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NATIONAL MOTOR FREIGHT TRAFFIC ASSOCIATION, INC.

205012

March 20, 2002



The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
1925 K Street, N.W., Room 711
Washington, D.C. 20423-0001

Re: Section 5a Application No. 61 (Sub. No. 6)
National Classification Committee Agreement

Dear Secretary Williams:

Transmitted herewith are an original and ten copies of the National Classification Committee's modifications of the presently approved National Classification Committee Section 5a Agreement No. 61.

Should there be any problem with this filing, please contact me at (703) 838-1825.

Respectfully submitted,

National Motor Freight Traffic Association, Inc.

ENTERED
Office of the Secretary

MAR 20 2002

Part of
Public Record

William W. Pugh

William W. Pugh,
Executive Director

Before The
Surface Transportation Board



Section 5a Application No. 61 (Sub-No. 6)
National Classification Committee - Agreement

Proposed Modifications of Presently
Approved National Classification Committee
Section 5a Agreement No. 61

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Traffic Association, Inc. and the
National Classification Committee

Due and Dated: March 20, 2002

Before The
Surface Transportation Board



Section 5a Application No. 61 (Sub-No. 6)
National Classification Committee - Agreement

Proposed Modifications of Presently
Approved National Classification Committee
Section 5a Agreement No. 61

The National Motor Freight Traffic Association, Inc. and the National Classification Committee (NCC), through counsel, respectfully submit the following proposed modifications of the NCC's presently approved Section 5a Agreement No. 61 in response to the changes outlined in the Surface Transportation Board's Decision in this proceeding served on November 20, 2001. Those changes which the STB has summarized in Appendix A to its Decision, entitled Specific Changes Required For NCC's Agreement, and in Appendix B, entitled Time Line, are identified below by reference to the provisions in the modified Agreement within which those changes have been incorporated. Additionally, certain archaic and now confusing or inappropriate language in the Agreement has been revised or deleted for purposes of clarification and/or consistency with the proposed modifications. The revised Agreement is appended in Attachments A and B. The revised Agreement in Attachment A identifies any language excised by striking through those words, and any modified or added language is shaded. Attachment B shows the Agreement as revised, with all changes incorporated.

I.
Preliminary Statement

The terminology for the activities conducted by the NCC has changed over the years. The opportunity to simplify or clarify language long-ago adopted, or requiring changes because of various revisions in the Interstate Commerce Act, became immediately apparent when modifications of the existing Section 5a Agreement commenced. Therefore, the NCC has taken this opportunity to change certain language with the purpose of making clearer to motor carriers and shippers the purpose and function of the classification-making procedures described in the Agreement.

For example, the title of the Agreement has been modified to better describe the scope of the activities governed by the approved procedures, i.e. "collectively establishing and maintaining the provisions of the National Motor Freight Classification." Also, the Preamble has been revised to remove cumbersome language, better describe the territorial application of the Classification, and delete references to the former Interstate Commerce Commission and correctly identify the STB as the body having authority over the Agreement. In Article II, Section 1, the availability of membership in the NCC, which already includes Canada, includes Mexico to reflect the implementation of the North American Free Trade Agreement.

In accord with the STB's Decision served November 20, 2001 in this proceeding, the NCC has implemented and incorporated into its present Agreement those changes regarding staff assistance and reporting, notification, staff reports and analyses, the public docket and public access to that file, access to published data and compilations, the finality of decisions, and arbitrator review, identified by the STB in its Appendix A. Those revisions, and other modifications necessitated by their inclusion, are discussed

below. So too, the time line set forth in Appendix B has been incorporated. The referenced changes implementing the STB's Decision are identified with specificity by referencing the appropriate provision within the revised Agreement which incorporates those modifications in the NCC's collective classification-making procedures.

II. Amendments to NCC's Section 5a Agreement

As indicated, appended to these comments is the revised NCC's Section 5a Agreement. All references hereafter are to the appropriate provisions within that Agreement.

1. NMFTA Staff Assistance and Reporting. NMFTA staff research assistance is provided for in revised Article III, Section 1(c). As indicated by the STB's Decision, staff assistance in conducting research is at the request of a shipper(s) and shall be on a direct-cost reimbursement basis. Moreover, whenever the results of such research reveal that a classification change may be warranted, the staff will report those results to the NCC.

Reference to the availability of the staff to assist shippers in making proposals for classification changes is found in Article III, Section 1(d), as well as in Article IV, Rule 2(a) pertaining to proposals.

2. Notification. Website notice regarding review matters, research investigations, and proposals, and the publication of the full text of classification reports and analyses, or summaries thereof, are provided for in Article III, Section 3(c)(1)(i). It is provided that such notice will be given not less than sixty (60) days prior to an NCC or Classification Panel public meeting to act upon a noticed classification matter. Also, the notice will provide the full text of each proposed change, and will specify how to contact

the staff member assigned to the proposal. Information will be provided as well as to how the raw data and any other information in the public docket file can be obtained.

Article III, Section 3(c)(1)(ii) specifies that, and how, individual notice of classification matters will be provided to all shippers that participated in any NCC research activities leading to docketed proposals or other classification matters to be considered at a public meeting. Individual notice will likewise be provided to all trade and professional associations that have been identified by staff as representing shippers of the involved product(s). Notice will be provided by mail, e-mail or facsimile, and will specify the time, date and place of the meeting. The notice further will identify NMFTA's website for online access to its Docket Bulletin and instructions for obtaining access to the public files.

3. Staff Reports and Analyses. Article III, Section 3(c)(1)(iii) incorporates the requirement that, without request and free of charge, copies of reports and analyses prepared by staff concerning classification proposals will be provided to any party that has participated in the corresponding research study.

4. Access to Evidence; Public Docket File. Article IV, Rule 4 addresses the content and accessibility of the public docket file that will be created for each classification proposal. Subsection (b) sets forth the procedures for accessing the public file. Staff will provide a copy of the public docket file to any person who makes that request by mail, e-mail or facsimile. The person can request that the copy be provided by mail or e-mail or be made available for courier pick-up. Should the request be received before the period for submitting information is closed, any such after-acquired

information will be sent to that person, as per their instructions. A reasonable charge will be assessed for providing the public docket file.

Subsection (c) provides that the NCC may also post the public file on NMFTA's website, organized by docket and subject numbers, with each file including an index of the documents in the file.

In Subsection (d) it is indicated that the public files will be retained by the NCC for a period of at least five (5) years, and those files posted on NMFTA's website will be retained there until disposition of the classification proposal by the NCC, including the completion of any requested arbitration proceeding or proceedings before the STB.

The time frames for the availability of the public docket file, i.e. sixty (60) days prior to action on a classification proposal, and the submission by interested persons of statements, and any underlying studies, work papers, supporting raw data and other information regarding a docketed classification matter, i.e. no later than thirty (30) days prior to the public meeting, are set forth in Article III, Section 3(c)(1) and (2). See also Article III, Section 3(d). At that point the record is closed, subject only to the submission by the NCC or any interested person of a statement or analysis of the evidence of record no later than fifteen (15) days prior to the public meeting. However, no new facts, data or evidence will be accepted or considered in any such submitted statements or analyses. Copies of any such statements or analyses will be available in the public docket file. (See Article III, Section 3(c)(3).)

5. Access to Published Data and Compilations. Article III, Section 1(f) makes available to any interested person the NCC's Synopsis of Classification Opinions, to the same extent, on the same terms and at the same charge that it is made available to

NCC member carriers. The information offered to be produced in the statement of Martin E. Foley, filed in this proceeding on April 16, 2000, is incorporated throughout Article III, Section 3(c), Notice and Disclosure required prior to a meeting of the Committee or Classification Panel, and Article IV, Rule 4, Public Docket Files. The “directory of charges” referenced in the STB’s Decision is actually a “directory of changes.” That “directory” consisted of a synopsis of analyses provided to state regulatory agencies, which accompanied changed classification entries. Now the analyses themselves will be provided, and those documents are already available free of charge on NMFTA’s website or pursuant to Article III, Section 3(c).

6. Finality of Decisions. Pursuant to Article V, Rule 7, a classification decision reached by the NCC or a Classification Panel must await a thirty (30)-day period to allow a party time to seek arbitration. At the expiration of that period, and in the absence of a request for arbitration, the classification action can be published to take effect upon fifteen (15) days’ notice.

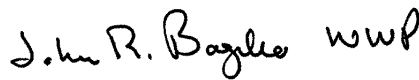
7. Arbitration Review. Article V, Rules 1 through 8, set forth the required thirty (30)-day time frame for seeking review by a neutral arbitrator of an NCC or Classification Panel decision. (See Rule 7.) The procedures for selecting a neutral arbitrator are detailed in Rule 2 and provide for the selection process should the parties be unable to agree. Rule 3 provides that the party seeking review and the NCC will share equally in the fees charged for the arbitration process, with each bearing their own legal or representation fees and administrative costs.

Rules 4, 5 and 6 are directed to the procedures for processing the arbitration regarding the forwarding of the public docket record, the submission of statements of position, and the issuance of the arbitrator's decision.

