

DEPARTMENT OF TRANSPORTATION

DELAWARE TRANSIT CORPORATION

Statutory Authority: 2 Delaware Code, Section 1802(b) (2 **Del.C.** §1802(b))
2 **DE Admin. Code** 2287

PROPOSED

PUBLIC NOTICE

2287 Public Carrier Regulations

Pursuant to the authority provided by 2 **Del.C.** §1802(b), the Delaware Department of Transportation (DelDOT), adopted the Public Carrier Regulations.

The Department, through the Delaware Transit Corporation, Office of Public Carrier Regulation, seeks to adopt general revisions to its existing regulation, Public Carrier Regulations, to address procedural changes and public safety concerns. These collective changes are promote public safety and serve, in part, to clarify the intent of the Department as enacted through these regulations.

Public Comment Period

DelDOT will take written comments on these proposed general revisions to 2 **DE Admin. Code** 2287, from October 1, 2018 through October 31, 2018. The public may submit their comments to:

Bruce R. Demeter, Director, Office of Public Carrier Regulation
(Bruce.Demeter@state.de.us) or in writing to his attention,
Delaware Transit Corporation
Office of Public Carrier Regulation
119 Lower Beech Street
Wilmington, DE 19805

2287 Public Carrier Regulations

1.0 Definitions

~~Definitions—Same as used in 2 **Del.C.** Chapter 18, §1801. In addition to the definitions in 2 **Del.C.** §1801, the following words, terms, and phrases, when used in this regulation, shall have the following meaning:~~

"Certificate Holder" means a person holding a Certificate of Public Convenience and Necessity.

"Certificate of Public Convenience and Necessity" means formal authorization granted to a person, issued by the Office of Public Carrier Regulation, to operate a specified aggregate number of vehicles within and conforming to a particular service category, and requiring a person's conformance to the rules and regulations and to all future amendments, adopted by the Office of Public Carrier Regulations applicable to such Certificate in accordance with 2 **Del.C.** ~~Chapter Ch.~~ 18.

"Department" means the Delaware Department of Transportation.

"Director" means the ~~Director~~ Chief Executive Officer of the ~~Division of Motor Vehicles~~ Delaware Transit Corporation of the Department of Transportation.

"Division" means ~~the Delaware Transit Corporation and the Office of Public Carrier Regulation ("OPC").~~

"Exempt Vehicle" means any carpools, van pools and public agency vehicles not operated as a commercial venture, and ambulances, vehicles used exclusively for the transportation of decedents and persons participating in funeral services, vehicles used solely to provide free transportation services for customers of the business establishment operating said vehicles, and rental or leased vehicles which rental or lease does not include a driver; provided, however, that no motor vehicle excluded under this definition shall be used on a for-hire basis with a driver except as authorized by this chapter. Transportation to and from any school or school-sponsored event when such transportation is under the regulation of the Department of Education, transportation to and from a church, synagogue or other place of worship, and shuttle-type transportation provided by business establishments without charge to customers of the business offering such shuttle transportation between fixed termini is also exempt.

"Highway" means any road, lane, or street maintained by the State, or any municipality or county thereof, for use by the traveling public.

"Interstate" means transportation between any place in a state and any place in another state or between places in the same state through another state.

"Intrastate" means travel within the boundaries of the State of Delaware.

"Medical Transport Vehicle" means any motor vehicle designed or used to transport 15 persons or less, including the driver, on a prearranged basis for visits to medical care providers or other destinations related to health and welfare that require "Protective Oversight" of passengers with special needs.

"Passenger Trailer" means any unpowered vehicle that transports passengers over the roadways of the State of Delaware while being pulled by a motor vehicle.

"Prearranged" means that the transportation has been arranged or reserved via telephone, facsimile, or computer before the Vehicle for Hire is dispatched to render the transportation service or the providing of a driver service that transports a passenger in the passenger's vehicle that has been arranged or reserved via telephone, facsimile, computer or subscription service or any service ancillary to the transportation such as loading baggage.

"Proceedings" means actions, complaints, hearings, investigations, trials, appeals, orders, and similar proceedings.

"Property" means all material, equipment, apparatus, devices and property of any kind owned or operated by any public carrier.

"Protective Oversight" means the continuity of responsibility for the safety and welfare of passengers. Due to the level of disability, behavior, physical ability or medical condition, some passengers are at risk if left alone and require continuous oversight by another party.

"Rates" means rates, fares, charges, tolls, fees, tariffs or any schedule of prices charged for public transportation by the public carrier.

"Records" means accounts, books, charts, contracts, documents, files, maps, reports, schedules, trip logs, maintenance logs, dispatch logs, state, federal, and developer mandated vehicle software updates, software correction and debugging, etc.

"Reserve Vehicle" means a Vehicle for Hire not in service.

"Secretary" means the Secretary of the Department of Transportation.

"Taximeter" means a meter instrument or device attached to a taxicab, which measures mechanically or electronically the distance driven and the waiting time upon which the fare is based.

"Vehicle for Hire" means any motor vehicle engaged in the business of carrying persons for hire in the State of Delaware where compensation for said transportation is made directly or indirectly.

"Written Notice" means any notice provided by the OPC via email, fax, express mail, regular mail or certified mail, or return receipt requested, unless noted otherwise.

2.0 The ~~Delaware Department of Transportation (DelDOT)~~ Delaware Transit Corporation

2.1 The principal office ~~of the Delaware Department of Transportation shall be in the City of Dover and shall be in the Department of Transportation, Department of Safety and Homeland Security Building, Danner Campus,~~ shall be Delaware Transit Corporation, Office of Public Carrier Regulation, 303 Transportation Circle, Dover, Delaware 19904 at 119 Lower Beech Street, Wilmington, DE 19805.

2.2 Prohibited Conduct of Employees ~~of DelDOT.~~ DelDOT and OPC personnel shall conduct themselves in accordance with Title 29 of the Delaware Code, Chapter 58-A and in furtherance of such compliance shall not:

2.2.1 Hold a pecuniary interest in or office of any public carrier.

2.2.2 Recommend to any public carrier the employment of any person.

2.2.3 Accept from any public carrier a gift or gratuity.

2.2.4 Divulge information learned during the course of an investigation except as may be directed by ~~DelDOT~~ OPC or authorized by law.

2.3 Books, Records, Accounts and Systems of Account of Carrier

2.3.1 ~~DelDOT~~ OPC requires all carriers to maintain for permanent record ~~and/or~~ and submission to ~~DelDOT~~ OPC the following records, accounts and documents: annual reports, maps of operating territory, Delaware intrastate rights, Certificates of Public Convenience and Necessity for both Delaware and I.C.C./U.S. DOT, if any, and changes or addendums to said certificates, depreciation accounts, maintenance records on each vehicle, and any other records ~~DelDOT~~ OPC may prescribe. All accounting procedures must conform with generally accepted accounting principles.

- 2.3.2 Every public carrier shall keep such books, accounts, papers, records and memoranda as are required by ~~DeIDOT~~ OPC and, when required, shall make available copies of its books, accounts, papers, records, and memoranda relating to the business done by such public carrier within this State for a period of three years.

2.4 Inspections

- 2.4.1 ~~DeIDOT~~ OPC shall have access to and the right to inspect and examine any and all vehicles, books, accounts, records, memoranda, property, plant, facilities, and equipment of public carriers. These inspections shall be made where such books, accounts, records, memoranda, property, plant, facilities, and equipment are maintained by public carriers. The OPC will provide the public carrier with at least two (2) week written notice before the OPC will perform an inspection under this section. A public carrier can request, in writing, a postponement of the inspection. An inspection may be postponed only by the OPC upon a showing of good cause from the public carrier. The inspection must be re-scheduled no more than thirty (30) days after the initial inspection date set by the OPC.

- 2.4.2 Per Title 21, Chapter 21, Section 2144, at any time and notwithstanding the possession of current registration plates, as provided by this title, the Secretary, or any authorized agent of the ~~Department~~ OPC or any police officer may, upon reasonable cause, require the owner or operator of a vehicle to stop and submit such vehicle and the equipment to such further inspection and test with reference thereto as may be appropriate. In the event such vehicle is found to be in an unsafe condition or lacking the required equipment or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy thereof to the ~~Department~~ OPC. The notice shall require that such vehicle and its equipment be placed in safe condition and in proper repair and adjustment ~~and/or~~ and that proper equipment be obtained, and that a certificate of inspection and approval for such vehicle be obtained within 5 days thereafter.

2.5 Standards, Classifications, Regulations, Practices, Measurements, Services, Property and Equipment of Public Carrier

- 2.5.1 ~~DeIDOT~~ OPC shall, by order in writing:

- 2.5.1.1 Fix just and reasonable standards, classifications, regulations, practices, measurements or services to be furnished, imposed, observed, and followed thereafter by any public carrier.
- 2.5.1.2 Require every public carrier to furnish safe, adequate and proper service and keep and maintain its property and equipment in such condition as to enable it to do so.
- 2.5.1.3 Have the full authority to enforce these rules and regulations and impose any penalties in accordance with these rules and regulations including: the removal of the unexpired Certificate ~~of Inspection~~ issued by ~~DeIDOT~~ OPC from the vehicles windshield; suspension or revocation of the driver's licenses of any Certificate of Public Convenience and Necessity holders, entity representatives, employees, drivers, or others involved in company activities; suspension or revocation of the Certificate of Public Convenience and Necessity; ~~and/or~~ and suspension or revocation of the registration, ~~issues issued~~ issued by the Division of Motor Vehicles, of any vehicles ~~operated~~ operating under the a Certificate of Public Convenience and Necessity or any vehicles that are providing public carrier services without a Certificate of Public Convenience and Necessity issued by the OPC unless otherwise exempted by the Public Carrier Act.
- 2.5.1.4 Have the full authority to revoke a Certificate of Public Convenience and Necessity, if ~~480~~ 90 days have passed after the issuance of a Certificate of Public Convenience and Necessity, and a carrier has not begun operating the proposed service. The carrier will be given a ~~90~~ 30 day warning, with the opportunity to request an extension past the ~~480~~ 90 day limit. If an extension is warranted, it will be granted, up to but not exceeding ~~480~~ 60 days past the first ~~480~~ 90 day deadline.

2.6 Filing of Papers

- 2.6.1 ~~DeIDOT~~ OPC shall be responsible for the maintenance and custody of the docket files, and records ~~of DeIDOT including the transcripts of testimony and exhibits with all papers and requests filed in proceedings, and the minutes of all action taken by DeIDOT, and of its findings, determinations, reports, opinions, orders, rules, regulations, and approved forms and papers required to be filed with the OPC. All documents are to be filed either in person or certified mail at the Office of Public Carrier, 119 Lower Beech Street, Wilmington DE, 19805. Documents that are time limited by law of OPC rules and policies may not be accepted by the OPC if time deadlines are not met. All requests for information and copies of official records, or a request to inspect public records shall be made to the OPC in writing.~~
- 2.6.2 All orders and other actions of ~~DeIDOT~~ OPC shall be authenticated or signed by the Director or such other personnel as may be authorized by him/her.
- 2.6.3 ~~All pleadings or papers required to be filed with DeIDOT shall be filed in the office of DeIDOT, in person or by certified mail, at Dover, within the time limit, if any, fixed by law or DeIDOT's rule for such filing; and~~

~~similarly all requests for official information, copies of official records, or opportunity to inspect public records shall be made to the office of DelDOT.~~

~~2.6-42.6.3~~ Communications addressed to ~~DelDOT~~ OPC and all applications, complaints, petitions, answers and other pleadings, all reports, exhibits, depositions, transcripts, orders and other papers or documents, received or filed in the office of ~~DelDOT~~ OPC shall be stamped showing the date of the receipt or filing thereof.

~~2.6-52.6.4~~ All papers, of whatever character, offered for filing in ~~any formal case~~ shall show the title and style of the case and the docket number if such number has been assigned be written clearly, and contain the name, address and telephone number of the person filing the paper. The filing shall also describe the nature and reason for the filing and describe any relief, if any, being sought by the person filing the paper. ~~DelDOT~~ OPC will not be required to file any paper not so identified receive any paper that does not contain the information required by this section.

2.7 Effective Date

~~2.7.1 These Rules and Practices~~ This regulation shall become effective in accordance with Title 2 of the **Delaware Code**, Chapter 18, §1802(b), adoption by ~~DelDOT~~ OPC and approval by the Secretary of the Department of Transportation. ~~DelDOT~~ OPC shall take such action to insure that such known public carriers are informed by certified mail. ~~DelDOT~~ OPC will also utilize additional methods to publicize the effective date to reach as many public carriers as it can.

