication of the notice of the application in the biweekly information bulletin. The filing date for purposes of this rule shall be, in the case of mailing through the United States postal service, the postmark on the envelope or, in all other forms of delivery, the date actually received by the commission. The protest shall be verified and contain all of the information set forth in R 460.19301(3). The protest shall include a certificate of service containing all of the information set forth in R 460.19301(1) or (2). The commission shall take no action authorizing the commencement of a temporary operation until after the expiration of the 10-day notice requirement contained in this rule. The commission shall either grant or deny the application within 5 days of expiration of the protest filing period.

R 460.18910 Proof of security.

Rule 910. Acceptable proof of security for the protection of the public shall be filed before the issuance of a temporary authority.

R 460.18911 Revocation of a temporary authority.

Rule 911. The commission may revoke a temporary authority for good cause.

R 460.18912 Grant of temporary authority; presumption.

Rule 912. A grant of temporary authority shall not establish a presumption that permanent authority to provide transportation will be granted in a corresponding permanent authority application.

PART 11. INSURANCE

R 460.19101 Insurance; liability of third persons.

Rule 1101. All carriers shall secure and keep in force a public liability and property damage insurance policy for the protection of persons. The minimum amounts of the policy shall be as follows:

FREIGHT VEHICLES OF 10,000 LBS. OR MORE GVW

<u>Commodity transported</u>	<u>Single limit required</u>
Non-hazardous	\$ 500,000.00
Hazardous material	\$1,000,000.00

FREIGHT VEHICLES UNDER 10,000 LBS. GVW

<u>One person liability</u>	<u>All persons liability</u>	<u>Property damage damage</u>	<u>Hazardous material</u>
\$100,000.00	\$300,000.00	\$50,000.00	\$1,000,000.00

PART 13. FORMS

R 460.19301 Sample Forms.

Rule 1301. (1) Form A shall read as follows:

**CERTIFICATE OF SERVICE
(for service by mail)**

(Name of person certifying service) hereby certifies under penalty of perjury that on the _____ day of _____, 20____, he/she served complete copies of the attached (identification of the document) upon the following person:

(List each person and his/her address)

by depositing same in the United States mail at the City of _____, State of _____, enclosed in sealed envelopes, directed to the above-named persons at the above-indicated addresses, and with sufficient first-class postage affixed.

Date _____

(Signature of person certifying)

(2) Form B shall read as follows:

CERTIFICATE OF SERVICE
(for service in person)

(Name of person certifying service) hereby certifies under penalty of perjury that on the _____ day of _____, 20____, he/she served complete copies of the attached (identification of the document) by personally delivering same to the following persons at the following locations:

(List each person and the location at which each was served.)

Date _____

(Signature of person certifying)

(3) Form C shall read as follows:

VERIFICATION

I, (Name of person verifying), being duly sworn upon oath, verify under penalty of perjury that the facts asserted in the attached (Identification of the document) are true and correct to the best of my knowledge. If representing a company, corporation, or organization, I further certify that I am authorized and qualified to submit this information.

(Signature of person verifying)