Conclusion

It is submitted that the foregoing changes and additions to the NCC's Section 5a Agreement fully comply with the directions and recommendations provided by the STB in its Decision in this proceeding served on November 20, 2001. Accordingly, it is requested that final approval be given to the NCC's amended Agreement.

Respectfully submitted,

 wwp

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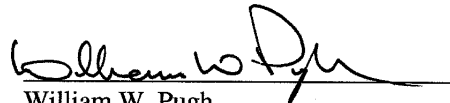
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Counsel for National Motor Freight
Traffic Association, Inc. and the
National Classification Committee

Due and Dated: March 20, 2002

Certificate of Service

I hereby certify that I have this 20th day of March 2002, served a complete and correct copy of the foregoing document upon all parties of record in this proceeding by first class mail, properly addressed and with postage prepaid.


William W. Pugh

Attachment A

AGREEMENT

As Amended

November 5, 1985

and

August 20, 1987

_____, 2002

RELATING TO

PROCEDURES FOR ~~THE JOINT~~

~~CONSIDERATION~~ COLLECTIVELY ESTABLISHING AND

~~HANDLING OF~~ MAINTAINING THE PROVISIONS OF THE

~~NATIONAL MOTOR FREIGHT~~ CLASSIFICATION

~~RATINGS, RULES AND~~

REGULATIONS

By The

NATIONAL CLASSIFICATION COMMITTEE

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

PREAMBLE

The undersigned ~~motor~~ carrier in consideration of the covenants of ~~each the other common motor~~ carriers of property ~~by motor vehicle shall enter into like and similar agreements hereby covenants and~~ signatory to this Agreement agrees with each and every said other said carrier that it will participate in the ~~collective~~ initiation, consideration and change of classifications ratings, and rules and regulations, governing the transportation of property within the United States in interstate or foreign commerce in accordance with the terms of this Agreement.

~~It is expressly stipulated that~~ The undersigned carrier and any and every other carrier party to this Agreement reserves and may exercise the free, ~~unrestricted~~ and unrestrained right to take independent action at any time with respect to any of the matters herein contained herein, ~~by publication of~~ Exceptions to any ratings, rules or regulations, at any time, either before, during or after any determinations thereof arrived at through any procedure provided in said rules.

The undersigned carrier ~~further constitutes and appoints the then duly elected and acting~~ Secretary of the National Classification Committee as its agent and attorney-in-fact to sign, verify file and prosecute pursue in its name before the ~~Interstate Commerce Commission~~ United States Surface Transportation Board (Surface Transportation Board) such application(s) or applications as may be required for the approval and authorization or reauthorization of this Agreement, and to take any and every other appropriate action in connection therewith.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE I - PURPOSE AND SCOPE

This Agreement pertains to the ~~joint~~ **collective** initiation, consideration and handling of motor freight classification matters and for the organization, powers and procedures of a committee of ~~up to~~ one hundred representatives of the motor carriers party to this Agreement to be known as ~~the~~ National Classification Committee and ~~(hereinafter called the Committee)~~.

ARTICLE II - ORGANIZATION OF THE NATIONAL CLASSIFICATION COMMITTEE

Section 1. National Classification Committee

The Committee shall consist of ~~not more than~~ **up to** one hundred members, to be elected from ~~each of~~ the ~~forty-eight contiguous~~ **fifty** states, ~~Alaska,~~ the District of Columbia, ~~and~~ Canada and ~~Mexico,~~ ~~(hereinafter called States~~ **jurisdiction(s))**. The number of members to be elected from each ~~State~~ **jurisdiction** shall be determined by the Secretary of the Committee ~~as of June 30,~~ in accordance with the classification participation fees received from each of the ~~States~~ **jurisdictions** during the previous fiscal year; ~~provided, however, that at least one member shall be elected from each State.~~

Section 2. Voting Rights

Each party to this Agreement shall be entitled to one vote for each ~~Committee~~ member to be elected from the ~~State~~ **jurisdiction** in which ~~his~~ **its** principal place of business is located. A carrier entitled to vote for more than one nominee may, if ~~he~~ **it** so elects, cast all of the votes to which ~~he~~ **it** is entitled in favor of one nominee, or ~~he~~ **it** may cast one or more votes for each of one or more nominees.

Section 3. Nominations

The Committee shall be reconstituted on July 1 of each year. Any officer, owner, or ~~full-time~~ employee of a motor carrier party to this Agreement shall be eligible for membership on the Committee, except that no member of the Committee who is serving a consecutive term and who has not attended one of the three regular meetings next preceding the ~~mailing~~ **issuing** of ballots as provided in Section 4 hereof, shall be eligible for re-election.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE II - ORGANIZATION OF THE NATIONAL CLASSIFICATION COMMITTEE

Section 3. Nominations – concluded

Any party to the Agreement may nominate one qualified person for election from the State jurisdiction in which such nominator is domiciled. The Secretary of the Committee shall request nominations from all parties not later than April 1 of each year. Nominations may ~~may~~ must be made by addressing a letter in writing to the Secretary of the Committee not later than May 1 of any year preceding the election to be held July 1.

Section 4. Elections

By June 1 of each year, the Secretary of the Committee shall ~~cause~~ issue by mail or electronic means to each party to this Agreement a ballot listing all nominees by State to be mailed in its jurisdiction. to each party to the National Motor Freight Classification Agreement by June 1 of each year. In the event nominations are not received for each membership, the Chairman shall nominate at least one qualified person for each open membership. Each party desiring to vote shall return his ~~its~~ mail ballot to the Secretary of the Committee not later than June 25. The Secretary of the Committee and two witnesses shall count the votes and certify the results to the Chairman of the Committee. In the event of a tie vote, the Secretary shall take a second mail ballot in the State jurisdiction in which the tie occurs, and mail balloting shall continue until the tie is broken.

Section 5. Officers

At its first meeting subsequent to the annual election, the Committee shall organize by electing a Chairman, a First Vice-Chairman, and a Second Vice-Chairman; and by selecting the Secretary of the Committee, who shall have no vote and need not be a member of the Committee, ~~shall be elected by the Committee, and need not be a member of the Committee.~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE II - ORGANIZATION OF THE NATIONAL CLASSIFICATION COMMITTEE

Section 6. Classification Panels

Classification Panels are subgroups of the Committee that have the power and duty to consider and act on classification matters. At the discretion of the Committee, the Chairman may establish up to four Panels of up to 25 Committee members each. Panel members and a Chairman and Vice Chairman of each Panel shall be appointed as necessary by the Chairman of the Committee. The Secretary of the Committee shall act as the Secretary of each Panel. Members of the Classification Panels shall serve until their successors have been appointed. No Committee member shall be obliged to serve on a Panel.

Section 7. Subcommittees

The Chairman of the Committee may, and at the discretion of the Committee shall, appoint such subcommittees as are required to effectively conduct the work of the Committee.

Section 8. Vacancies and Tenure of Office

The Chairman of the Committee shall have the authority to fill any vacancy on the Committee by appointment. All members shall serve until their successors are elected or appointed and have signified a willingness to serve. The Chairman, Vice-Chairmen and Secretary of the Committee shall serve for terms beginning with election to office and continuing until the next succeeding Committee shall have elected new officers. In the event a vacancy occurs in the office of Chairman, through resignation or otherwise, the First Vice-Chairman shall succeed to that post, and the Second Vice-Chairman shall succeed to the post of First Vice-Chairman.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 1. Powers and Duties of the Committee

The Committee shall have the power and duty to:

(a) Investigate and consider matters affecting the classification of commodities, initiate proposals for changes in the National Motor Freight Classification (hereinafter called the Classification), and finally decide, fix ~~determine~~ and prescribe the ~~context, provisions, rules, regulations and ratings~~ descriptions of articles, classes, rules, packaging requirements and specifications, bill of lading formats, other provisions and the context of the Classification; provided, however, that any ~~participating~~ carrier participating in such Classification shall have the ~~free and unrestrained~~ right, at any time either before or after determination hereof, to publish, cause to be published ~~establish~~, or to concur in, any tariff or tariffs containing exceptions to said the Classification, and any or all provisions thereof; and provided further, however, that neither the Committee nor a Classification Panel may file a protest or complaint with the Interstate Commerce Commission against any tariff item published by or for the account of any motor carrier of property;

(b) ~~Determine or fix~~ ~~Establish~~ the procedures under which the Classification Panels shall operate, and direct and monitor the staff in its performance of analytical and support services;

(c) Upon request, make the staff available, on a direct-cost reimbursement basis, to assist shippers in conducting research on classification matters and to report the results to the Committee when the research reveals that a classification change may be warranted;

(d) Upon request, make the staff available to assist shippers in making appropriate proposals for classification changes;

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 1. Powers and Duties of the Committee – concluded

(e) ~~Determine and fix~~ Establish the procedures under which proposals to establish for new or changed descriptions of articles, ~~classification weights, classes, rules,~~ packaging requirements and specifications, bill of lading formats ratings, rules, regulations and other provisions of the Classification (hereinafter referred to collectively as provisions of the Classification) shall be initiated, heard and decided; provided that, unless and until amended, such procedures shall be as set forth in Article V herein;

(f) Upon request, make the Committee's Synopsis of Classification Opinions available to any interested person, to the same extent, on the same terms and at the same charge that it is made available to the Committee's member carriers;

(d) (g) ~~Enter into contracts for the compilation, publication, filing and distribution of the Classification, which contracts shall provide among other things for~~ Establish reasonable, just and nondiscriminatory terms and conditions under which persons entities may become parties to participants in the Classification, and that any carrier of property operating within the United States entity may become a participant therein upon complying with such terms, rules and conditions.