2.8 Changes

2.8.1 Upon its own initiative or request by a public carrier or individual, ~~DelDOT~~ OPC shall consider changes to ~~these Rules and Practices~~ this regulation. The proposed changes and ~~DelDOT's~~ OPC's comments and recommendations pertaining to them shall be distributed to all interested and involved parties. Changes will be made in accordance with Title 2 of the **Delaware Code**, Chapter 18, §1802(b), and the Secretary must approve any changes prior to implementation.

15 DE Reg. 550 (10/01/11)

3.0 Public Carriers

3.1 Applicability. ~~These rules and practices~~ This regulation shall apply to all public carriers regulated by ~~DelDOT~~ OPC in compliance with Title 2, Chapter 18 of the **Delaware Code** annotated.

3.1.1 Exemption. Any vehicle that is regulated by the Delaware Fire Prevention Commission as defined by 16 **Del.C.** §6708(2) and is the holder of a currently valid permit to operate a vehicle as an ambulance shall be exempt from 2 **Del.C.** Ch.18 as a public carrier.

3.1.2 Transition. All public carriers that have ambulances registered under these Regulations may remove these vehicles from the Certificate of Necessity and Public Convenience. If a limousine registration plate with a "LX" prefix has already been obtained, these public carriers may change the vehicle registration plate to the registration plate applicable for that type of vehicle. All title fees ~~charged by the Division of Motor Vehicles will be waived for the conversion of the titles. The~~ and registration fees shall still apply as would ordinarily be required for the registration type and term of that vehicle.

3.2 Resident Agent. Every public carrier shall file with ~~DelDOT~~ OPC a designation in writing of the name and post office address of a person residing within this State or a corporation authorized to transact business in the State, upon whom service of any notice, order or process may be made under this Chapter. Such designation may, from time to time, be changed by like writing similarly filed.

3.3 Prohibitions

3.3.1 Hereafter no public carrier shall, without written notification to ~~DelDOT~~ OPC and prior approval of ~~DelDOT~~ OPC in instances where ~~DelDOT~~ OPC has jurisdiction (see Title 2, Chapter 18, §1802):

3.3.1.1 Exercise any franchise except to the extent granted by ~~DelDOT~~ OPC.

3.3.1.2 Assign, lease or transfer any franchise right.

3.3.1.3 Acquire a pecuniary interest in any other public carrier operating in this State.

3.3.1.4 Abandon, discontinue or alter any franchise.

3.3.2 No public carrier shall under any circumstances:

3.3.2.1 Offer to any employee of ~~DelDOT~~ OPC whose duties include the regulation of public carriers any office, appointment, gift, gratuity, or special consideration of any kind whatsoever.

3.3.2.2 Charge or receive from any person a greater or lesser compensation than from any other person under substantially similar circumstances.

3.3.2.3 Extend any privileges to any person except as authorized in Title 2, Chapter 18, Section 1816 of the **Delaware Code**.

- 3.3.2.4 Discriminate against any person as prohibited by the Laws or Constitutions of the United States and the State of Delaware.
 - 3.3.2.5 Refuse service to any person unless he/she is under the influence of intoxicating liquors or drugs, or he/she is incapable of taking care of himself/herself, or his/her conduct is such, or is likely to be such, as to make him/her objectionable to other passengers or prospective passengers.
 - 3.3.2.6 Physically or verbally assault, intimidate, or otherwise abuse the Director, a member, an employee, agent or other individual acting on behalf of the ~~Office of Public Carrier Regulations~~ OPC, a passenger, public official or other individual publicly or privately by any means as annotated in 11 Del.C. §1240.
 - 3.3.2.7 Make or offer any false or misleading statement ~~and/or~~ and information to the Director ~~or OPC~~, a member, an employee, agent or other individual acting on behalf of the ~~Office of Public Carrier Regulations~~ OPC, a passenger, public official or other individual publicly or privately by any means.
 - 3.3.2.8 Have a vehicle registration ~~which expiration date that~~ expires after the ~~unexpired~~ expiration date of the renewal Certificate of Inspection sticker issued by ~~DelDOT~~ located in the vehicle's windshield or other location as the OPC may designate. The vehicle registration shall be issued for no longer than six (6) months in accordance with Title 21, Chapter 21, §2155, and shall expire at the same time as the ~~unexpired Certificate of Inspection sticker issued by DelDOT located in the vehicle's windshield~~ OPC's renewal Certificate unless the registration is issued by a State other than the State of Delaware.
 - 3.3.2.9 Allow anyone to operate a Vehicle for Hire while holding a suspended or revoked driver's license issued by their State of residence.
- 3.4 Affirmative Duties. Every public carrier shall, in addition to all other duties imposed by the Laws of the State of Delaware:
- 3.4.1 Maintain inside the vehicle a schedule of rates and charges currently on file with ~~DelDOT~~ OPC for convenient inspection by the public.
 - 3.4.2 File with ~~DelDOT~~ OPC on or before April 1st of the following year an annual gross revenue report for the preceding calendar year, a copy of the current year's Division of Revenue Business License, and other special reports that may from time to time be required.
 - 3.4.3 Furnish services which are safe.
 - 3.4.4 File with ~~DelDOT~~ OPC within thirty (30) days of accidents involving personal injury or property damage exceeding \$1000 in which they are involved. Public carriers providing service where intrastate and interstate traffic are commingled in the same vehicle shall notify ~~DelDOT~~ OPC of accidents in which they are involved occurring within this State which also must be reported to a Federal agency, by reporting such accidents to ~~DelDOT~~ OPC on copies of forms sent to the Federal agency. In case of death resulting from an accident, ~~DelDOT~~ OPC shall be notified by telephone, email or in-person ~~or telegram~~ as soon as possible but no more than 48 hours after the accident. Both ~~DelDOT~~ OPC and the Federal agency shall be notified concurrently.
 - 3.4.5 Provide to ~~DelDOT~~ OPC on or before April 1st of the following year a listing of drivers operating vehicles under the regulatory jurisdiction of ~~DelDOT~~ OPC. The list will be kept current by the carrier. Any driver employment changes ~~and/or~~ and notifications owners/drivers convicted of a felonious crime must be reported to ~~DelDOT~~ OPC within thirty (30) days of such change or conviction.
 - 3.4.6 Provide a Federal Bureau of Investigation and a State Bureau of Investigation criminal history background check to verify that all individuals operating qualified vehicles are clear of any disqualifying crimes. This information must be submitted to ~~DelDOT~~ OPC by all carriers with any new hire drivers within thirty (30) days of initial employment. In addition, this information, not more than one hundred eighty (180) days old, must be submitted to ~~DelDOT~~ OPC by all carriers, for all owners, officers, and employees/drivers, with any new, amended, ~~and/or~~ or transfer application filed with ~~DelDOT~~ OPC.
 - 3.4.7 Comply with these Rules and Practices. The sale of any vehicle shall not release a violator from the obligation to satisfy any administrative penalty imposed by the ~~Office of Public Carrier Regulations~~ OPC or its agents. Any outstanding fees or penalties must be satisfied in full before the ~~Office of Public Carrier Regulations~~ OPC can review, renew or make any changes to a carrier's operational authority.
 - 3.4.8 Sale of any vehicle shall not release a violator from the obligation to satisfy any administrative penalty imposed by the ~~Office of Public Carrier Regulations~~ OPC or its agents. Any outstanding fees or penalties must be satisfied in full before the ~~Office of Public Carrier Regulations~~ OPC can review, renew or make any changes to a carrier's operational authority.
- 3.5 Transportation of Blind Disabled Persons with Guide Dogs Service Animals

- 3.5.1 All public carriers shall transport ~~dogs~~ service animals. A "service animal" is defined as any guide dog, signal dog or other animal individually trained to work or perform tasks for an individual with a disability, including, but not limited to, guiding individuals with impaired vision, alerting individuals with impaired hearing to intruders or sounds, providing minimal protection or rescue, pulling a wheelchair or fetching dropped items, ~~trained for the purpose of guiding blind persons when accompanying such persons paying regular fare; provided, that the guide dogs shall be properly leashed and muzzled.~~
- 3.5.2 Any animal trained as a service animal will be permitted to travel with a passenger in a public carrier vehicle. The public carrier may ask if the animal is a service animal or a pet by asking the passenger the task the animal has been trained to perform. The public carrier may not ask any questions concerning the passenger's disability. The public carrier cannot insist on proof of the animal's service certificate and transporting of a service animal cannot be denied except as set forth in subsection 3.5.3.
- 3.5.3 Passengers are responsible for the control of their service animal. Service animals shall sit with their owner and not be placed in any other location in the vehicle unless the service animal's owner and the driver mutually agree to relocate the service animal and the service animal's relocation does not endanger the health and safety of the service animal. Service animals can be denied a ride or removed from a vehicle only if the passenger cannot control the behavior of the service animal or the service animal poses a direct threat to the health and safety of the driver and others. A service animal not leashed or muzzled cannot be denied a ride unless it demonstrates actions that pose a direct threat to the health and safety of the driver, passenger and others, or cannot be controlled by its owner. In any circumstance where a service animal is denied a ride or removed from a vehicle, the public carrier must offer to the passenger the option to complete the ride without the service animal.
- 3.5.4 No passenger with a service animal shall be charged an extra fee or treated less favorably than any passenger that does not require the services of a service animal.
- 3.5.5 The public carrier is not responsible for providing a service animal with a location to relieve itself, or any other additional services related to transporting a service animal.
- 3.5.6 A public carrier that violates any provision of subsection 3.5 may be subject to fine up to \$200 and a suspension or revocation of its Certificate of Public Convenience and Necessity. These fines and penalties are in addition to other fines and penalties contained in this regulation.

3.6 Smoking Prohibited

- 3.6.1 Smoking is prohibited as provided in Title 11 of the **Delaware Code**, Chapter 5, Subchapter VII, §1326 which states the following: "Whoever in any trackless trolley coach, or gasoline or diesel-engine-propelled bus being used as a public conveyance for carrying passengers within this State, smokes or carries a lighted cigarette, cigar or pipe shall be fined not less than \$5 nor more than \$25."

3.7 Passenger Notification

- 3.7.1 Whenever any bus or railroad train is subject to a delay either en route or in a station, the passengers on board or in the station or at stations further along the line shall be told the reason for the delay and when their trip will be resumed when that information is known to pertinent personnel of the carrier.

3.8 ICC/U.S. DOT Regulation

- 3.8.1 All motor carriers subject to regulation by DelDOT and also engaged in interstate commerce in the State of Delaware and possessing authorization to do so from the Interstate Commerce Commission/U.S. DOT shall file with DelDOT copies of such authorization.

3.9 Public Liability Insurance

- 3.9.1 All public carriers' vehicles and drivers must be covered with insurance as specified in Title 2, Chapter 18, §1802(p) and §1818 of the Delaware Code. It shall be unlawful and a violation of this Code to lease or operate a Vehicle for Hire that is not insured to the extent required herein.

- 3.9.2 The minimum coverages are as follows:

	Buses	Taxi	All Other Service Types
Personal injury or death per person, per accident	\$100,000	\$25,000	\$100,000
Per accident for property damage	\$50,000	\$10,000	\$50,000

- 3.9.3 As annotated in Title 2, Chapter 18, §1802(1)(b), a public carrier must show sufficient financial ability to compensate a member of the public for injuries to person or property, which they may sustain from acts or failures to act of the public carrier. Public carriers holding a Certificate of Public Convenience and Necessity, issued by this State, must provide the Department with one of the following:

- 3.9.3.1 A General Liability insurance policy, from a solvent, reputable insurance company licensed to do business in the State of Delaware. This policy shall be conditioned for the payment of property

damage and personal injuries sustained by acts or failures to act by a Public Carrier, and shall be in an amount no less than one million dollars (\$1,000,000).

3.9.3.2 A bond, as authorized by Delaware law. ~~The approved bond form may be obtained from the Office of Public Carrier Regulation.~~ A solvent, reputable surety company licensed to do business in the State of Delaware must complete the form, letter, or certificate. The bond shall be conditioned for the payment of property damage and personal injuries sustained by acts or failures to act by a ~~Public Carrier~~ public carrier, and shall be in an amount no less than one hundred thousand dollars (\$100,000). If the bond becomes insufficient because of claims or any other reason, the operator shall have seven (7) days to restore it to the full amount, or obtain a general liability policy as stipulated.