Section 2. Powers and Duties of Classification Panels

(a) At the direction of the Committee, Classification Panels may:

(1) Direct research regarding commodities and any classification proposal or provision;

(2) Docket proposals for changes in the Classification;

(3) Hear, consider and act on docketed proposals and other classification matters;

(b) In acting on a docketed proposal, a Classification Panel may: (1) approve the proposal as docketed; (2) disapprove the proposal as docketed; or (3) modify and approve the proposal.

(c) The disposition of a docketed proposal by a Classification Panel shall be the final disposition of the Committee.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel

(a) The Committee and/or a Classification Panel shall conduct business at meetings which shall be held at least three times a year at times and places and in formats to be fixed designated and announced noticed by the Secretary of the Committee, not less than ~~thirty (30)~~ sixty (60) days in advance. Special meetings to consider matters other than docketed proposals may be called by the Secretary, and shall be called by him the Secretary at the request of fifteen or more members, on not less than twenty (20) days written notice.

(b) At meetings of the Committee or a Classification Panel each member shall have one vote. A majority vote of the members present in-person at a meeting shall govern the Committee's or Classification Panel's action. At all meetings the presence in-person of 30% of the total membership of the Committee or Classification Panel shall be necessary to transact business. Meetings shall be governed by Robert's Rules of Order. Formal minutes of all meetings and a record of the maker and seconder of every motion respecting a docketed proposal or an appeal and the vote of all members thereon shall be maintained.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(c) Notice and Disclosure required prior to a meeting of the Committee or Classification Panel

(1) Not less than sixty (60) days prior to a Committee or Classification Panel meeting:

- (i) Notice of meetings The full text of the Committee's Docket Bulletin shall be posted on the National Motor Freight Traffic Association's website and given by simultaneously mailing a copy of the Committee's Docket Bulletin provided by mail, e-mail or facsimile to proponents of docketed proposals scheduled to be considered at the meeting, to all other parties of record, to all members of the Committee or Panel, as the case may be, and to each member or nonmember subscriber of the Docket Bulletin. The notice provided in the Docket Bulletin shall set forth specify the time, date and place of the meeting, describe the proposals, appeals and any other Classification matters to be considered, the justification for the proposed action, and any other relevant matter. The notice shall be mailed not less than fifteen (15) days prior to the meeting date. Information regarding the meeting also will be given to the public by publication in Transport Topics not less than fourteen (14) days preceding the meeting, and through any other medium which the Chairman may consider necessary or appropriate and shall contain the full text of each proposed change along with the relevant staff report (analysis), or a summary thereof, and specify how to contact the staff member assigned to the proposal, how to contact the proponent(s) of the proposal and how to obtain the raw data and any other information in the Committee's public docket file. The Docket Bulletin shall also list classification review matters to be considered at the meeting, including how to contact the staff member assigned and how to obtain a copy of the relevant staff report.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(ii) Individual notice shall be provided by mail, e-mail or facsimile to all shippers that participated in any Committee research activities leading to docketed proposals or other classification matters to be considered at the meeting. Individual notice shall likewise be provided to all trade and professional associations that have been identified by staff as representing shippers of the involved product(s). Individual notice shall specify the time, date and place of the meeting, the National Motor Freight Traffic Association's website address for online access to the Docket Bulletin and instructions for obtaining access to the Committee's public files.

(iii) The Committee, without request and free of charge, shall provide copies of any reports (analyses) prepared by the staff concerning a docketed proposal to any party that has participated in the corresponding research study.

(2) No later than thirty (30) days prior to the public meeting, interested parties may submit statements, including any underlying studies, work papers, supporting raw data and any other information, relating to a docketed proposal to the Secretary of the Committee.

(3) After thirty (30) days but no later than fifteen (15) days prior to the public meeting, the Committee and any interested party may submit a statement or analysis regarding the information of record, but no new facts, data or evidence will be accepted or considered. The Committee shall include this material in the public docket file.

(4) The Secretary of the Committee shall forward all information of record to the Committee or Classification Panel members, as the case may be, prior to the meeting at which a docketed proposal is to be considered.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(d) Any interested person may file with the Secretary of the Committee written representations respecting any docketed proposal or appeal other classification matter in electronic or paper format. The Secretary shall forward all such written representations to the members prior to the meeting at which such docketed proposal or appeal is to be considered. Written representations relating to a docketed proposal will be included in the Committee's public docket file. Such public files may be posted on the National Motor Freight Traffic Association's website, and in those circumstances, written representations submitted in paper format will be electronically scanned for inclusion in the files. To ensure that the highest quality image is captured during the scanning process, all letters, statements, data sheets and other written representations submitted in paper format must be typed on 8½ by 11-inch white paper, with type no smaller than 12 point.

(e) Any person interested in a docketed proposal or appeal other classification matter shall, upon written request to the Secretary of the Committee, be allotted a reasonable amount of time, as determined by the Secretary, for an appearance before the Committee or Classification Panel, as the case may be.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – concluded

~~(f) That part of any meeting during which proposals for new or changed provisions in the Classification are discussed or voted upon by the Committee may be attended by any person, and all persons in attendance may participate in discussions.~~ In considering a docketed proposal, the Committee or Classification Panel will be guided exclusively by:

- (1) The public record that has been established by the process set forth in this Agreement;
- (2) The applicable regulatory and legal standards and precedent establishing the reasonableness of classification provisions;
- (3) The policies and guidelines the Committee has established for determining appropriate classification provisions, as posted on the National Motor Freight Traffic Association's website.

(g) Upon request, the Secretary promptly shall divulge to any person the vote cast by ~~any~~ each member of the Committee or a Classification Panel on any docketed proposal ~~or appeal~~.

Section 4. Subcommittee Meetings

Meetings of any subcommittees shall be held on call of the Chairman of such subcommittee. The members present at any meeting shall constitute a quorum and all meetings shall be governed by Robert's Rules of Order; except that any part of a meeting of a subcommittee during which proposals for new or changed provisions in the Classification may be ~~considered or developed will~~ **shall** be noticed ~~in the Docket Bulletin~~ as provided in Section 3(c) and will be subject to the quorum, open meeting, and any other applicable procedural requirements established in the Agreement for the collective consideration of classification matters by the Committee and Classification Panels. Any person interested in such **classification** matters may attend ~~such~~ **the** meeting, and all persons in attendance may participate in discussions.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

~~ARTICLE IV - CLASSIFICATION PANELS - COMPOSITION AND FUNCTIONS~~

~~The Committee shall be divided into four panels to be known as Classification Panels 1, 2, 3 and 4. Each panel shall consist of not less than 15 and not more than 25 members. Panel members and a chairman and vice chairman of each panel shall be appointed annually by the Chairman of the Committee following the Committee meeting at which Committee officers are elected. The Secretary of the Committee shall act as secretary of each panel. Members of Classification Panels shall serve until their successors have been appointed. No Committee member shall be obliged to serve on a panel and no Committee members shall simultaneously serve on more than one panel.~~

~~Section 1. Powers and Duties of Classification Panels~~

~~(a) The powers and duties of the Classification Panels shall be:~~

~~(i) To direct and/or conduct investigation and research respecting commodities presently or proposed to be classified in the Classification and into any other present or proposed provision of the Classification;~~

~~(ii) To initiate proposals for changes in the Classification~~

~~(iii) To hear, consider and dispose of docketed proposals to establish or change provisions of the Classification.~~

~~(b) In acting on a docketed proposal a Classification Panel may (i) approve the proposal as docketed; (ii) disapprove the proposal as docketed; (iii) amend and approve the proposal, subject to Rule 5 (b) of Article V; (iv) defer disposition of the proposal until the next meeting of the panel, provided, however, that there shall be no more than one such deferral; (v) refer the proposal to the Committee for consideration and disposition.~~

~~(c) Absent an appeal under Rule 7 of Article V or reconsideration under Rule 9 of Article V, the disposition of a docketed proposal by a Classification Panel shall be final.~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

~~ARTICLE IV - CLASSIFICATION PANELS - COMPOSITION AND FUNCTIONS~~

~~Section 2. Conduct of Business by Classification Panels~~

~~— (a) Classification Panels shall conduct business at meetings which shall be held at times and places designated by the Secretary.~~

~~— (b) At meetings of Classification Panels each panel member shall have one vote. A majority of the panel members present in person at a meeting shall govern the panel's action. At all panel meetings the presence in person of 30% of the total membership of the panel shall be necessary to transact business. Formal minutes of all panel meetings and a record of the maker and seconder of every motion respecting a docketed proposal and the vote of all members thereon shall be maintained.~~

~~— (c) Notice of panel meetings shall be given as provided in Article III, Section 2(c).~~

~~— (d) Any interested person may file with the Secretary written representations respecting any docketed proposal. The Secretary shall forward all such written representations to the panel members prior to the meeting at which such docketed proposal is considered. Any person interested in a docketed proposal shall, upon written request to the Secretary, be allotted a reasonable time for an appearance before the panel.~~

~~— (e) That part of any meeting of a Classification Panel during which proposals for new or changed provisions in the Classification are discussed or voted upon may be attended by any person, and all persons in attendance may participate in discussions.~~

~~— (f) Upon request the Secretary promptly shall divulge to any person the vote cast by any panel member on any docketed proposal considered at any panel meeting.~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 1. Proposal Forms

The Committee shall provide a suitable form for the submission of proposals for changes in the provisions of the National Motor Freight Classification, and it may require the use of such form, fully executed in duplicate, by the proponent.

Rule 2. Proposals

(a) All proposals for collective action to establish new or changed descriptions of articles, classification weights, classes, rules, packaging requirements and specifications, bill of lading formats ratings, rules or regulations in or other provisions of the Classification, shall be filed in writing with the Secretary of the Committee. The staff will provide assistance in the formulation or preparation of such proposals, as may be requested. Proposals may be filed by the Committee, a Classification Panel and or any other person, firm, or corporation or group having an interest in the contents of the Classification; provided, however, that no employee or employee committee of the Committee may docket or act upon any proposal effecting a change in any tariff item published by or for the account of any of its member carriers. Proposals may be filed individually or collectively through leagues, associations, or any other formally or informally organized groups. Any member of a league, association or group may also file proposals individually and independently.

(b) Each classification proposal for collective action shall be docketed. A Docket Bulletin describing such proposals shall be published by the Secretary and posted on the National Motor Freight Traffic Association's website. Docket Bulletins shall be simultaneously provided by mailed, e-mail or facsimile to proponents, described in the Bulletin, to all members of the Committee and to all other persons subscribing thereto subscribers to the Docket Bulletin. A description of each proposal will also be published in Transport Topics.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 2. Proposals – concluded

(c) Upon request, the name of the proponent of a proposal ~~for collective action~~ shall be promptly divulged to any person. In the case of a proposal docketed by the Committee or a Classification Panel, the member moving to docket, the member seconding the motion and a tally of the votes promptly will be divulged.

Rule 3. Docketing and Parties of Record

(a) The Secretary of the Committee shall place proposals ~~for collective action which comply with the provisions of Rules 1 and 2~~ on the first available docket for **public hearing** ~~by a Classification Panel~~.

(b) Any person may become a party of record to a docketed proposal by communicating an interest ~~therein to the Secretary~~ in writing ~~to the Secretary~~ prior to the **public** ~~meeting of the Classification Panel~~ at which the proposal will be considered.

Rule 4. Public Docket Files

(a) Copies of all reports, analyses, studies, work papers, supporting raw data and other information in the Committee's possession relating to a docketed proposal, along with the full text of the proposed change, shall be made available in a public file, subject to any protective orders that may be obtained from the Surface Transportation Board. Protective orders notwithstanding, the public docket file will not name the entity that provided the raw data, nor will it include information that could lead to the name of the entity that provided the raw data. The source of the raw data will be identified as "shipper/receiver," "carrier," or the like.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 4. Public Docket Files – concluded

(b) Any interested person may obtain the Committee's public file on any docketed proposal by submitting a request in writing by mail, by e-mail or by facsimile to the Committee. The request must specify the Committee's docket and subject numbers, the material(s) sought, and whether the material(s) is to be furnished by mail or e-mail or made available for courier pick-up. The material(s) will be mailed, e-mailed or made available for courier pick-up no later than two (2) business days after the request is received. If the request is received before the docket record is closed, the material(s) will be furnished as of the date the request is received. After the docket record is closed, any material(s) added to the public file subsequent to the date of the request will be furnished, as per the requesting party's instructions, within two (2) business days. A reasonable charge will be assessed for these services.

(c) The Committee may also post the public docket files on the National Motor Freight Traffic Association's website, organized by docket and subject numbers, each file including an index of documents.

(d) The Committee's public docket files will be retained at the Committee's offices for a period of at least five (5) years. Public files posted on the National Motor Freight Traffic Association's website will be retained there until final disposition, including any arbitration proceeding or proceedings before the Surface Transportation Board.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 5. Open Public Meetings

Open Meetings open to the public shall be conducted by a Classification Panel or by the Committee or a Classification Panel, as the case may be, on all docketed proposals, on all appeals, and on all other classification matters, and by subcommittees when considering matters pertaining to changes in the Classification. At any open public meetings any person may participate by presenting views orally and/or in writing on any proposal or appeal classification matter under consideration; however, facts, data or evidence relating to docketed proposals received less than thirty (30) days prior to the meeting will not be accepted or considered. Persons may participate individually or collectively through leagues, association or any other formally or informally organized group. Any person participating through a league, association, or group may also participate individually. Note-taking and/or sound recordings are permitted at these open public meetings provided that the meeting is not disrupted by such activities.

Rules 6. Disposition of Proposals

(a) Final Disposition of docketed proposals for new or changed provisions in the Classification shall be made by the 120th day after docketing, except that in unusual circumstances such period may be extended, if, within the 120-day period, a petition requesting an extension of that period and setting forth supporting reasons is filed with the Interstate Commerce Commission.

(b) In disposing of a docketed proposal, a Classification Panel or the Committee or a Classification Panel may deviate from the terms of modify the proposal, but it may not broaden the scope of the proposal as shown in the published Docket Bulletin, without observing the procedures prescribed by the rules herein.

(c) Members may not discuss or vote on provisions governed by Section 10730(b) 14706 (c)(1)(C) of Title 49 of the United States Code.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 7. Changes Without Docketing

Changes in the Classification made necessary by law or by order of a regulatory body or for clarification, may be made without docketing or observance of the procedures herein. Notice of such changes shall be published provided in the Docket Bulletin and Transport Topics posted on the National Motor Freight Traffic Association's website.

Rule 7. Appeals

- ~~— (a) The disposition of a docketed proposal by the Committee shall not be appealable.~~
- ~~— (b) An appeal to the Committee from the disposition of a proposal by a Classification Panel may be taken by:~~
 - ~~— (i) The proponent of the proposal;~~
 - ~~— (ii) Any party of record to the proposal;~~
 - ~~— (iii) Eight members of the Committee;~~
 - ~~— (iv) Fifteen carriers participating in the Classification.~~
- ~~— (c) An appeal may be taken by the filing of a notice thereof in writing with the Secretary of the Committee within 30 days from the date of the disposition by the Classification Panel.~~
- ~~— (d) A majority of the Committee present in person at the appeal meeting shall decide whether the appealed disposition of a Classification Panel shall be approved, disapproved, deferred to the next meeting of the Committee, provided, however, that there shall not be more than one such deferral, reconsidered by the Panel, or, subject to Rule 5(b) of this Article, approved as modified by the Committee.~~
- ~~— (e) Notice of appeals shall be given as provided in Article III, Section 2(c).~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 8. Notice and Publication

(a) Notice of Committee and Classification Panel dispositions of ~~classification~~ ~~docketed~~ proposals, ~~and decisions on classification matters, and Committee actions on appeals,~~ shall be ~~given~~ ~~provided by~~ mail, e-mail or facsimile to the proponents, ~~appellants,~~ parties of record, members of the Committee, ~~and member and nonmember subscribers to the Docket Bulletin by U.S. Mail~~ and any parties that have ~~submitted written requests for such notice.~~ Information on ~~these~~ ~~all~~ classification actions ~~also~~ will be published in Transport Topics ~~posted on the National Motor Freight Traffic Association's website.~~

(b) The Secretary of the Committee shall instruct the Publishing Agent of the Classification of changes to be made in the Classification in accordance with ~~final~~ ~~the~~ disposition of proposals.