3.9.3.3 Documentation of any nature which the ~~Public Carrier~~ public carrier presents as evidence of meeting the financial ability provision. This documentation is subject to review by the ~~Office of Public Carrier Regulation~~ OPC, and if necessary, legal counsel of the ~~Delaware Department of Transportation~~ OPC. If the proposed method of accountability is accepted, it is subject to verification by the ~~Office of Public Carrier Regulation~~ OPC at any time, and failure to meet the financial ability provision at any time will be cause for immediate suspension of the Certificate of Public Convenience and Necessity.

3.10 Safety Regulations

3.10.1 Other Inspections; procedure; duty of owner: As per Title 21, Chapter 27, Section 2144

3.10.1.1' At any time and notwithstanding the possession of current registration plates, as provided by this title, the ~~Secretary~~ OPC, or any authorized agent of the ~~Department~~ OPC or any police officer may, upon reasonable cause, require the owner or operator of a vehicle to stop and submit such vehicle and the equipment to such further inspection and test with reference thereto as may be appropriate. In the event such vehicle is found to be in an unsafe condition or lacking the required equipment or is not in proper repair and adjustment, the officer shall give a written notice to the driver and shall send a copy thereof to the ~~Department~~ OPC. The notice shall require that such vehicle and its equipment be placed in safe condition and in proper repair and adjustment ~~and/or~~ and that proper equipment be obtained, and that a certificate of inspection and approval for such vehicle be obtained within 5 days thereafter ~~from the OPC~~. This authority is in addition to the inspection authority provided under subsection 2.4.

3.10.2 Each operator and its operating officers, agents, employees and representatives shall comply with the following regulations, and each such operator shall require that said officers, agents, employees, and representatives shall become conversant with these regulations.

3.10.2.1 Vehicles to be operated safely - No motor vehicle shall be driven recklessly, or so as to endanger life, limb, or property. Extreme caution in the operation of motor vehicles shall be exercised under hazardous conditions, such as snow, ice, sleet, fog, mist, rain, dust, smoke, or any other condition, which adversely affects visibility or traction.

3.10.2.2 Drivers - No motor vehicle shall be driven by a driver while his/her ability or alertness is so impaired through fatigue, illness, or any other cause, as to make it unsafe for him/her to drive or to continue to drive a motor vehicle; nor shall he/she be required or knowingly be permitted to drive while in such condition, except in case of grave emergency where the hazard to passengers would be increased by observance of the foregoing regulation.

3.10.2.3 Intoxicating Liquors and Drugs - No driver shall go on duty while under the influence of intoxicating liquor or narcotic or habit producing drugs, use drugs or drink while on duty any alcoholic liquor or beverage, nor shall he/she knowingly be permitted to do so.

3.10.2.4 Grade Crossings - Each vehicle used for the transportation of passengers, by any public carrier, when carrying passengers, upon approaching any railroad or railway crossing, at grade, where there is no physical disconnection of the rail, no physical barrier across the tracks, or other definite evidence of abandonment, shall be brought to a full stop within fifty (50) feet/15.2m but not less than fifteen (15) feet/4.6m from the nearest rail of such railroad or railway grade crossing, and the vehicle shall not proceed until due care has been taken to ascertain that the course is clear; provided, however, that such stop shall not be required at a crossing of street railway tracks within an urban area. In all such cases, movement over crossings shall be made in such gear that there shall be no necessity for changing gears while traversing the crossing.

3.10.2.5 Safe Condition of Vehicle - No motor vehicle knowingly shall be operated in passenger service unless it conforms to the minimum standards of safety inspection as adopted by DelDOT. Minimum safety standards as used here means Part 393, Title 49, Code of Federal Regulations (See Section 7.1).

- 3.10.2.6 Explosives, Acids, and Inflammables - No public carrier knowingly shall permit the transportation of high explosives, acids, inflammable liquids, loaded guns or any other article which will endanger life or limb, in any motor vehicle used for transportation of passengers. This Section shall not apply to firearms carried by police officers or by members of the armed forces while on duty or while en route to or from duty.
- 3.10.2.7 Packages - No public carrier shall permit the transportation of any express or parcel freight ~~to such an extent as will~~ including, but not limited to, food or other materials that may interfere with the safety or reasonable comfort of passengers.
- 3.10.2.8 Food Consumption - No driver shall consume food or drink that interferes with the safety and reasonable comfort of passengers including, but not limited to, introducing allergens into the vehicle.
- 3.10.2.9 Children - Children shall be transported using age, weight and height appropriate, federally approved car seats.
- 3.11 Employers' Rules. Nothing contained in these regulations shall be construed as prohibiting any public carrier from promulgating and enforcing additional rules and regulations relating to safety or operation, not inconsistent with the regulations herein adopted and the laws of this State.
- 3.12 Drivers
 - 3.12.1 All drivers operating under Certificates of Public Convenience and Necessity in Delaware shall comply with the following regulations:
 - 3.12.1.1 Must be at least eighteen (18) years of age.
 - 3.12.1.2 Must be able to speak and understand directions, oral and written, in the English language.
 - 3.12.1.3 Must be able to read and understand maps of the State of Delaware.
 - 3.12.1.4 Must be in possession of a current and valid driver's license issued by DelDOT/Division of Motor Vehicles or issued by the State of which the applicant makes residence with the proper endorsement authorizing the operation of a particular service type.
 - 3.12.1.5 Furnish the full name and address, date of birth, driver's license, and proof of citizenship of the United States of America or, if not a citizen of the United States, then a valid visa or work permit.
 - 3.12.1.6 Operate the vehicle in accordance with principles of defensive driving.
 - 3.12.1.7 Maintain a neat appearance at all times.
 - 3.12.1.8 Operate all vehicle special equipment with due regard for the safety and convenience of the passenger.
 - 3.12.1.9 Refrain from physically or verbally assaulting, intimidating, or otherwise abusing the Director, a member, an employee, agent or other individual acting on behalf of the ~~Office of Public Carrier Regulations~~ OPC, a passenger, public official or other individual publicly or privately by any means as annotated in 11 **Del.C.** Ch.12, Section 1240.
 - 3.12.1.10 Make or offer any false or misleading statement and/or information to the Director, a member, an employee, agent or other individual acting on behalf of the ~~Office of Public Carrier Regulations~~ OPC, a passenger, public official or other individual publicly or privately by any means.
 - 3.12.2 No driver shall collect fares or compensation for the transportation services other than the established rates or charges filed with ~~DelDOT~~ OPC for the type of service being provided, provided, however, that this provision shall not apply to gratuities, nor shall the words "fares" or "compensation" be construed to include gratuities. Upon request the passenger will be given a receipt for the fare collected.

15 DE Reg. 550 (10/01/11)

4.0 Rates and Tariffs

- 4.1 Rates
 - 4.1.1) Rates must be filed with ~~DelDOT~~ OPC in accordance with Title 2 of the **Delaware Code**, Chapter 18, Section 1802(q) before they may be instituted. Rate graduations shall be calculated in 1/10 mile increments.
 - 4.1.2 Any vehicle utilizing more than one rate must notify the customer during the trip when Rate 2 will be utilized.
- 4.2 Tariffs. Public carriers shall file one copy of all tariffs, supplements and amendments thereto, showing all rates or charges and rules and regulations at least thirty (30) days prior to their effective date unless special authority is otherwise granted by ~~DelDOT~~ OPC. Each tariff shall show:
 - 4.2.1 current intrastate rates including joint rates when such have been established between each point on a route and all other points on any other route.

- 4.2.2 the classification of passengers
- 4.2.3 privileges or facilities granted
- 4.2.4 all rules and regulations which may in any manner change, affect, or determine rates or services
- 4.2.5 tariffs shall be filed in a form similar to that required by the Interstate Commerce Commission /U.S.DOT.
- 4.3 Rate and Time Schedule Changes: Notice
 - 4.3.1 Public carriers shall file an application to the ~~Office of Public Carrier Regulation~~ OPC to amend the current rate schedule or temporary fuel surcharge fee at least thirty days prior to the effective date of the proposed rate change.
 - 4.3.2 No public carrier shall make any change in any existing rate or time schedules without publication in a newspaper of general circulation for two separate days in two consecutive weeks in the geographic area affected by the changes. The notices shall plainly state the changes proposed to be made in the rates and schedules then in force and the time when the changes will go into effect. The notice shall be published thirty (30) days prior to the proposed effective date. All such changes shall be immediately indicated upon its schedules by such public carrier. Public carriers engaged in regularly scheduled operations shall also prominently post notice of proposed rate and schedule changes in all agency stations within the State. The proposed rate schedule changes will also be made available to the public by the ~~office of Public Carrier Regulation on the DelDOT~~ OPC and DMV Internet Website. The public shall have the opportunity to inspect the details of the proposed changes upon request to the agent.
 - 4.3.3 Rate changes shall be in accordance with Title 2 of the Delaware Code, Chapter 18, Section 1802(q). Temporary fuel surcharge fees may only be effective, after approval by ~~DelDOT~~ OPC, for a period of ninety (90) days.

5.0 Charges, Fees and Funds

- 5.1 Schedule of Fees. ~~DelDOT~~ OPC hereby establishes the following schedule of fees applying to public carriers:

1.	For filing an annual financial statement or report	\$7.50
2.	For late filing of an annual financial statement, <u>required document and reports</u> or report	\$100.00
3.	For filing each application for a Certificate of Public Convenience and Necessity for original authority	\$400.00
4.	For filing each application for an amendment to an existing Certificate (including an increase in authorized number of vehicles amended or transferred)	\$200.00
5.	For each filing of a change in rates or tariffs, including a general rate increase (no fee required for filing of time schedule changes)	\$100.00
6.	For each original inspection of equipment or vehicle	\$20.00
7.	For each semi annual inspection of any vehicle	\$20.00
8.	Semi Annual late inspection and/or <u>or</u> late payment	\$10.00/ <u>month</u> <u>payment is late</u>
9.	Fee for Replacement Medallion Set (Lost or Stolen)	\$100.00
10.	Fee for Replacement Medallion Set (Mechanical Failure or Breakdown)	\$20.00
11.	Renewal fee for authorized vehicles (per vehicle)	\$25.00
<u>12.</u>	<u>Fee for reinstating an expired medallion</u>	<u>\$25.00</u>
<u>13.</u>	<u>Subsection 3.5 violation(s)</u>	<u>\$100.00</u>

- 5.2 The fee for the six-month vehicle registration is one-half of the current yearly rate schedule for commercial vehicles (\$40.00 yearly for vehicles 5,000 pounds or less; plus \$18.00 for each 1,000 pounds over 5,000), plus an additional \$1.00 semi-annual registration fee, in accordance with 21 **Del.C.** Ch. 21, Section 2155).
- 5.3 2 **Del.C.** Section 1802(g) requires all public carriers to submit an annual assessment measured by a formula equal to the product of 0.004 (4 mills) multiplied by the public carrier's gross operating revenues for the applicable calendar year for which the assessment is made.
- 5.4 The formula is:

Gross Revenue X 0.004 + \$7.50 filing fee + Annual Assessment due to DelDOT

- 5.5 The annual Assessment is due on or before April 1st. Late payments are subject to a \$100 penalty.
- 5.6 DelDOT may charge any other cost or fee authorized by 3 **Del.C.** Chapter 18 necessary for it to carry out its functions.
- 5.7 The inspection of buses as provided herein applies only to buses domiciled in Delaware.

6.0 Applications

- 6.1 Each application shall follow substantially the applicable form, and shall conform to the following general requirements.
 - 6.1.1 Each application shall state in concise and summary form the material facts on which the applicant relies; the rights, authorization, or approval desired; all existing rights, authorizations or approvals of the applicant affected by the application, and the statutory provision under which the application is filed, and shall be divided into numbered paragraphs. Reference shall be made by ~~DelDOT, or previous Public Service Commission~~ OPC, docket number to existing rights, authorizations or approvals of the applicant affected by the application. The names and addresses of applicant and counsel must be stated in full without abbreviation.
 - 6.1.2 Each application shall be personally subscribed by each party if the party is a corporation or association. Each application shall be personally verified by a party thereto or by an authorized officer of such party if a corporation or association.
 - 6.1.3 Copies of all pertinent contracts, agreements, certificates, permits, charters, by-laws, ordinances, resolutions or other writings referred to in the application shall be attached as exhibits thereto. Copies of writings or orders already of record with DelDOT need not be attached to the application if reference by docket number is made to the proceeding in which they are filed.
 - 6.1.4 An original of each application, including exhibits attached thereto, shall be filed.
 - 6.1.5 If ~~480~~ 90 days have ~~past passed~~, after the submission of the nonrefundable application, and the carrier has not fulfilled the requirements for the application to be determined substantially complete, the application will become null and void.
- 6.2 Notice of each application shall be forwarded by ~~DelDOT~~ OPC to all known competitors in the same classification of the carrier affected by the petition after the application has been reviewed and determined to be substantially complete by ~~DelDOT~~ OPC. Notice of new, amended and transfer applications to issue ~~and/or~~ or amend a Certificate of Public Convenience and Necessity will be published by ~~DelDOT~~ OPC with a 10 day comment period.