Rule 9. Reconsideration

~~—(a) Notwithstanding that a disposition has become final under Article IV, Section 1(c), or Article V, Rule 7, any person who has additional information not previously available or considered which may affect the basis upon which a proposal was dispositioned, or is aware of a material mistake of fact in the data relied upon in acting on a proposal may, not later than 15 days after the date of publication in the Classification, file with the Secretary of the Committee in writing a request for reconsideration, together with a statement of the reasons therefor.~~

~~—(b) Upon receipt of a request for reconsideration, the Secretary shall immediately forward it to all members of the Committee or of the Classification Panel, as the case may be, together with a ballot calling for a written vote for or against granting reconsideration.~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE ~~IV~~ – RULES ~~OF PROCEDURE~~ FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 9. Reconsideration

~~—(c) If a majority of the Committee or the Classification Panel, as the case may be, votes, not later than 25 days after the date of publication in the Classification, to grant reconsideration, the Secretary shall instruct the Publishing Agent of the Classification to withhold any publication that the disposition requires, or, if publication has already been made, to postpone the effective date thereof pending action on reconsideration.~~

~~—(d) Upon reconsideration the Committee or Classification Panel, as the case may be, shall have the same powers and duties as in the case of initial decisions or appeals, and shall be subject to the same open meeting requirements. The disposition of a panel on reconsideration shall be appealable as provided in Rule 7 herein. The disposition of the Committee on reconsideration shall be final.~~

Rule ~~9~~. Independent Action

~~(a) Every party to this Agreement shall have the free and unrestrained right to take independent action at any time either before, during or after any determination arrived at through any procedures provided in these rules.~~

~~—(b) Nothing in these rules shall prevent any participating carrier from publishing or causing to be published in any tariff or tariffs exceptions to the Classification or to any or all provisions thereof.~~

~~(a) The Committee may not interfere with at a carrier's free and unrestrained right of independent action. Should any party to this Agreement give written notice to the Secretary of the Committee of independent action as to any proposed change in the Classification within 30 days after the date notice of disposition has been issued, the Secretary shall instruct the Publishing Agent to withhold publication of the proposed change for a period of 30 days after such notice of independent action so that such party may cause independent publication in accord with such independent action.~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 9. Independent Action – concluded

(b) Pending their effective date, Proposals for independent action will not be discussed by the Committee or by any Classification Panel. Any expert analysis or technical assistance provided by employees or employee committees concerning any independent action proposal shall be kept confidential.

ARTICLE V – ARBITRATION

Should any party disagree with the disposition of a docketed proposal by the Committee or a Classification Panel, arbitration may be sought by that party subject to the following rules of procedure.

Rule 1. Request for Arbitration

The party seeking relief shall be referred to as the claimant and the National Classification Committee (Committee) shall be referred to as the respondent. Within thirty (30) days of a classification decision by the Committee or a Classification Panel, claimant(s) shall notify the Secretary of the Committee by mail, telephone, e-mail or facsimile that arbitration is requested of the Committee or Classification Panel action on the docketed proposal.

Rule 2. Selection of Arbitrator

Within two (2) business days after such notice by claimant(s), the Secretary of the Committee shall develop, prepare or select a list of neutral arbitrators from an independent arbitration association. The list of neutral arbitrators shall be forwarded by mail, e-mail or facsimile to the claimant(s). The claimant(s) and the Secretary of the Committee shall confer by telephone, e-mail or facsimile within three (3) business days after the list of neutral arbitrators has been received to mutually agree to a neutral arbitrator. If the claimant(s) and the Secretary select different neutral arbitrators and cannot agree on a single neutral arbitrator, they will so notify the arbitration association, and the two selected arbitrators will choose the

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Rule 2. Selection of Arbitrator – concluded

arbitrator to handle the matter from the remaining arbitrators on the list who were not selected. The arbitration association shall be notified by telephone, e-mail or facsimile of the selection of the neutral arbitrator, and the arbitration association shall determine whether the selected neutral arbitrator has a conflict of interest. The claimant(s) and the Secretary of the Committee shall be notified promptly of the results of that inquiry. If a conflict exists, the two originally selected arbitrators will choose another neutral arbitrator until no conflict of interest exists.

Rule 3. Commencing The Arbitration Process

Prior to the commencement of the review by the neutral arbitrator, claimant(s) and the Committee will be required to execute an arbitration agreement. Upon receipt of the signed arbitration agreement, the arbitration association shall direct the selected neutral arbitrator to commence the proceeding. The claimant(s) and the Committee will share equally in the fees charged for the arbitration process by the arbitration association, except that each will bear their own legal or representation fees and administrative costs.

Rule 4. Transmittal of Public Record

Within one (1) business day after the notice of the selection of a neutral arbitrator, the Secretary of the Committee shall forward by express mail a complete copy of the public record developed during the course of the handling of the docketed proposal before the Committee or a Classification Panel to the arbitrator, and concurrently, a copy (copies) by express mail to the claimant(s).

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Rule 5. Parties' Statements of Position

Within seven (7) business days after the notice of the selection of a neutral arbitrator, the claimant(s) may submit to the arbitrator a statement of position as to why the initial classification action by the Committee or a Classification Panel is not in conformity with established classification standards. A copy of the statement shall be provided by express mail, e-mail or facsimile to the Secretary of the Committee. Within seven (7) business days after the receipt of claimant(s) statement(s) the Committee may submit a response by express mail, e-mail or facsimile to the arbitrator, and send a copy to the claimant(s).

Rule 6. Decision of Arbitrator

Within forty-five (45) days after the receipt of the public record the arbitrator shall issue a written decision determining whether or not to affirm the challenged classification action. The decision must rely exclusively on the facts, evidence and information which comprise the public record that has been established by the process set forth in this Agreement. The arbitrator's conclusions shall be governed by the established regulatory and legal standards and precedent for evaluating the reasonableness of classification provisions. The reasonableness of the class(es) proposed for any commodity shall be determined exclusively by comparison of that commodity's four recognized transportation characteristics (density, stowability, handling and liability, as defined by the Interstate Commerce Commission in Ex Parte No. MC-98 (Sub-No. 1), Investigation Into Motor Carrier Classification, 367 I.C.C. 243 (1983) and related cases) with the transportation characteristics of other commodities that are assigned a comparable class(es). The decision will set forth the essential reasoning that was relied upon in reaching these conclusions. The arbitrator's decision shall be final, subject only to review through the filing of a complaint with the Surface Transportation Board. The Committee may publish any classification action found reasonable by the arbitrator to become effective not less than fifteen (15) days after the arbitrator publishes its decision.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Rule 7. Challenge of Classification Decision If Arbitration Is Not Sought

If arbitration is not sought within thirty (30) days after the classification decision on a proposal is made by the Committee or a Classification Panel, the approved changes may be published to take effect on not less than fifteen (15) days' notice. Should the classification change be protested before the scheduled effective date, in accord with the Surface Transportation Board's procedures, the protest and any reply by the Committee shall be based on the public record upon which the Committee's or Classification Panel's action was based, unless the party(ies) protesting the classification action establishes that the Committee failed to give notice of the docketed proposal as required by its approved classification procedures.

Rule 8. Challenge of the Arbitrator's Decision

If a classification decision by the Committee or a Classification Panel is the subject of an arbitration proceeding, the classification decision, if affirmed by the arbitrator, may not be protested to the Surface Transportation Board but must be challenged only through the filing of a complaint with the Surface Transportation Board.

ARTICLE VI - AMENDMENTS

Section 1. Committee Action

This Agreement may be amended or revised at any regular or special meeting of the Committee by a two-thirds majority vote of the members present, a quorum being present and voting, provided that thirty (30) days' notice in writing of the proposed amendment shall have been ~~given by United States mail~~ provided by mail, e-mail or facsimile to all members of the Committee. Such notice shall set forth the exact language of the proposed amendment, but the Committee shall be empowered to change or modify such language so long as the amendment as finally adopted is within the scope and purpose of the proposed amendment of which notice was given.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE VI - AMENDMENTS

Section 2. Effective Date

~~—No amendments to this Agreement shall become effective until sixty days after the date upon which it was adopted, except that the Committee, by a unanimous vote of the members present or by a majority of the entire Committee, may make the amendments effective not less than 20 days from the date of adoption.~~

Section 2. Referendum

Any three members of the Committee ~~and~~ **or** any group of twenty-five or more parties to this Agreement by writing addressed to the Secretary within forty **(40)** days after the date of such amendment may request the Secretary to submit such amendments to a referendum mail vote to all persons then parties to this Agreement. Upon this demand being made, the Secretary, ~~whether or not such amendment shall have become effective as above provided,~~ shall submit such amendment to such referendum within thirty **(30)** days after such request and call for written and signed ballots with respect thereto to be filed with the Secretary within fifteen **(15)** days thereafter. Such amendment shall be deemed to be disapproved and shall be of no force or effect, ~~whether or not it has become effective as above provided,~~ if upon such referendum a majority of the then parties to this Agreement shall vote that such amendment be disapproved or rejected.

Section 3. Effective Date

~~No amendments to this Agreement shall become effective until submitted to, and approved by, the Surface Transportation Board.~~

Section 4. Force and Effect

An amendment adopted ~~and approved~~ as herein provided unless subsequently disapproved by referendum shall become a part of this Agreement with like force and effect as if it had been originally incorporated herein and shall be binding upon all parties to this Agreement.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE VII - TERMS AND PARTIES

Section 1. Duration

The term of this Agreement shall be for a period of one (1) year and thereafter until terminated, as it may be at any regular or special meeting of the Committee by a two-thirds vote of the members of the Committee present and voting, or by a majority of the entire Committee, provided written notice of such proposed termination shall have been ~~given by United States Mail~~ mailed to all members of the Committee at least thirty (30) days prior to the meeting at which the same is to be considered.

Section 2. Parties to Agreement

~~—(a) Any person who is a common carrier of property by motor vehicle shall have the right to become a party hereto by executing and delivering to the Secretary of the Committee an Agreement of like import herewith, and by filing with the Interstate Commerce Commission and the Secretary of the Committee a verified statement providing the following information:~~

- ~~—1. Company name~~
 - ~~—2. Address~~
 - ~~—3. Phone Number~~
 - ~~—4. Names of affiliates~~
 - ~~—5. Names and addresses of officers and directors~~
 - ~~—6. Names of affiliates of officers and directors~~
 - ~~—7. Name and address of each person (and its affiliates) who together with an affiliate, controls any debt, equity or security interest in the Company of at least \$1,000,000.00.~~
- ~~—(b) For the purpose of this section affiliate means a person controlling, controlled by, or under common control or ownership with another person and ownership means equity holdings in a business entity of a least 5%.~~

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE VII - TERMS AND PARTIES

Section 2. Voluntary Withdrawal

Any party to this Agreement may withdraw therefrom upon not less than sixty (60) days' notice in writing to the Secretary of the Committee.

Section 3. Involuntary Withdrawal

Any party to this Agreement who for any reason whatsoever shall cease to be a ~~common~~ motor carrier of property ~~by motor vehicle~~ or a participant in the Classification shall cease to be a party hereto upon the date of such cessation.

Section 4. Readmission

Any party to this Agreement who has withdrawn voluntarily or involuntarily may again become a party hereto by making a request in writing, provided such ~~person~~ party is, upon the date of such request, a ~~common~~ motor carrier of property ~~by motor vehicle~~ and a participant in the Classification.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

IN TESTIMONY WHEREOF, the parties hereto have set their hands and seals as of this

..... day of, 1920

Carrier.....

By

Title

Date

Trade Name (if any)

Business Address (Main Office)

Number Street

City County State Zip Code

Type of Organization.....

..... (Individual, partnership or corporation)

If a corporation:

State in which organized

Date of incorporation.....

If a partnership:

Date of formation of partnership

Names of all partners.....

Type of carrier

Certificates: No. ~~(I.C.C. MC Docket No.)~~ US DOT No.

Attachment B

AGREEMENT

As Amended

_____, 2002

RELATING TO

PROCEDURES FOR

COLLECTIVELY ESTABLISHING AND

MAINTAINING THE PROVISIONS OF THE

NATIONAL MOTOR FREIGHT CLASSIFICATION

By The

NATIONAL CLASSIFICATION COMMITTEE

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

PREAMBLE

The undersigned motor carrier in consideration of the covenants of the other motor carriers of property signatory to this Agreement agrees that it will participate in the collective initiation, consideration and change of classifications and rules governing the transportation of property in interstate or foreign commerce in accordance with the terms of this Agreement.

The undersigned carrier and every other carrier party to this Agreement may exercise the free and unrestrained right to take independent action at any time with respect to any of the matters contained herein.

The undersigned carrier appoints the Secretary of the National Classification Committee as its agent and attorney-in-fact to sign, file and pursue in its name before the United States Surface Transportation Board (Surface Transportation Board) such application(s) as may be required for the authorization or reauthorization of this Agreement, and to take any other appropriate action in connection therewith.

ARTICLE I - PURPOSE AND SCOPE

This Agreement pertains to the collective initiation, consideration and handling of motor freight classification matters and for the organization, powers and procedures of a committee of up to one hundred representatives of the motor carriers party to this Agreement to be known as the National Classification Committee (hereinafter called the Committee).

ARTICLE II - ORGANIZATION OF THE NATIONAL CLASSIFICATION COMMITTEE

Section 1. National Classification Committee

The Committee shall consist of up to one hundred members, to be elected from the fifty states, the District of Columbia, Canada and Mexico (hereinafter called jurisdiction(s)). The number of members to be elected from each jurisdiction shall be determined by the Secretary of the Committee, in accordance with the classification participation fees received from each of the jurisdictions during the previous fiscal year.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE II - ORGANIZATION OF THE NATIONAL CLASSIFICATION COMMITTEE

Section 2. Voting Rights

Each party to this Agreement shall be entitled to one vote for each Committee member to be elected from the jurisdiction in which its principal place of business is located. A carrier entitled to vote for more than one nominee may, if it so elects, cast all of the votes to which it is entitled in favor of one nominee, or it may cast one or more votes for each of one or more nominees.

Section 3. Nominations

The Committee shall be reconstituted on July 1 of each year. Any officer, owner or full-time employee of a motor carrier party to this Agreement shall be eligible for membership on the Committee, except that no member of the Committee who is serving a consecutive term and who has not attended one of the three regular meetings next preceding the issuing of ballots as provided in Section 4 hereof, shall be eligible for re-election.

Any party to the Agreement may nominate one qualified person for election from the jurisdiction in which such nominator is domiciled. The Secretary of the Committee shall request nominations from all parties not later than April 1 of each year. Nominations must be made in writing to the Secretary not later than May 1.

Section 4. Elections

By June 1 of each year, the Secretary of the Committee shall issue by mail or electronic means to each party to this Agreement a ballot listing all nominees in its jurisdiction. Each party desiring to vote shall return its ballot to the Secretary of the Committee not later than June 25. The Secretary of the Committee and two witnesses shall count the votes and certify the results to the Chairman of the Committee. In the event of a tie vote, the Secretary shall take a second ballot in the jurisdiction in which the tie occurs, and balloting shall continue until the tie is broken.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE II - ORGANIZATION OF THE NATIONAL CLASSIFICATION COMMITTEE

Section 5. Officers

At its first meeting subsequent to the annual election, the Committee shall organize by electing a Chairman, a First Vice-Chairman and a Second Vice-Chairman; and by selecting the Secretary of the Committee, who shall have no vote and need not be a member of the Committee.

Section 6. Classification Panels

Classification Panels are subgroups of the Committee that have the power and duty to consider and act on classification matters. At the discretion of the Committee, the Chairman may establish up to four Panels of up to 25 Committee members each. Panel members and a Chairman and Vice Chairman of each Panel shall be appointed as necessary by the Chairman of the Committee. The Secretary of the Committee shall act as the Secretary of each Panel. Members of the Classification Panels shall serve until their successors have been appointed. No Committee member shall be obliged to serve on a Panel.

Section 7. Subcommittees

The Chairman of the Committee may, and at the discretion of the Committee shall, appoint such subcommittees as are required to conduct the work of the Committee.

Section 8. Vacancies and Tenure of Office

The Chairman of the Committee shall have the authority to fill any vacancy on the Committee by appointment. All members shall serve until their successors are elected or appointed and have signified a willingness to serve. The Chairman, Vice-Chairmen and Secretary of the Committee shall serve for terms beginning with election to office and continuing until the next succeeding Committee shall have elected new officers. In the event a vacancy occurs in the office of Chairman, through resignation or otherwise, the First Vice-Chairman shall succeed to that post, and the Second Vice-Chairman shall succeed to the post of First Vice-Chairman.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 1. Powers and Duties of the Committee

The Committee shall have the power and duty to:

(a) Investigate and consider matters affecting the classification of commodities, initiate proposals for changes in the National Motor Freight Classification (hereinafter called the Classification), and determine and prescribe the descriptions of articles, classes, rules, packaging requirements and specifications, bill of lading formats, other provisions and the context of the Classification; provided, however, that any participating carrier shall have the free and unrestrained right to establish, or concur in, exceptions to the Classification;

(b) Establish the procedures under which the Classification Panels shall operate, and direct and monitor the staff in its performance of analytical and support services;

(c) Upon request, make the staff available, on a direct-cost reimbursement basis, to assist shippers in conducting research on classification matters and to report the results to the Committee when the research reveals that a classification change may be warranted;

(d) Upon request, make the staff available to assist shippers in making appropriate proposals for classification changes;

(e) Establish the procedures under which proposals for new or changed descriptions of articles, classes, rules, packaging requirements and specifications, bill of lading formats and other provisions of the Classification shall be initiated, heard and decided;

(f) Upon request, make the Committee's Synopsis of Classification Opinions available to any interested person, to the same extent, on the same terms and at the same charge that it is made available to the Committee's member carriers;

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 1. Powers and Duties of the Committee – concluded

(g) Establish reasonable terms and conditions under which entities may become participants in the Classification, and any entity may become a participant therein upon complying with such terms and conditions.

Section 2. Powers and Duties of Classification Panels

(a) At the direction of the Committee, Classification Panels may:

- (1) Direct research regarding commodities and any classification proposal or provision;
- (2) Docket proposals for changes in the Classification;
- (3) Hear, consider and act on docketed proposals and other classification matters.

(b) In acting on a docketed proposal, a Classification Panel may: (1) approve the proposal as docketed; (2) disapprove the proposal as docketed; or (3) modify and approve the proposal.

(c) The disposition of a docketed proposal by a Classification Panel shall be the final disposition of the Committee.