7.0 Hearings and Appeals

- 7.1 ~~**Investigation, Inquiry or Hearing Conducted by Examiner.**~~ In any investigation, inquiry or hearing, DelDOT may designate a hearing officer as an examiner who may administer oaths, examine witnesses and receive evidence in any locality which DelDOT having regard to the public convenience and the proper discharge of its functions and duties, may designate. Upon completion of such hearing or the taking of such testimony and evidence, the Examiner shall submit to DelDOT his/her findings and recommendations thereon, which findings and recommendations shall be considered by DelDOT and such action taken with respect thereto by DelDOT as it decides to be proper. Any determination or order of DelDOT upon any such investigation, inquiry or hearing undertaken or held by DelDOT shall not become and be effective until approved and confirmed by the Director of Administration or his/her designee, after the public hearing; and upon such confirmation, such determination or order shall be the determination or order of DelDOT.
- 7.2 ~~**Rules Governing Conduct of Hearings; Findings and Order**~~
 - 7.2.1 All hearings before DelDOT or its designated representative shall be public, and shall be conducted in accordance with the rules of practice and procedure prescribed by DelDOT. In the conduct of such hearings, DelDOT shall not be bound by the technical rules of evidence. A full and complete record shall be kept of all proceedings held before DelDOT or its representative, in any formal hearing, and all testimony shall be sworn and recorded by a reporter designated by DelDOT and a transcript prepared and the parties shall be entitled to be heard in person or by attorney, and to introduce evidence. The applicant or the public carrier about whom the hearing is being held will be responsible for the cost of the stenographic record. No Certificate of Public Convenience and Necessity shall be issued until this cost has been paid.
 - 7.2.2 After the conclusion of the hearing, DelDOT shall make and file its findings with its opinion, if any, and its order thereon.

7.3 ~~Compelling Attendance of Witnesses and Production of Documents, Oaths: Subpoenas~~

- ~~7.3.1 DelDOT may compel the attendance of witnesses and the production of contracts, papers, books, accounts and all other documents.~~
- ~~7.3.2 DelDOT or any examiner or employee designated by it, may administer oaths to all witnesses who may be called before DelDOT, any member thereof, or any examiner, as the case may be.~~
- ~~7.3.3 Subpoenas issued by DelDOT shall be signed by the Director or an examiner designated by him/her and attested to, and may be served by certified mail or by any employee of DelDOT.~~

7.4 ~~Refusal to Obey Subpoena, Answer Questions or Produce Documents:~~ Contempt. If a person refuses to comply with a subpoena either to appear before DelDOT for testimony or to produce requested documents, DelDOT may apply to the Superior Court for an order compelling such attendance, testimony or production of documents in accordance with law.

7.5 ~~Depositions of Witnesses.~~ No discovery may be taken including depositions except upon granting of an order by DelDOT upon motion of either of the parties for good cause.

7.6 ~~Effective Date and Service of Orders:~~

- ~~7.6.1 Every order made by DelDOT shall be served upon the person or public carrier affected thereby, within 10 days from the time the order is filed, by personally delivering or sending by certified mail a certified copy thereof to the public carrier. In any proceeding in which such person or public carrier shall be represented by an attorney, service may be made upon such attorney of record.~~
- ~~7.6.2 All orders of DelDOT shall become effective within such reasonable time as it prescribes.~~

7.7 ~~Time~~

- ~~7.7.1 **Computation**—In computing any period of time prescribed or allowed by any rule, order or notice of DelDOT, the day of the act, event or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it falls on a Saturday, Sunday or a day made a legal holiday by the laws of this State in which event the period runs until the end of the next day which is not a Saturday, Sunday, or a legal holiday.~~
- ~~7.7.2 **Enlargement**—Upon good cause shown, DelDOT may extend any period of time prescribed or allowed by any DelDOT rule, order or notice.~~

7.8 ~~Parties~~

- ~~7.8.1 **Classes**—The parties to proceedings before DelDOT are applicants, complainants, defendants, interveners, petitioners, and respondents, according to the nature of the proceedings and their relation thereto.~~
- ~~7.8.2 **Applicants**—In proceedings involving applications for any permission, authorization or approval which DelDOT may give under the authority of the Law, the public carriers or persons making such applications are the applicants.~~
- ~~7.8.3 **Complainants**—Persons who complain to DelDOT of anything done or omitted to be done by any public carrier or person, subject to the jurisdiction of DelDOT, in violation of any law which DelDOT has the power to administer, or of any rule, regulation or order of DelDOT.~~
- ~~7.8.4 **Defendants**—Public carriers or persons subject to the Law or any orders, rules or regulations issued or promulgated thereunder, against whom any complaint is filed.~~
- ~~7.8.5 **Interveners**—Persons permitted to intervene in any proceedings before DelDOT as hereinafter provided.~~
- ~~7.8.6 **Petitioners**—Persons seeking relief, not otherwise designated herein.~~
- ~~7.8.7 **Respondent**—Public carriers against whom an investigation or other proceeding is instituted by DelDOT on its own initiative.~~

7.9 ~~Attorneys.~~ Any party may appear and be heard in person or by an Attorney At Law in good standing, and a corporation or association may be represented by a bona fide officer thereof.

7.10 ~~Conduct.~~ Any participant or person present at a hearing who becomes disruptive may, at the discretion of the hearing officer, be barred or removed from such hearing.

7.11 ~~Complaints.~~ Complaints may be either formal or informal.

- ~~7.11.1 Informal complaints may be made by letter or other writing, and will be filed as received. Matters thus informally presented will, if their nature so warrants, be taken up by correspondence or conference with the party or parties complained of in an endeavor to bring about satisfaction of the complaint without formal hearing.~~
 - ~~7.11.1.1 No form of informal complaint is prescribed, but in substance it should contain the name and address of the complainant, the name and address of the party against whom the complaint is made, a clear and concise statement of the facts forming the basis of such complaint, and a request for affirmative relief. It should be accompanied by sufficient copies to enable DelDOT to~~

~~transmit one to each party named and retain one for its own use, and it may be accompanied by supporting papers.~~

~~7.11.1.2 In the event of failure to bring about satisfaction of the complaint because of the inability of the parties to agree as to the facts involved, or from other causes, the proceeding is held to be without prejudice to complainant's right to file and prosecute a formal complaint, whereupon the informal proceeding will be discontinued.~~

~~7.11.2 Only formal complaints filed and prosecuted in the manner herein after prescribed will entitle any person to initiate formal proceedings, and only formal complaints will be admitted in the record of formal proceedings.~~

~~7.11.2.1 Formal complaints shall be verified in writing, divided into numbered paragraphs, and shall set forth the full name and address of the complainant; the full name and address of the complainant's attorney, if any; the full name and address of the defendant complained against, and the nature and character of its business; the interest of the complainant in the subject matter; a clear and concise statement of the facts constituting the grounds of the complaint, the specific provisions of any statutes, rules, regulations and orders relied upon, the specific injury complained of, and the specific relief sought.~~

~~7.11.2.2 Two or more grounds of complaint involving the same purposes, subject, or state of facts may be included in one complaint, but must be separately stated and numbered; and two or more complainants may join in one complaint if their respective causes of complaint are against the same defendant or defendants and involve substantially the same violation and subject and are predicated upon a like state of facts.~~

~~7.11.2.3 Each formal complaint must be signed in ink and verified by each complainant or by a bona fide officer of the complainant if it is a corporation or an association.~~

~~7.11.2.4 Each formal complaint must be accompanied by copies in sufficient number to enable DelDOT to serve one copy on each defendant and retain three copies for its own use.~~

~~7.11.2.5 When a formal complaint, together with the requisite number of copies shall have been filed, DelDOT will cause a copy of such complaint to be served upon each defendant together with a copy of an order requiring the defendant or defendants to satisfy or answer the same in writing within a specified time. Such service shall be by certified mail unless otherwise ordered.~~

~~7.11.3 In case of an investigation on the motion of DelDOT, notice of the investigation will take the place of a formal complaint in such proceeding, and shall be served in a like manner as a formal complaint unless otherwise ordered.~~

~~7.11.4 Failure to comply with the requirements for complaint will not be defective if DelDOT determines that there was fair notice of the allegations contained in the complaint.~~

7.12 Answer and Service

~~7.12.1 Within thirty days from the date of service of the complaint and order above provided for, the defendant or defendants complained against shall file typewritten answer or answers duly verified. The period so fixed may be shortened or extended by DelDOT when it deems the same advisable.~~

~~7.12.2 The original answer must be filed with the Director or his/her designee and at the same time, a copy of said answer shall be served, by the defendant making such answer, personally or by certified mail, upon each complainant or his attorney. The defendant shall certify to the Director that said service has been made.~~

~~7.12.3 All answers should be so drawn as to fully and completely advise the parties and DelDOT of the nature of the defense, and should admit or deny specifically and in detail each material allegation of the pleading answered.~~

~~7.12.4 If a defendant satisfies a formal complaint, either before or after answering, a statement to that effect signed by the defendant must be filed and a copy of such statement be furnished to the complainant simultaneously therewith by certified mail. If DelDOT does not receive a notification from the complainant that he remains unsatisfied within thirty days, the proceeding will be discontinued.~~

~~7.13 **Petitions for Relief.** Petitions for relief shall be under oath and state clearly and concisely the interest of the petitioner in the subject matter of the petition and the relief sought, and shall cite by appropriate references the statutory or other authority relied upon for relief and shall conform as nearly as possible to the general requirements for applications.~~

7.14 Petitions for Leave to Intervene

~~7.14.1 Any person claiming an interest which may be directly affected and which is not adequately represented by existing parties in the proceeding, or any other persons whose participation in a pending proceeding may be in the public interest, may file a petition for leave to intervene in any proceeding pending before DelDOT 5 days prior to the commencement of the initial hearing or presentation of testimony, but not thereafter,~~

except for good cause shown. Petitions to intervene shall set forth the specific ground for the proposed intervention, the position and interest of the petitioner in the proceeding, and a statement wherein said interest is, or may be, inadequately represented in such proceeding, and must conform to the requirements of a formal complaint, and must be subscribed and verified in the same manner as formal complaint.

7.14.2 If leave is granted, the petitioner thereby becomes an intervenor and a party to the proceeding.

7.14.3 Intervention shall be subject to such reasonable terms and conditions as DelDOT may prescribe.

7.14.4 When a petition for leave to intervene is filed, the petitioner must furnish copies, therewith, a sufficient number of copies for service upon all parties to the proceeding and three additional copies for the use of DelDOT.

7.15 Amendments

7.15.1 Technical forms and allegations in pleadings are not required to be observed in complaints, answers, or other papers filed; and amendments or supplemental statements may be made and filed at the discretion of DelDOT.

7.15.2 A clear and better statement of any cause or ground of complaint or defense, or further and better particulars of any matter stated in any pleading may, in any case, be ordered at the discretion of DelDOT.

7.16 Hearings

7.16.1 Hearings will be held by DelDOT, upon due notice of ten (10) days, or as ordered by DelDOT, and pursuant to adjournments thereof.

7.16.2 All persons entering an appearance at any hearing shall state for the record, before any testimony shall be received, their names, and for whom they appear.

7.16.3 In hearings upon applications, complaints, or petitions, the applicant, complainant or petitioner, as the case may be, shall open and close. In hearings on investigations involving suspended rates, the respondent or applicant will open and close. In proceedings where evidence is peculiarly within the knowledge or control of another party, the foregoing order of presentation may be modified by DelDOT.

7.16.4 Witnesses may be examined orally at any hearing before DelDOT or one or more members thereof, and when so examined, the testimony will be reduced to writing and filed as a part of the record of the case.

7.16.5 DelDOT will require an original and one copy of the transcript of testimony, the cost of which will be borne by the applicant or party or participants that requested the hearing. Parties or participants requiring copies of such transcript may obtain the same from the official reporter upon payment of the fees or costs fixed thereon.

7.16.6 All maps, prints, writings, statements, or documents exhibited with and made part of any pleading or filed as part of the testimony of any witness must be accompanied by a sufficient number of copies to provide a copy for each party of the proceeding and three copies for the use of DelDOT.

7.16.7 DelDOT shall keep and be responsible for the original, or one counterpart, of all maps, prints, writings, statements or documents made a part of the record as aforesaid.

7.16.7 At any stage of the hearing or after the close of testimony, DelDOT may call for such further evidence upon any issue and require such evidence to be presented by the party or parties concerned, either at that hearing or after adjournment thereof.

7.16.8 The hearing officer, at the close of the hearing, will set the time limits for:

7.16.8.1 The hearing officer's written opinion,

7.16.8.2 Submission of written exceptions by the parties involved; and

7.16.8.3 When the order becomes final and served on the parties involved.

7.17 Continuances

7.17.1 After the date for hearing has been set, continuances will not be granted by DelDOT except for good and sufficient cause.

7.17.2 Application for a continuance may be made by request in writing filed with the Director and served on opposing counsel or parties, presented as far in advance of the time fixed for hearing as possible under the circumstances; or application for a continuance may be made orally to DelDOT at the time and place the hearing sought to be continued is set for hearing, when the circumstances are such that the application could not be sooner made.

7.18 **Stipulation of Facts.** The parties to any proceeding or investigation may, by stipulation in writing filed with the Director, agree upon the facts, or any portion thereof, or the authenticity of any relevant documents involved in the controversy, which stipulation may be received in evidence at the hearing, and when so received shall be binding on the parties with respect to the matters therein stipulated.

7.19 Witnesses

- 7.19.1 ~~Witnesses shall be examined orally and, upon motion for good cause shown, DelDOT may permit their testimony to be taken by deposition.~~
- 7.19.2 ~~Subpoenas requiring the attendance of witnesses, from any place in the State of Delaware, at any designated place of hearing before DelDOT for the purpose of taking the testimony of such witness, may be issued upon the application of either party by DelDOT attested by the Director.~~
- 7.19.3 ~~Subpoena for the production of books, papers, or documents may also be issued upon application in writing or by DelDOT upon its own motion.~~
- 7.19.4 ~~Such application must be set forth in a general way, the books, papers, or documents desired to be produced and that the applicant believes the same will be relevant and material in the determination of the merits of the case.~~
- 7.19.5 ~~All subpoenas for parties or witnesses may be served as DelDOT determines, by an employee of DelDOT or by certified mail.~~

7.20 Briefs

- 7.20.1 ~~Briefs must be printed or typewritten and may not be filed by or on behalf of any parties in interest except upon motion granted by DelDOT for good cause shown.~~
- 7.20.2 ~~The applicant, complainant, petitioner, respondent or intervener, as the case may be, shall have thirty days after the receipt of a transcript of the evidence within which to file his brief with DelDOT and to serve a copy thereof on each of the other parties to the case.~~
- 7.20.3 ~~The defendant, or defending or intervener shall have thirty days after receiving said brief with DelDOT and serve a copy thereof on each of the other parties to the case.~~
- 7.20.4 ~~The complainant, applicant, respondent, or intervener shall file and serve his reply brief within ten days thereafter.~~
- 7.20.5 ~~The time limits as set forth in this section may be shortened or extended by order of DelDOT upon its own motion or by any of the parties involved.~~
- 7.20.6 ~~A sufficient number of copies of all briefs must be prepared to provide for service as aforesaid upon the adverse parties and to provide at least three copies for the use of DelDOT.~~

7.21 Rehearing or Reargument

- 7.21.1 ~~Applications for (1) further hearing in a proceeding after the closing of testimony and before final submission on oral argument or brief, or for (2) reopening a proceeding after final submission and before decision, or for (3) rehearing or reargument after decision, must be made by petition, duly verified, within five days after the date of such closing of testimony, final submission or decision, as the case may be. If the application be for rehearing or reargument after decision, the matters claimed to have been erroneously decided must be specified and the alleged errors stated. If thereby any order of DelDOT is sought to be vacated, repealed or modified by reason of consequences which would result from compliance therewith, or by reason of facts not in possession of the petitioner at the time of the hearing, the matter so relied upon must be fully set forth in the petition, to be submitted to DelDOT within five days after closing of the hearing and copies served by the petitioner upon each adverse party or his attorney, who appeared at the hearing or oral argument, if any, or on brief.~~
- 7.21.2 ~~If the application be for further hearing before final submission, or for reopening the proceeding to take further evidence after submission and before decision, the nature and purpose of the evidence to be adduced must be briefly stated, and it must appear not to be merely cumulative.~~
- 7.21.3 ~~Application for modification of orders which seek only change in the date when they shall take effect, or in the period of notice thereby prescribed, must be made by petitioner reasonably filed and serviced in like manner as other applications under this rule, except that, in case of unforeseen emergency satisfactorily shown by the applicant, such relief may be sought informally by letter, telegram or otherwise upon notice thereof to all parties or attorneys who appeared as aforesaid.~~
- 7.21.4 ~~Each petition filed under this rule shall be accompanied by two additional copies thereof for the use of DelDOT and by certificate showing service upon the parties or their attorneys who appeared as aforesaid. Within five days after such service, any adverse party may file and serve in like manner a reply to the petition, the reply so filed to be accompanied by like number of copies for the use of DelDOT.~~
- 7.21.5 ~~Upon the filing of said reply or upon default thereof within said period, DelDOT will make such order with respect to the hearing of said petition, or the granting of the prayer thereof, as it shall deem just and right.~~

7.0 Investigations and Inquiries

OPC may investigate and inquire into the operation of a public carrier whether certified or not in accord with this Act. The OPC may compel a public carrier to produce documents, vehicles, owners and drivers as part of its investigation or

inquiry. Any written received by a public carrier from the OPC shall require a response within 7 days of its receipt. A party's failure or refusal to comply with a request from the OPC may result in the imposition of fines and penalties including, but not limited to, a suspension or revocation of the public carrier's Certificate of Public Convenience and Necessity or a rejection of an application for a Certificate of Public Convenience and Necessity. The OPC may seek a subpoena from the Delaware Superior Court to compel the production of documents, vehicles or individuals when the public carrier fails or refuses to comply with a written request and the imposition of penalties.

8.0 Application Interventions

- 8.1 An application to obtain or revise an existing Certificate of Public Convenience and Necessity shall be subject to a notice and intervention period. The OPC will provide written notice to all existing public carrier Certificate of Public Convenience and Necessity holders located within an applicant's intended territory of operation of the application. An existing Certificate of Public Convenience and Necessity holder has the ability to file an objection to the application. All objections must be filed as follows:
 - 8.1.1 Objections must be submitted to the OPC within 30 days of the date of the OPC's notice;
 - 8.1.2 Objections must be in writing and contain the name, address, email address, telephone number and contact person of the public carrier submitting the objection;
 - 8.1.3 The objection shall clearly provide the reason(s) for the objection and include any documents or other evidence supporting the objection; and
 - 8.1.4 Provide three (3) copies of the objection submission.
- 8.2 Failure to comply with any of subsection 8.1 may result in the non-acceptance of the objection.
- 8.3 The OPC shall provide the applicant with any objections it receives within 10 days of the objections receipt. The applicant shall provide written response, if it desires, or modify its application within 10 days of receiving the objection from the OPC.
- 8.4 The OPC may require the applicant or anyone submitting an objection to an application to provide additional information or documents, or to respond to questions posed by the OPC regarding the application or objection. Documents, additional information and responses to proposed question shall be provided to the OPC within 10 days of the receipt of the OPC's written request. Any failure or refusal to respond within the deadline set forth in this subsection may result in the OPC's rejection of the application or objection.
- 8.5 After considering all submissions, the OPC will determine if the application shall be approved. The OPC will provide all parties with its determination within 30 days of the date the last documents or information was accepted by the OPC. A written decision will be provided to all parties.
- 8.6 Any party to the decision may appeal the OPC's decision. The appeal must be filed in writing to the OPC within 14 days of the party's receipt of the OPC's written decision. An appeal will be heard in accord with Section 9.0.

9.0 Hearings

- 9.1 The OPC may hold a hearing if:
 - 9.1.1 An applicant or existing Certified public carrier appeals a decision rendered by the OPC in accord with Section 8.0.
 - 9.1.2 A public carrier objects to the OPC's imposition of any fine or penalty in accord with this Act.
 - 9.1.3 The party requesting the appeal has complied with all terms and conditions set forth in this Act.
- 9.2 Hearing Procedure
 - 9.2.1 The OPC shall appoint a hearing officer who will conduct the hearing. The hearing officer will have the authority to administer oaths, set the hearing location, set the manner in which evidence and testimony will be provided at the hearing, examine witnesses and receive evidence.
 - 9.2.2 The OPC will set the date, time and place of the hearing. A party to the hearing may propose alternate dates, times and locations for the hearing but the final determination shall rest with the hearing officer.
 - 9.2.3 Hearings shall be held within 30 days of the OPC's receipt of a request for a hearing that complies with this Act, unless all parties to the hearing mutually agree to extend the time in which the hearing may be held.
 - 9.2.4 Hearing adjournments are at the sole discretion of the hearing officer. A party may request a hearing adjournment. Any request for an adjournment must be in writing and contain the reason(s) the adjournment is being requested. The hearing officer may request supporting documentation from the party requesting the adjournment.
- 9.3 All parties to the hearing may submit a brief summarizing their position and relief sought. The briefs shall be in writing and be submitted to the hearing officer no less than 1 week before the hearing date. The parties to the hearing must provide each party their brief no less than 1 week before the hearing date.

- 9.4 Any party may retain a court reporter to create a record of the hearing. The cost of the reporter shall be borne by the party securing the reporter. At the completion of the hearing, transcripts of the hearing shall be provided to the hearing officer and all parties participating in the hearing, no less than 2 weeks after the close of the hearing by the hearing officer. If more than one party retains a court reporter and the parties cannot agree as to which transcript will be the official transcript of the hearing, the hearing officer shall determine which court reporter will be the official record keeper prior to the start of the hearing.
- 9.5 If a court reporter is not retained by any party the hearing officer's notes and submitted evidence and testimony shall be the basis for the hearing officer's determination.
- 9.6 Presentation of evidence at the hearing shall be accomplished as follows:
- 9.6.1 The hearing officer shall set the order in which testimony and evidence shall be presented.
- 9.6.2 Any party to the hearing may appear and be heard in person or by an attorney at law in good standing in the State of Delaware. A corporation or association may be represented by a bona fide officer thereof.
- 9.6.3 Persons claiming the hearing may have a direct effect on them or their business, and their interests are not adequately represented by the parties to the hearing, may request to intervene in the hearing. A request to intervene must be submitted in writing to the hearing officer no less than 10 days prior to the hearing date. The request must contain the name, address, email address and telephone number of the intervenor. The request to intervene must clearly state the reason(s) upon which the intervention is being requested. The intervention request will be provided to all parties to the hearing for comment. Any comments to a request to intervene shall be submitted in writing to the hearing officer no less than 3 days from the receipt of the notice to intervene as transmitted by the OPC. The hearing officer shall have sole discretion as to allow the intervention.
- 9.6.4 At the hearing, all parties to the hearing shall enter their appearance for the record before any evidence or testimony is received by the hearing officer.
- 9.6.5 Witnesses may be examined at the hearing in accord with the process set by the hearing officer. The hearing officer may also examine a witness.
- 9.6.6 Any party present at the hearing who becomes disruptive may, at the direction of the hearing officer, be barred and removed from the hearing until such time the hearing officer allows the party to return.
- 9.7 Conclusion of Hearings
- 9.7.1 The hearing officer will close the hearing upon the hearing officer's determination that sufficient evidence and testimony has been received upon which an informed decision can be rendered.
- 9.7.2 The hearing officer, at the close of the hearing, will invite the parties to submit a concluding brief which is to be submitted no more than 7 days after the conclusion of the hearing. The submission of a concluding brief is at the discretion of each party.
- 9.7.3 The hearing will be declared closed the day after concluding briefs are to be submitted.
- 9.7.4 The hearing officer will render a written decision within 30 days of the date the hearing was declared closed. The hearing officer's decision will be effective the date it is signed by the hearing officer.
- 9.8 Nothing in this section shall preclude a party from seeking relief from the Delaware Courts after a final decision is rendered by the OPC's hearing officer. The hearing officer's written decision is a condition precedent to requesting relief from the Delaware Courts.