Section 3. Conduct of Business by the Committee or a Classification Panel

(a) The Committee and/or a Classification Panel shall conduct business at meetings which shall be held at least three times a year at times and places and in formats to be designated and noticed by the Secretary of the Committee not less than sixty (60) days in advance. Special meetings to consider matters other than docketed proposals may be called by the Secretary, and shall be called by the Secretary at the request of fifteen or more members, on not less than twenty (20) days' written notice.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(b) At meetings of the Committee or a Classification Panel each member shall have one vote. A majority vote of the members present at a meeting shall govern the Committee's or Classification Panel's action. At all meetings the presence of 30% of the total membership of the Committee or Classification Panel shall be necessary to transact business. Meetings shall be governed by Robert's Rules of Order. Formal minutes of all meetings and a record of the maker and seconder of every motion respecting a docketed proposal and the vote of all members thereon shall be maintained.

(c) Notice and Disclosure required prior to a meeting of the Committee or Classification Panel

(1) Not less than sixty (60) days prior to a Committee or Classification Panel meeting:

(i) The full text of the Committee's Docket Bulletin shall be posted on the National Motor Freight Traffic Association's website and simultaneously provided by mail, e-mail or facsimile to proponents of docketed proposals scheduled to be considered at the meeting, to all members of the Committee or Panel, as the case may be, and to each subscriber to the Docket Bulletin. The notice provided in the Docket Bulletin shall specify the time, date and place of the meeting, and shall contain the full text of each proposed change along with the relevant staff report (analysis), or a summary thereof, and specify how to contact the staff member assigned to the proposal, how to contact the proponent(s) of the proposal and how to obtain the raw data and any other information in the Committee's public docket file. The Docket Bulletin shall also list classification review matters to be considered at the meeting, including how to contact the staff member assigned and how to obtain a copy of the relevant staff report.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(c) Notice and Disclosure required prior to a meeting of the Committee or Classification Panel

- (1) Not less than sixty (60) days prior to a Committee or Classification Panel meeting:
 - (ii) Individual notice shall be provided by mail, e-mail or facsimile to all shippers that participated in any Committee research activities leading to docketed proposals or other classification matters to be considered at the meeting. Individual notice shall likewise be provided to all trade and professional associations that have been identified by staff as representing shippers of the involved product(s). Individual notice shall specify the time, date and place of the meeting, the National Motor Freight Traffic Association's website address for online access to the Docket Bulletin and instructions for obtaining access to the Committee's public files.
 - (iii) The Committee, without request and free of charge, shall provide copies of any reports (analyses) prepared by the staff concerning a docketed proposal to any party that has participated in the corresponding research study.
- (2) No later than thirty (30) days prior to the public meeting, interested parties may submit statements, including any underlying studies, work papers, supporting raw data and any other information, relating to a docketed proposal to the Secretary of the Committee.
- (3) After thirty (30) days but no later than fifteen (15) days prior to the public meeting, the Committee and any interested party may submit a statement or analysis regarding the information of record, but no new facts, data or evidence will be accepted or considered. The Committee shall include this material in the public docket file.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(c) Notice and Disclosure required prior to a meeting of the Committee or Classification Panel

(4) The Secretary of the Committee shall forward all information of record to the Committee or Classification Panel members, as the case may be, prior to the meeting at which a docketed proposal is to be considered.

(d) Any interested person may file with the Secretary of the Committee written representations respecting any docketed proposal or other classification matter in electronic or paper format. Written representations relating to a docketed proposal will be included in the Committee's public docket file. Such public files may be posted on the National Motor Freight Traffic Association's website, and in those circumstances, written representations submitted in paper format will be electronically scanned for inclusion in the files. To ensure that the highest quality image is captured during the scanning process, all letters, statements, data sheets and other written representations submitted in paper format must be typed on 8½ by 11-inch white paper, with type no smaller than 12 point.

(e) Any person interested in a docketed proposal or other classification matter shall, upon request to the Secretary of the Committee, be allotted a reasonable amount of time, as determined by the Secretary, for an appearance before the Committee or Classification Panel, as the case may be.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE III - NATIONAL CLASSIFICATION COMMITTEE - POWERS, DUTIES AND PROCEDURES

Section 3. Conduct of Business by the Committee or a Classification Panel – continued

(f) In considering a docketed proposal, the Committee or Classification Panel will be guided exclusively by:

- (1) The public record that has been established by the process set forth in this Agreement;
- (2) The applicable regulatory and legal standards and precedent establishing the reasonableness of classification provisions;
- (3) The policies and guidelines the Committee has established for determining appropriate classification provisions, as posted on the National Motor Freight Traffic Association's website.

(g) Upon request, the Secretary promptly shall divulge to any person the vote cast by each member of the Committee or a Classification Panel on any docketed proposal.

Section 4. Subcommittee Meetings

Meetings of any subcommittees shall be held on call of the Chairman of such subcommittee. The members present at any meeting shall constitute a quorum and all meetings shall be governed by Robert's Rules of Order; except that any part of a meeting of a subcommittee during which proposals for new or changed provisions in the Classification may be developed shall be noticed as provided in Section 3(c) and will be subject to the quorum, open meeting and any other applicable procedural requirements established in the Agreement for the collective consideration of classification matters by the Committee and Classification Panels. Any person interested in such classification matters may attend the meeting, and all persons in attendance may participate in discussions.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 1. Proposal Forms

The Committee shall provide a suitable form for the submission of proposals for changes in the provisions of the National Motor Freight Classification.

Rule 2. Proposals

(a) All proposals to establish new or changed descriptions of articles, classes, rules, packaging requirements and specifications, bill of lading formats or other provisions of the Classification, shall be filed in writing with the Secretary of the Committee. The staff will provide assistance in the formulation or preparation of such proposals, as may be requested. Proposals may be filed by the Committee, a Classification Panel or any other person, firm, corporation or group having an interest in the contents of the Classification; provided, however, that no employee or employee committee of the Committee may docket or act on any proposal.

(b) Each classification proposal shall be docketed. A Docket Bulletin describing such proposals shall be published by the Secretary and posted on the National Motor Freight Traffic Association's website. Docket Bulletins shall be simultaneously provided by mail, e-mail or facsimile to proponents, to all members of the Committee and to all subscribers to the Docket Bulletin.

(c) Upon request, the name of the proponent of a proposal shall be promptly divulged to any person. In the case of a proposal docketed by the Committee or a Classification Panel, the member moving to docket, the member seconding the motion and a tally of the votes promptly will be divulged.

Rule 3. Docketing and Parties of Record

(a) The Secretary of the Committee shall place proposals on the first available docket for public hearing.

(b) Any person may become a party of record to a docketed proposal by communicating an interest in writing to the Secretary prior to the public meeting at which the proposal will be considered.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 4. Public Docket Files

(a) Copies of all reports, analyses, studies, work papers, supporting raw data and other information in the Committee's possession relating to a docketed proposal, along with the full text of the proposed change, shall be made available in a public file, subject to any protective orders that may be obtained from the Surface Transportation Board. Protective orders notwithstanding, the public docket file will not name the entity that provided the raw data, nor will it include information that could lead to the name of the entity that provided the raw data. The source of the raw data will be identified as "shipper/receiver," "carrier," or the like.

(b) Any interested person may obtain the Committee's public file on any docketed proposal by submitting a request in writing by mail, by e-mail or by facsimile to the Committee. The request must specify the Committee's docket and subject numbers, the material(s) sought, and whether the material(s) is to be furnished by mail or e-mail or made available for courier pick-up. The material(s) will be mailed, e-mailed or made available for courier pick-up no later than two (2) business days after the request is received. If the request is received before the docket record is closed, the material(s) will be furnished as of the date the request is received. After the docket record is closed, any material(s) added to the public file subsequent to the date of the request will be furnished, as per the requesting party's instructions, within two (2) business days. A reasonable charge will be assessed for these services.

(c) The Committee may also post the public docket files on the National Motor Freight Traffic Association's website, organized by docket and subject numbers, each file including an index of documents.

(d) The Committee's public docket files will be retained at the Committee's offices for a period of at least five (5) years. Public files posted on the National Motor Freight Traffic Association's website will be retained there until final disposition, including any arbitration proceeding or proceedings before the Surface Transportation Board.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 5. Public Meetings

Meetings open to the public shall be conducted by the Committee or a Classification Panel, as the case may be, on all docketed proposals and on all other classification matters, and by subcommittees when considering matters pertaining to changes in the Classification. At public meetings any person may participate by presenting views orally and/or in writing on any classification matter under consideration; however, facts, data or evidence relating to docketed proposals received less than thirty (30) days prior to the meeting will not be accepted or considered. Note-taking and/or sound recordings are permitted at these public meetings provided that the meeting is not disrupted by such activities.

Rule 6. Disposition of Proposals

- (a) Disposition of docketed proposals shall be made by the 120th day after docketing.
- (b) In disposing of a docketed proposal, the Committee or a Classification Panel may modify the proposal, but it may not broaden the scope of the proposal as shown in the Docket Bulletin.
- (c) Members may not discuss or vote on provisions governed by Section 14706 (c)(1)(C) of Title 49 of the United States Code.