8.10.0 Audit

- 810.1 Audit Requirement. The books and records of all ~~Public Carriers~~ public carriers shall be subject to audit by ~~DelDOT OPC~~ OPC to verify compliance with 2 ~~Del.C.~~ Chapter 18 and Rules and Practices of the ~~Delaware Department of Transportation~~ OPC pertaining to the Regulation of ~~Public Carriers Operating~~ public carriers operating in the State of Delaware.
- 810.2 Audit Notification. At least thirty (30) days notice prior to conducting a routine audit, the ~~Public Carrier~~ public carrier shall be contacted in writing and advised of the approximate date that an audit is to be conducted, the records to be produced, the location of the audit and the time period the audit will cover. The notification will provide the Public Carrier the opportunity to make the required records available.
- 810.3 Record Keeping Requirements.
- 810.3.1 All ~~Public Carriers~~ public carriers must maintain operational records that support the total distance traveled by all registered qualified vehicles and the annual gross revenue collected as a result of both intrastate and interstate operations. Operational records include source documents suitable for verification of distance traveled and gross revenue collected. An acceptable source document for verifying total distance traveled is a "Log Sheet". A standardized Log Sheet is required and must be maintained in the vehicle daily, during times of operation, and shall contain the following minimum information:

§10.3.1.1 Date of trip (starting and ending)

§10.3.1.2 Registrant's name

§10.3.1.3 Vehicle number

§10.3.1.4 Trip origin and destination

§10.3.1.5 Time leaving origin

§10.3.1.6 Time arriving at destination

§10.3.1.7 Number of passengers

§10.3.1.8 Routes of travel

§10.3.1.9 Beginning and ending odometer reading of the trip

§10.3.1.10 Total trip distance traveled

§10.3.1.11 Fees charged

§10.3.2 From the information recorded on the Log Sheets, the ~~Public Carrier~~ public carrier must prepare and maintain at a minimum:

§10.3.2.1 A quarterly mileage and gross revenue summary that recaps the activity of each qualified vehicle operated.

§10.3.2.2 A quarterly mileage and gross revenue summary that recaps the activity on a per service type basis.

§10.3.2.3 A summary of the quarterly recaps used in preparing the Annual Gross Revenue return that includes the mileage and gross revenue collected on a per service type basis.

§10.3.2.4 Summaries are not acceptable at face value and must be supported by source documents such as Log Sheets in order to be of any use during the ~~Audit~~ audit.

§10.3.3 The information recorded on the Log Sheets must be accurate and readable. The mileage figures and gross revenue to be entered on the Trip Logs can be obtained from various sources such as odometer and taximeter readings as long as the method used is accurate and consistent.

§10.3.4 In recording the mileage traveled and the gross revenue collected, the ~~Public Carrier~~ public carrier must record all movement (intrastate and interstate) of all qualified vehicles.

§10.3.5 All ~~Public Carriers~~ public carriers will be required to sign a record keeping requirements certification annually attesting to compliance with records to be maintained for this department to verify compliance with Delaware Law and this Department's promulgated regulations.

§10.4 Penalties. Failure to maintain records upon which the ~~Public Carrier's~~ public carrier's true gross revenue liability may be determined or to make records available upon proper request shall result in the following:

§10.4.1 An assessment of the gross revenue of the ~~Public Carrier~~ public carrier, determined on the basis of the best information available to ~~this department~~ the OPC;

§10.4.2 a ~~A~~ \$250.00 penalty per qualified vehicle registered; and

§10.4.3 ~~possible~~ Possible revocation or suspension of the operating credentials of any Public Carrier who fails, neglects, or refuses to file a tax report with full payment of tax when due.

§10.5 Record Retention Period. The ~~Public Carrier~~ public carrier is required to preserve the records upon which the annual gross revenue returns are based for four years from the return due date or the filing date whichever is later. Failure to provide records demanded for audit purposes extends the four year record retention requirement until the records are provided. Records may be kept on microfilm, microfiche, or other computerized or condensed record storage system acceptable to the department.

§10.6 Audit Appeal Rights. Within ~~sixty thirty~~ (60 30) days of notification of audit results, the ~~Public Carrier~~ public carrier may file with the ~~DelDOT~~ OPC a petition for redetermination of such assessments. Every petition for redetermination shall state specifically the reason(s) which the petitioner believes entitles the petitioner to such determination. It shall be the duty of the ~~Secretary of Transportation~~ OPC within ~~ninety sixty~~ (90 60) days after the receipt of the petition to dispose of such petition for redetermination. Notice of the decision shall be given in writing to the petitioner promptly by the ~~Secretary of Transportation~~ OPC.

§11.0 Specifications for Charter Buses

§11.1 Upon application by letter of any public carrier operating in this State, ~~DelDOT~~ OPC may waive the requirements (other than those specified in the Delaware Code) of this Chapter. ~~DelDOT~~ OPC recognizes that improved vehicle designs may demand a further evaluation on a case by case basis.

§11.2 Safety Regulations

§11.2.1 ~~DelDOT~~ OPC hereby adopts as part of these Rules and Practices Part 393, Parts and Accessories Necessary for Safe Operations, Subchapter B, Chapter 1, Title 29, Transportation, of the United States

Code. Part 393 is published in a booklet entitled *Motor Carrier Safety Regulations* published by the Bureau of Motor Carrier Safety, Federal Highway Administration, U.S. Department of Transportation. This booklet is available from the Government Printing Office, Washington, D.C.

911.2.2 All buses regulated by DelDOT whether used in interstate or intrastate operations, must conform to the regulations stipulated in Part 393 of USC Title 49, and as specified in Del. Code, Title 21, §4502.

911.2.3 An individual operating a Commercial Motor Vehicle, as defined in 21 **Del.C.** Ch. 26, §2603(7)(10), must possess a Commercial ~~Drivers~~ Driver's License, as defined in 21 **Del.C.** Ch. 26, §2603(5)(8), and must comply with the Uniform Commercial Driver License Act (21 **Del.C.** Ch. 26) in its entirety.

911.3 Specifications for Charter Buses

911.3.1 Identification

911.3.1.1 No bus shall be operated unless it displays on each side of its exterior in clearly visible letters at least 1-5/8" 4.1cm in height the exact name of the owner.

911.3.1.2 The name of lessee, if any, shall be displayed in like manner, preceded by the words, "operated by".

911.3.1.3 Every bus shall be assigned an identifying number by the carrier. This number must be displayed on the interior front and the front and rear of the exterior. Interior numbers shall be at least 1-3/8"/ 3.5cm in height. All exterior numbers shall be at least 3-5/8"9.2cm in height and of a sharply contrasting color from the background.

911.3.1.4 Each bus shall have displayed on the right hand side thereof the number assigned by DelDOT in letters and figures 2"/5.1cm high in the following style:

DELDOT – 5000

Note: Effective September 10, 2011, DelDOT numbers will no longer be assigned by the Office of Public Carrier Regulation and will not be required to be displayed on public carrier vehicles.

911.3.1.5 All exterior lettering identifying buses as school buses shall be covered when using the bus in charter service.

911.3.1.6 Required lettering and numbering color must be sharply contrasting in color from the background color of the vehicle and permanently affixed to the vehicle.

911.3.2 Inspection and Certificate of Inspection

911.3.2.1 All buses for which Certificates have been issued by ~~DelDOT OPC~~ OPC shall be inspected at least twice annually. Nothing herein contained shall limit ~~DelDOT OPC~~ OPC to require more frequent inspection of such buses when, in its opinion, it is in the public interest. Buses not domiciled in Delaware or who are self-inspecting must be inspected at a motor vehicle inspection lane semi-annually.

911.3.2.2 No bus shall be operated unless it prominently displays on the right hand windshield, visible from the exterior, an unexpired Certificate of Inspection issued by ~~DelDOT OPC~~ OPC or its agent. Buses meeting the inspection requirements of states having reciprocity agreements with ~~DelDOT OPC~~ OPC shall be deemed to have met the requirements of ~~DelDOT OPC~~ OPC.

911.3.2.3 The passenger capacity of each vehicle is determined by the manufacturer's rating, however, the vehicle may be permanently altered to reduce passenger capacity as long as the integrity and safety of the vehicle has not been compromised and has been approved by ~~DelDOT OPC~~ OPC.

911.3.3 Maintenance

911.3.3.1 The body, chassis, engine and all equipment shall be maintained in proper adjustment and safe operating ~~condition~~ condition:

911.3.3.1.1 All lights must be clean, in working order and properly aimed. This includes stoplights, turn signals, license plate lights, parking lights and headlights.

911.3.3.1.2 Brakes must stop the vehicle within required distance.

911.3.3.1.3 Glass in windows must have no holes, breaks or cracks.

911.3.3.1.4 Mirrors must be clean and unbroken.

911.3.3.1.5 Windshield wipers must be fully operative (the rubber blades must be in good condition).

911.3.3.1.6 Hood and trunk latches must hold hood and trunk fully closed.

911.3.3.1.7 Tires must have no bulges, no fabric showing, no bald areas and no cuts. Tread depth must be at least 2/32 inch measured in two adjacent treads.

911.3.3.1.8 Doorknobs or equivalent must be present and in working condition.

911.3.3.1.9 There must be no damaged or dislocated parts projecting from the vehicle that could present a safety hazard.

911.3.3.1.10Horn must be in operating condition.

911.3.3.1.11Muffler must effectively reduce sound of engine exhaust. No leaks in exhaust system.

911.3.3.1.12There must be no fuel, antifreeze, or other fluid leaks.

911.3.3.1.13There must be no excessive discharge of fluids or exhaust emissions to cause a vehicle to smoke.

911.3.3.1.14No tinting or sun screening device can be applied to the front windshield or to the front side windows.

911.3.3.1.15Windshield must have no cracks that interfere with vision. Any cracks over 5 inches on any window are mandatory failure items. Minimum height of visibility in windshield is 10 inches.

911.3.3.2 A current record shall be kept showing the vehicle identification, date of breakdowns, any defects reported and corrective measures taken. These records shall be retained by the carrier for at least three years.

911.3.3.3 Each carrier shall make a complete inspection of each motor vehicle at regular time or mileage intervals, i.e. weekly/every 1000 miles, for mechanical or structural defects and all necessary repairs shall be made before the motor vehicle is returned to service. An itemized record of each inspection showing the date, vehicle identification, lubrication record and adjustments, and signed by the person making such inspection, shall be retained at the office, garage or repair shop where such inspection is made for at least three years.

911.3.3.4 The maintenance facilities or an arrangement for the use of such facilities, of each carrier shall be adequate and shall include either a suitable pit, ramp or hoist.

911.3.3.5 The passenger section shall be kept clean and sanitary, and free of debris.

911.4 Simulating Color or Design. Public carriers are prohibited from marking, painting or designing their vehicles so as to simulate vehicles of special design or markings operated by other carriers within the same local area. Such simulation of design or any other act intended to invite patronage by deception will be considered as sufficient ground for the revocation of a ~~Certificate~~ Certificate. This regulation shall not apply to school buses.

15 DE Reg. 550 (10/01/11)

102.0 Specifications for Railroads

102.1 Specifications for Railroads. DeIDOT hereby adopts as part of these Rules and Practices the following most recent parts of Title 49, Transportation Code of Federal Regulations; Parts 200 through 266.

102.2 Track Railway Engineering – Minimum Standards. DeIDOT hereby adopts as part of these Rules and Practices, the most recent edition of the American Railway Engineering Association (AREA) Manual for Railway Engineering, Volume I and II, and the Portfolio Track Work Plan in their entirety.

143.0 Specifications for Limousines

143.1 Upon application by letter of any public carrier operating in this State, ~~DeIDOT~~ OPC may waive the requirements (other than those specified in the Delaware Code) of this Chapter if it is shown to the satisfaction of ~~DeIDOT~~ OPC that such a waiver will not endanger the safety of the public.

143.2 Safety Regulations

11.2.1 Each operator and its officers, agents, employees and representatives shall comply with the following regulations, and each such operator shall require that said officers, agents, employees and representatives shall become conversant with these regulations.

143.3 Registration Requirements

143.3.1 Per Title 21 of the **Delaware Code**, Chapter 21, Section 2109(a): "Any vehicle described in § 2151 of this title may be registered for 24 months, 12 months or 6 months and the effective date of the registration shall be the date the vehicle is titled...The Division of Motor Vehicles may require vehicles to be registered for less than 24 months as may be necessary to ensure a balanced monthly distribution of vehicle inspections and registrations; all fees shall be prorated. The registration of a vehicle shall expire at midnight on the last day of the period for which it is registered, and the vehicle shall not thereafter be operated upon the highways of this State until it has been reregistered according to law."

143.3.2 In accordance with the statutory authority granted by the Code chapter specified above, all limousines must be registered for a period of six months following the initial registration period. In addition the inspection sticker shall expire at the same time as the vehicle registration.

143.3.3 Per Title 21 of the **Delaware Code**, Chapter 21, Section 2171, no person shall drive or move, nor shall any person, being the owner of a limousine, knowingly permit to be driven or moved upon any highway, any

limousine which is not registered as a limousine and for which a certificate of title has not been issued or applied for, or for which current limousine registration plates have not been issued and paid for.

143.3.4 Per Title 21, Chapter 21 of the **Delaware Code**, Section 2172, Limousines must display, on the rear of the vehicle, the specific license plate beginning with the letters "LX", registered to that limousine.

143.4 Operational Regulations

143.4.1 Inspection and Certification of Inspection

143.4.1.1 All limousines for which Certificates have been issued by ~~DelDOT~~ OPC must be inspected at a Delaware motor vehicle inspection lane semi-annually. Nothing herein shall limit ~~DelDOT~~ OPC to require more frequent inspection of such vehicles when, in its opinion, the safety of the public so requires. Limousines not domiciled in Delaware or who are self-inspecting, must be inspected at a Delaware motor vehicle inspection lane annually.

143.4.1.2 No limousine shall be operated unless it prominently displays on the right hand side of the windshield, visible from the exterior, an unexpired Certificate of Inspection issued by ~~DelDOT~~ OPC or its agent.

143.4.1.3 The passenger capacity of each vehicle is determined by the manufacturer's rating, however, the vehicle may be permanently altered to reduce passenger capacity as long as the integrity and safety of the vehicle has not been compromised and has been approved by ~~DelDOT~~ OPC.

143.5 Maintenance

143.5.1 The body, chassis, engine and all equipment shall be maintained in proper adjustment and safe operating ~~condition-~~ condition.

143.5.2 All lights must be clean, in working order and properly aimed. This includes stoplights, turn signals, license plate lights, parking lights and headlights.

143.5.3 Brakes must stop the vehicle within required distance.

143.5.4 Glass in windows must have no holes, breaks or cracks.

143.5.5 Mirrors must be clean and unbroken.

143.5.6 Windshield wipers must be fully operative (the rubber blades must be in good condition).

143.5.7 Hood and trunk latches must hold hood and trunk fully closed.

143.5.8 Tires must have no bulges, no fabric showing, no bald areas and no cuts. Tread depth must be at least 2/32 inch measured in two adjacent treads or indicated by the tire's wear bar indicators.

143.5.9 Doorknobs or equivalent must be present and in working condition.

143.5.10 There must be no damaged or dislocated parts projecting from the vehicle that could present a safety hazard.

143.5.11 Horn must be in operating condition.

143.5.12 Muffler must effectively reduce sound of engine exhaust. No leaks in exhaust system. Catalytic converter must be installed if originally equipped from manufacturer.

143.5.13 There must be no fuel, antifreeze, or other fluid leaks.

143.5.14 There must be no excessive discharge of fluids or exhaust emissions to cause a vehicle to smoke.

143.5.15 Bumper height on limousines must not exceed 22 inches from the ground to the bottom of the bumper.

143.5.16 No tinting or sun screening device can be applied to the front windshield or to the front side windows.

143.5.17 No air scoops shall be mounted on a vehicle hood that exceeds 3 inches.

143.5.18 Windshield must have no cracks that interfere with vision. Any cracks over 5 inches on any window are mandatory failure items. Minimum height of visibility in windshield is 10 inches.

143.5.19 A correct record shall be kept showing the vehicle identification, date of breakdowns, any defects reported and corrective measures taken. These records shall be retained by the carrier for at least three years.

143.5.20 Each operator shall make a complete inspection of each motor vehicle at least once each week for mechanical or structural defects and all necessary repairs shall be made before the motor vehicle is returned to service. An itemized record of each inspection showing the date, vehicle identification, lubrication record and adjustments, and signed by the person making such inspection, shall be retained by the carrier for at least three years.

143.5.21 The maintenance facilities or an arrangement for the use of such facilities, of each carrier shall be adequate and shall include either a suitable pit, ramp or hoist.

143.5.22 The passenger section shall be kept clean and sanitary and free of debris.

143.6 Fixed Termini

143.6.1 A limousine for hire can only engage in "Prearranged" transportation over regular or irregular routes between 2 termini, at least 1 of which must be fixed.

- 143.6.2 A limousine for Hire, picking up passengers at any location in the State of Delaware, must have been arranged or reserved by the passenger or a third party via telephone, facsimile, or computer at the request of the passenger before the Vehicle for Hire is dispatched and may not pick up anyone other than the passenger. A written trip ticket ~~and/or~~ or written contract of having been summoned by the passenger to provide service for this specific date, time, and trip must be available in the vehicle for inspection by ~~DeIDOT~~ OPC. Lack of such written evidence shall constitute operation of an illegal Taxicab Service.
- 143.6.3 A limousine for hire may not enter a Taxicab Stand or be stationed within twenty five hundred (2500) feet of a hotel or business property without a written trip ticket ~~and/or~~ or written contract of having been summoned by the passenger to provide service for this specific date, time, and trip in the vehicle. Performance of such activity without a written trip ticket ~~and/or~~ or written contract shall constitute operation of an illegal Taxicab Service.
- 143.6.4 When waiting for a passenger at any location, the driver of the limousine shall place a card in the rear side window of the vehicle prominently displaying the surname of the passenger until the passenger boards the vehicle.
- 143.6.5 Drivers regulated by this Chapter shall not offer nor give payment to anyone for securing or the prospect of securing any fare or trip.

124.0 Specifications for Medical Transport Vehicles

- 124.1 Upon application by letter of any public carrier operating in this State, DeIDOT may waive the requirements (other than those specified in the Delaware Code) of this Chapter if it is shown to the satisfaction of DeIDOT that such a waiver will not endanger the safety of the public.
- 124.2 "Medical Transport Vehicles" operate as limousines, but serve a specific purpose, as defined in Chapter 1. The Registration and Maintenance requirements identified in Chapter 11 also apply to this subcategory of limousines.
- 124.3 Safety Regulations. Each operator and its officers, agents, employees and representatives shall comply with the following regulations, and each such operator shall require that said officers, agents, employees and representatives shall become conversant with these regulations.
- 124.3.1 Inspection and Certification of Inspection
- 124.3.1.1 All medical transport vehicles for which Certificates have been issued by DeIDOT shall be inspected semi-annually by ~~DeIDOT or its agents~~ OPC. Nothing herein shall limit ~~DeIDOT~~ OPC to require more frequent inspection of such vehicles when, in its opinion, the safety of the public so requires. Medical Transport vehicles not domiciled in Delaware or who are self-inspecting, must be inspected at a motor vehicle inspection lane annually.
- 124.3.1.2 No medical transport vehicle shall be operated unless it prominently displays on the right hand side of the windshield, visible from the exterior, an unexpired Certificate of Inspection issued by ~~DeIDOT or its agent~~ OPC.
- 124.3.1.3 The passenger capacity of each vehicle is determined by the manufacturer's rating, however, the vehicle may be permanently altered to reduce passenger capacity as long as the integrity and safety of the vehicle has not been compromised and has been approved by ~~DeIDOT~~ OPC.
- 124.3.2 Vehicle
- 124.3.2.1 Medical Transport Vehicles must permanently display the Certificate Holder's name and telephone number on the exterior of the vehicle with a minimum of 3"/7.65 cm. in height.
- 124.3.2.2 Each medical transport vehicle must have displayed on both sides thereof, the number assigned by DeIDOT in letters and figures two inches 2"/5.1cm. in the following style:
DELDOT – 5000
Note: Effective September 10, 2011, DeIDOT numbers will no longer be assigned by the Office of Public Carrier Regulation and will not be required to be displayed on public carrier vehicles.
- 124.3.2.3 All letters, numerals, and markings must be painted or permanently affixed and of colors contrasting with the background vehicle color.
- 124.3.2.4 For all medical transport vehicles used for paralift operations, the overhead clearance between the top of the door opening and the raised lift platform, or highest point of the ramp, shall be a minimum of 56 inches, or such other distance as may be required by ADA or other federal or state laws or regulations.
- 124.3.2.5 All medical transport vehicles with wheelchair lifts must have a design load capacity of at least 600 pounds.

124.3.2.6 No ramps may be used for the loading and unloading of passengers unless they meet ADA Accessibility Guidelines.

124.3.2.7 All tie-downs or other securement devices used for paralift operations must meet the ADA Accessibility Guidelines.

15 DE Reg. 550 (10/01/11)

135.0 Specifications for Taxicabs

135.1 Upon application by letter of any public carrier operating in this State, ~~DeIDOT~~ OPC may waive the requirements (other than those specified in the Delaware Code) of this Chapter if it is shown to the satisfaction of DeIDOT that such a waiver will not endanger the safety of the public.

135.2 Safety Regulations. Each operator and its officers, agents, employees and representatives shall comply with the following regulations, and each operator shall require that said officers, agents, employees and representatives shall become conversant with these regulations.

135.3 Registration Requirements:

135.3.1 Per Title 21 of the **Delaware Code**, Chapter 21, Section 2109(a): "Any vehicle described in §2151 of this title may be registered for 24 months, 12 months or 6 months and the effective date of the registration shall be the date the vehicle is titled...The Division of Motor Vehicles may require vehicles to be registered for less than 24 months as may be necessary to ensure a balanced monthly distribution of vehicle inspections and registrations; all fees shall be prorated. The registration of a vehicle shall expire at midnight on the last day of the period for which it is registered, and the vehicle shall not thereafter be operated upon the highways of this State until it has been reregistered according to law."

135.3.2 In accordance with the statutory authority granted by the Code chapter specified above, all taxicabs must be registered for a period of six months following the initial registration period. In addition the inspection sticker shall expire at the same time as the vehicle registration.

135.3.3 Per Title 21 of the **Delaware Code**, Chapter 21, Section 2171, no person shall drive or move, nor shall any person, being the owner of a taxicab, knowingly permit to be driven or moved upon any highway, any taxicab which is not registered as a taxicab and for which a certificate of title has not been issued or applied for, or for which current taxicab registration plates have not been issued and paid for.

135.3.4 Per Title 21, Chapter 21 of the **Delaware Code**, Section 2172, taxicabs must display, on the rear of the vehicle, the specific license plate beginning with the letters "TX", registered to that taxicab.

135.4 License Requirements: Per Title 21, Chapter 27 of the **Delaware Code**, Sections 2761 and 2762, all persons who operate a taxicab on Delaware highways must have a valid license with a taxi endorsement. The driver must complete a Defensive Driving Course, be at least 18 years of age, provide a certified copy of a police background check indicating no serious criminal offenses, not have been revoked for the past five years, and pass the eye screen and written tests.

135.5 Taximeters

135.5.1 For any taxicab operated within this State equipped with a single taximeter, a calibrated unit sealed to the cradle, which internally and automatically calculates a predetermined fare based on cents per mile, the taximeter shall be installed in the front of the taxicab so that, at all times, it shall be plainly visible to and the fare readily ascertainable by all occupants of the taxicab. The face of the taximeter shall be illuminated at all times.

135.5.2 No taximeter affixed to a taxicab shall be operated from any drive other than the transmission of such taxicab. Any taximeter operated by any other means must be approved by ~~DeIDOT~~ OPC before installation.

135.5.3 The taximeter and taximeter driving equipment shall be so sealed that the taximeter case, taximeter cradle, taximeter driving equipment, additional gear boxes, if any, cannot be disconnected without breaking a current and valid seal.

135.5.4 The taximeter and appurtenant equipment must be tested and sealed to the cradle by a qualified testing agency, approved by the ~~Office of Public Carrier Regulation~~, OPC annually. The testing agency will seal the taximeter unit to avoid tampering and issue a certificate of calibration to the ~~Office of Public Carrier Regulation~~ OPC on forms provided by this department and due to this office by January 1 of each year. Any taximeter removed from a taxicab vehicle with or without its seals intact and placed in the same or another taxicab vehicle must be recertified and resealed by a qualified testing agency.

135.5.5 It shall be the responsibility of any public carrier operating a taxicab or taxicabs under a Certificate of Public Convenience and Necessity to cause the taximeters to be so regulated that the fare shall be calculated and registered in accordance with the current rates on file with and approved by ~~DeIDOT~~ OPC.

135.5.6 The taximeter shall be in operation during every trip, the entire time the taxicab is engaged by a passenger. The passenger shall be required to pay only the amount recorded on the meter at the point of destination. If a flat fee is agreed upon prior to the trip, the passenger shall be required to pay the lesser of the two fares.