Rule 7. Changes Without Docketing

Changes in the Classification made necessary by law or by order of a regulatory body or for clarification, may be made without docketing or observance of the procedures herein. Notice of such changes shall be provided in the Docket Bulletin and posted on the National Motor Freight Traffic Association's website.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE IV – RULES OF PROCEDURE FOR CHANGES IN THE NATIONAL MOTOR FREIGHT CLASSIFICATION

Rule 8. Notice and Publication

(a) Notice of Committee and Classification Panel dispositions of docketed proposals shall be provided by mail, e-mail or facsimile to the proponents, parties of record, members of the Committee, subscribers to the Docket Bulletin and any parties that have submitted written requests for such notice. Information on all classification actions will be posted on the National Motor Freight Traffic Association's website.

(b) The Secretary of the Committee shall instruct the Publishing Agent of the Classification of changes to be made in the Classification in accordance with the disposition of proposals.

Rule 9. Independent Action

(a) The Committee may not interfere with a carrier's free and unrestrained right of independent action.

(b) Proposals for independent action will not be discussed by the Committee or by any Classification Panel. Any expert analysis or technical assistance provided by employees or employee committees concerning any independent action proposal shall be kept confidential.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Should any party disagree with the disposition of a docketed proposal by the Committee or a Classification Panel, arbitration may be sought by that party subject to the following rules of procedure.

Rule 1. Request for Arbitration

The party seeking relief shall be referred to as the claimant and the National Classification Committee (Committee) shall be referred to as the respondent. Within thirty (30) days of a classification decision by the Committee or a Classification Panel, claimant(s) shall notify the Secretary of the Committee by mail, telephone, e-mail or facsimile that arbitration is requested of the Committee or Classification Panel action on the docketed proposal.

Rule 2. Selection of Arbitrator

Within two (2) business days after such notice by claimant(s), the Secretary of the Committee shall develop, prepare or select a list of neutral arbitrators from an independent arbitration association. The list of neutral arbitrators shall be forwarded by mail, e-mail or facsimile to the claimant(s). The claimant(s) and the Secretary of the Committee shall confer by telephone, e-mail or facsimile within three (3) business days after the list of neutral arbitrators has been received to mutually agree to a neutral arbitrator. If the claimant(s) and the Secretary select different neutral arbitrators and cannot agree on a single neutral arbitrator, they will so notify the arbitration association, and the two selected arbitrators will choose the arbitrator to handle the matter from the remaining arbitrators on the list who were not selected. The arbitration association shall be notified by telephone, e-mail or facsimile of the selection of the neutral arbitrator, and the arbitration association shall determine whether the selected neutral arbitrator has a conflict of interest. The claimant(s) and the Secretary of the Committee shall be notified promptly of the results of that inquiry. If a conflict exists, the two originally selected arbitrators will choose another neutral arbitrator until no conflict of interest exists.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Rule 3. Commencing The Arbitration Process

Prior to the commencement of the review by the neutral arbitrator, claimant(s) and the Committee will be required to execute an arbitration agreement. Upon receipt of the signed arbitration agreement, the arbitration association shall direct the selected neutral arbitrator to commence the proceeding. The claimant(s) and the Committee will share equally in the fees charged for the arbitration process by the arbitration association, except that each will bear their own legal or representation fees and administrative costs.

Rule 4. Transmittal of Public Record

Within one (1) business day after the notice of the selection of a neutral arbitrator, the Secretary of the Committee shall forward by express mail a complete copy of the public record developed during the course of the handling of the docketed proposal before the Committee or a Classification Panel to the arbitrator, and concurrently, a copy (copies) by express mail to the claimant(s).

Rule 5. Parties' Statements of Position

Within seven (7) business days after the notice of the selection of a neutral arbitrator, the claimant(s) may submit to the arbitrator a statement of position as to why the initial classification action by the Committee or a Classification Panel is not in conformity with established classification standards. A copy of the statement shall be provided by express mail, e-mail or facsimile to the Secretary of the Committee. Within seven (7) business days after the receipt of claimant(s) statement(s) the Committee may submit a response by express mail, e-mail or facsimile to the arbitrator, and send a copy to the claimant(s).

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Rule 6. Decision of Arbitrator

Within forty-five (45) days after the receipt of the public record the arbitrator shall issue a written decision determining whether or not to affirm the challenged classification action. The decision must rely exclusively on the facts, evidence and information which comprise the public record that has been established by the process set forth in this Agreement. The arbitrator's conclusions shall be governed by the established regulatory and legal standards and precedent for evaluating the reasonableness of classification provisions. The reasonableness of the class(es) proposed for any commodity shall be determined exclusively by comparison of that commodity's four recognized transportation characteristics (density, stowability, handling and liability, as defined by the Interstate Commerce Commission in Ex Parte No. MC-98 (Sub-No. 1), Investigation Into Motor Carrier Classification, 367 I.C.C. 243 (1983) and related cases) with the transportation characteristics of other commodities that are assigned a comparable class(es). The decision will set forth the essential reasoning that was relied upon in reaching these conclusions. The arbitrator's decision shall be final, subject only to review through the filing of a complaint with the Surface Transportation Board. The Committee may publish any classification action found reasonable by the arbitrator to become effective not less than fifteen (15) days after the arbitrator publishes its decision.

Rule 7. Challenge of Classification Decision If Arbitration Is Not Sought

If arbitration is not sought within thirty (30) days after the classification decision on a proposal is made by the Committee or a Classification Panel, the approved changes may be published to take effect on not less than fifteen (15) days' notice. Should the classification change be protested before the scheduled effective date, in accord with the Surface Transportation Board's procedures, the protest and any reply by the Committee shall be based on the public record upon which the Committee's or Classification Panel's action was based, unless the party(ies) protesting the classification action establishes that the Committee failed to give notice of the docketed proposal as required by its approved classification procedures.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE V – ARBITRATION

Rule 8. Challenge of the Arbitrator's Decision

If a classification decision by the Committee or a Classification Panel is the subject of an arbitration proceeding, the classification decision, if affirmed by the arbitrator, may not be protested to the Surface Transportation Board but must be challenged only through the filing of a complaint with the Surface Transportation Board.

ARTICLE VI - AMENDMENTS

Section 1. Committee Action

This Agreement may be amended or revised at any regular or special meeting of the Committee by a two-thirds majority vote of the members present, a quorum being present and voting, provided that thirty (30) days' notice in writing of the proposed amendment shall have been provided by mail, e-mail or facsimile to all members of the Committee. Such notice shall set forth the exact language of the proposed amendment, but the Committee shall be empowered to change or modify such language so long as the amendment as finally adopted is within the scope and purpose of the proposed amendment of which notice was given.

Section 2. Referendum

Any three members of the Committee or any group of twenty-five or more parties to this Agreement by writing addressed to the Secretary within forty (40) days after the date of such amendment may request the Secretary to submit such amendments to a referendum mail vote to all persons then parties to this Agreement. Upon this demand being made, the Secretary shall submit such amendment to such referendum within thirty (30) days after such request and call for written and signed ballots with respect thereto to be filed with the Secretary within fifteen (15) days thereafter. Such amendment shall be deemed to be disapproved and shall be of no force or effect, if upon such referendum a majority of the then parties to this Agreement shall vote that such amendment be disapproved or rejected.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE VI - AMENDMENTS

Section 3. Effective Date

No amendments to this Agreement shall become effective until submitted to, and approved by, the Surface Transportation Board.

Section 4. Force and Effect

An amendment adopted and approved as herein provided unless subsequently disapproved by referendum shall become a part of this Agreement with like force and effect as if it had been originally incorporated herein and shall be binding upon all parties to this Agreement.

ARTICLE VII - TERMS AND PARTIES

Section 1. Duration

The term of this Agreement shall be for a period of one (1) year and thereafter until terminated, as it may be at any regular or special meeting of the Committee by a two-thirds vote of the members of the Committee present and voting, or by a majority of the entire Committee, provided written notice of such proposed termination shall have been mailed to all members of the Committee at least thirty (30) days prior to the meeting at which the same is to be considered.

Section 2. Voluntary Withdrawal

Any party to this Agreement may withdraw therefrom upon not less than sixty (60) days' notice in writing to the Secretary of the Committee.

Section 3. Involuntary Withdrawal

Any party to this Agreement who for any reason whatsoever shall cease to be a motor carrier of property or a participant in the Classification shall cease to be a party hereto upon the date of such cessation.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

ARTICLE VII - TERMS AND PARTIES

Section 4. Readmission

Any party to this Agreement who has withdrawn voluntarily or involuntarily may again become a party hereto by making a request in writing, provided such party is, upon the date of such request, a motor carrier of property and a participant in the Classification.

NATIONAL MOTOR FREIGHT CLASSIFICATION AGREEMENT

IN TESTIMONY WHEREOF, the parties hereto have set their hands and seals as of this

..... day of, 20

Carrier.....

By

Title

Date

Trade Name (if any)

Business Address (Main Office)

Number Street

City County State Zip Code

Type of Organization.....

..... (Individual, partnership or corporation)

If a corporation:

State in which organized

Date of incorporation.....

If a partnership:

Date of formation of partnership

Names of all partners

Type of carrier

Certificates: MC No. US DOT No.....