135.5.7 Rate graduations shall be calculated in 1/10-mile increments.

135.6 Operational Regulations

135.6.1 Fare Receipt. The driver of any taxicab shall, if requested, deliver to the person paying for hire of said vehicle, at the time of payment, a correct receipt of such payment. The receipt shall be legible and shall show the name of the company or owner, the vehicle number, the name of the driver, all items for which a charge is made, the total amount paid and the date of payment.

135.6.2 Baggage and Expressage. No charge shall be made by any taxicab owner or driver for up to two (2) standard size suitcases and one (1) handbag by any fare-paying passenger. Nothing in this section shall be interpreted as permitting the hiring of such vehicle for expressage purposes only. A fee may be charged for additional baggage provided it has been included on the current rate schedule on file with the ~~Office of Public Carrier Regulation~~ OPC.

135.6.3 Group Riding. The operator of a taxicab shall accept other parties for transportation in the same taxicab to destinations in the same general direction as that for which it is engaged by the first party only with the consent of that party.

135.6.4 Direct Route. All trips by taxicabs shall be made by the most direct route from point of pickup to point of destination.

135.6.5 Taxicab Stands. A taxicab operator may not park in a public taxicab stand unless the cab is available for hire and its operator is awake and within plain view of the vehicle. An operator must not occupy any taxicab in a public taxicab stand other than that of which the individual is the operator. Drivers regulated by Title 2, Chapter 18 shall not offer nor give payment to anyone for securing or the prospect of securing any fare or trip.

135.7 Identification of Taxicabs

135.7.1 Each vehicle must have a State of Delaware taxi medallion issued by ~~DeIDOT~~ OPC securely affixed to each side of the vehicle's front corner panels, affixed above the height of the front tires on the taxicab. The medallions shall be numbered to identify each individual vehicle.

135.7.2 Each vehicle must be clearly marked "TAXI" by letters having a height of at least four inches 4"/10.2cm. and a width of at least one inch 1"/2.5cm. on front and rear. In addition, each side shall be so marked or identified by the Certificate Holder's name, emblem or trademark, if any, and telephone number with a minimum height of 3"/7.65 cm.

135.7.3 The name of the lessee, if any, must be displayed in like manner, preceded by the words, "operated by". Any public carrier operating a taxi may elect to display the name of the lessee operating the taxi by using a temporary magnetic sign that is otherwise in compliance with this regulation. The taxi being operated must at all times have the correct temporary magnetic sign reflecting the actual individual operating the vehicle.

135.7.4 Every taxicab must be assigned an identifying number by the operator. The number shall be clearly marked by numerals at least four inches 4"/10.2cm. high on the rear and on each side.

~~13.7.5 Each taxicab must have displayed on both sides thereof, the number assigned by DeIDOT in letters and figures two inches 2"/5.1cm. in the following style:-~~

~~DELDOT - 5000~~

~~Note: Effective September 10, 2011, DeIDOT numbers will no longer be assigned by the Office of Public Carrier Regulation and will not be required to be displayed on public carrier vehicles.~~

~~135.7.6~~ 135.7.5 An exterior illuminated top light permanently affixed must be installed on the forward third of the car roof. This top light may or may not be lettered, but should be controlled by the taximeter or a switch so that it will indicate "occupied" or "vacant".

~~135.7.7~~ 135.7.6 All letters, numerals, and markings must be painted or permanently affixed and of colors contrasting with the background vehicle color.

~~135.7.8~~ 135.7.7 Other markings and advertising are permitted to be affixed if they do not obscure the minimum standard markings.

~~135.7.9~~ 135.7.8 Each taxicab must have permanently affixed on the rear doors, on both sides of the vehicle, in letters and figures at least one inch 1"/2.5cm in height the initial drop charge, rate per mile, wait time, requirements for a specific rate if more than 1 rate is utilized, and any additional charge for extra passengers.

135.8 Inspection and Certificate of Inspection

135.8.1 All taxicabs for which Certificates have been issued by ~~DelDOT~~ OPC shall be inspected semi-annually. Nothing herein shall limit ~~DelDOT~~ OPC to require more frequent inspection of such vehicles when, in its opinion, the safety of the public so requires.

135.8.2 No taxicab shall be operated unless it prominently displays on the right hand side of the windshield, visible from the exterior, an unexpired Certificate of Inspection issued by ~~DelDOT~~ OPC or its agent.

135.8.3 The passenger capacity of each vehicle is determined by the manufacturer's rating, however, the vehicle may be permanently altered to reduce passenger capacity as long as the integrity and safety of the vehicle has not been compromised and has been approved by ~~DelDOT~~ OPC.

135.9 Maintenance

135.9.1 The body, chassis, engine and all equipment shall be maintained in proper adjustment and safe operating ~~condition-~~ condition.

135.9.2 All lights must be clean, in working order and properly aimed. This includes stoplights, turn signals, license plate lights, parking lights and headlights.

135.9.3 Brakes must stop the vehicle within required distance.

135.9.4 Glass in windows must have no holes, breaks or cracks.

135.9.5 Mirrors must be clean and unbroken.

135.9.6 Windshield wipers must be fully operative (the rubber blades must be in good condition).

135.9.7 Hood and trunk latches must hold hood and trunk fully closed.

135.9.8 Tires must have no bulges, no fabric showing, no bald areas and no cuts. Tread depth must be at least 2/32 inch measured in two adjacent treads or indicated by the tire's wear bar indicators.

135.9.9 Doorknobs or equivalent must be present and in working condition.

135.9.10 There must be no damaged or dislocated parts projecting from the vehicle that could present a safety hazard.

135.9.11 Horn must be in operating condition.

135.9.12 Muffler must effectively reduce sound of engine exhaust. No leaks in exhaust system. Catalytic converter must be installed if originally equipped from manufacturer.

135.9.13 There must be no fuel, antifreeze, or other fluid leaks.

135.9.14 There must be no excessive discharge of fluids or exhaust emissions to cause a vehicle to smoke.

135.9.15 Bumper height on taxicabs must not exceed 22 inches from the ground to the bottom of the bumper.

135.9.16 No tinting or sun screening device can be applied to the front windshield or to the front side windows.

135.9.17 No air scoops shall be mounted on a vehicle hood that exceeds 3 inches.

135.9.18 Windshield must have no cracks that interfere with vision. Any cracks over 5 inches on any window are mandatory failure items. Minimum height of visibility in windshield is 10 inches.

135.9.19 A correct record shall be kept showing the vehicle identification, date of breakdowns, any defects reported and corrective measures taken. These records shall be retained by the carrier for at least three years.

135.9.20 Each ~~certificate~~ Certificate holder shall make a complete inspection of each motor vehicle at least once each week for mechanical or structural defects and all necessary repairs shall be made before the motor vehicle is returned to service. An itemized record of each inspection showing the date, vehicle identification, lubrication record and adjustments, and signed by the person making such inspection, shall be retained by the carrier for at least three years.

135.9.21 All records will be available to ~~DelDOT~~ OPC for inspection at the discretion of ~~DelDOT~~ OPC.

135.9.22 The maintenance facilities or an arrangement for the use of such facilities, of each Certificate holder shall be adequate and shall include either a suitable pit, ramp, lift or hoist.

135.9.23 The passenger section shall be kept clean and sanitary and free of debris.

135.10 Card Reader.

135.10.1 Any taxicab equipped with or advertises for the use of an electronic payment devise that would allow the use of a credit card ~~and/or~~ or debit card, shall be placed out of service immediately, if such electronic payment devise becomes damaged ~~and/or~~ or not functional, until such time that the taxicab has the electronic payment devise operational ~~and/or~~ or discontinue or remove the advertisement for the use of a credit card ~~and/or~~ or debit card.

135.11 Simulating Color or Design

135.11.1 Public carriers are prohibited from marking, painting or designing their vehicles so as to simulate vehicles of special design or markings operated by other carriers within the same local area. Such simulation of design or any other act intended to invite patronage by deception will be considered as sufficient ground for revocation of Certificates. This regulation shall not apply to school buses.

135.12 Replacement Medallions

- 135.12.1 A lost or stolen medallion may be replaced at the cost of \$100.00 per medallion. A written request for replacement must be received by the ~~Office of Public Carrier Regulation~~ OPC, on company letterhead, and signed by an authorized representative of the company. The written request must include the medallion number(s) for which the request was written. An affidavit must then be obtained from the ~~Office of Public Carrier Regulation~~ OPC, signed and notarized before the issuance of the replacement medallion(s). All outstanding inspections, reports, fees, etc. due to the ~~Office of Public Carrier Regulation~~ OPC must be resolved before any replacement medallions will be issued.
- 135.12.2 A medallion may be replaced at the cost of \$20.00 per medallion due to an accident, mechanical failure, breakdown, or vehicle exchange. A written request for replacement must be received by the ~~Office of Public Carrier Regulation~~ OPC, on the form approved by ~~DelDOT~~ OPC, and signed by an authorized representative of the company. The facts of the matter will be verified before replacement is made. The written request must include the medallion number and ~~DelDOT~~ OPC number for which the request was written. All outstanding inspections, reports, fees, etc. due to the ~~Office of Public Carrier Regulation~~ OPC must be resolved before any replacement medallions will be issued.
- 15.12.3 A vehicle's medallion will expire if a public carrier does not renew the vehicle for 2 consecutive scheduled renewal periods. A vehicle cannot be used as a public carrier if its medallion has expired.
- 15.12.4 The OPC will provide written notice to the public carrier when a medallion is expired. The public carrier will be provided 60 days to renew the vehicle and pay any and all fees, or sell the medallion. After the 60 day period, a public carrier will need to pay \$25 to reinstate a medallion in addition to any other fees that may apply.

16.0 **Specifications for a Passenger Trailer**

- 16.1 All passenger trailers that travel over the roadways of Delaware shall be pulled by a Certified public carrier and shall be inspected in accord with the rules and regulations set forth by the Delaware Division of Motor Vehicles. In addition to an inspection by the Delaware Division of Motor Vehicles the vehicles may be inspected by the OPC while operating on the roadways of Delaware or at the location of the trailer's owner. The OPC may direct the trailer's owner to have the trailer inspected by the Delaware Division of Motor Vehicles if the OPC deems that action to be required to protect the safety of the public.
- 16.2 **Maintenance**
- 16.2.1 The body, chassis and all equipment shall be maintained in proper adjustment and safe operating condition.
- 16.2.2 All lights must be clean, in working order and properly aimed. This includes stoplights, turn signals, license plate lights, parking lights and headlights.
- 16.2.3 Any braking system must stop be operational.
- 16.2.4 Any plastic or glass windows or screen netting have no holes, breaks or cracks.
- 16.2.5 Mirrors must be clean and unbroken.
- 16.2.6 Tires must have no bulges, no fabric showing, no bald areas and no cuts. Tread depth must be at least 2/32 inch measured in two adjacent treads or indicated by the tire's wear bar indicators.
- 16.2.7 Doorknobs or equivalent must be present and in working condition.
- 16.2.8 There must be no damaged or dislocated parts projecting from the trailer.
- 16.2.9 There must be no fluid leaks.
- 16.2.10 Bumper height on taxicabs must not exceed 22 inches from the ground to the bottom of the bumper.
- 16.2.11 The interior of the trailer shall be clean and well maintained. There shall be no tears larger than 3" on any seat or cushion.
- 16.2.12 There shall be no broken floor boards or seats.
- 16.2.13 The trailer hitch shall be properly sized for the trailer and powered vehicle and in good working order.
- 16.2.14 The trailer shall be properly hitched when in use with all required safety chains, electric hook-ups and other safety devices.
- 16.2.15 A correct record shall be kept showing the vehicle identification, date of breakdowns, any defects reported and corrective measures taken. These records shall be retained by the carrier for at least three years.
- 16.2.16 Each Certificate holder shall make a complete inspection of each trailer at least once each week for mechanical or structural defects and all necessary repairs shall be made before the trailer is returned to service. An itemized record of each inspection showing the date, vehicle identification, lubrication record and adjustments, and signed by the person making such inspection, shall be retained by the carrier for at least three years.

16.2.17 All records will be available to the OPC for inspection at the discretion of the OPC.

16.2.18 The maintenance facilities or an arrangement for the use of such facilities, of each Certificate holder shall be adequate and shall include either a suitable pit, ramp, lift or hoist.

13 DE Reg. 956 (01/01/10)

15 DE Reg. 550 (10/01/11)

22 DE Reg. 287 (10/01/18) (Prop.)