

CHAPTER 90

SECURITIES

(APPLICABLE ON AND AFTER JULY 1, 1989,
AND AS PROVIDED IN NAC 90.005.)

GENERAL PROVISIONS

90.005 Applicability of NAC 90.010 to 90.290, inclusive. [Expires by limitation July 1, 1989.]
90.010 "Administrator" defined. [Effective until July 1, 1989.]
90.010 "Administrator" defined. [Effective July 1, 1989.]

REGISTRATION OF BROKER-DEALERS AND AGENTS, BULLION DEALERS, INVESTMENT ADVISERS AND TRANSFER AGENTS

90.050 Surety bond required.
90.060 Cash deposit in lieu of surety bond.
90.070 Blanket or combination bond in lieu of surety bond.

RULES OF PRACTICE

90.100 Scope and construction. [Effective until July 1, 1989.]
90.100 Scope and construction. [Effective July 1, 1989.]
90.110 Relief from regulations.
90.120 Severability.
90.130 Communications with administrator.
90.140 Parties.
90.150 Pleadings.
90.160 Filing and service.
90.170 Motions.
90.180 Depositions.
90.190 Briefs.
90.200 Subpenas.
90.210 Consolidation of hearings.
90.220 Notice of hearing; failure to appear.
90.230 Appearance at hearing.
90.240 Withdrawal of attorney.
90.250 Conduct at hearings.
90.260 Hearings: Preliminary procedure; evidence.
90.270 Continuances.
90.280 Decisions and orders.
90.290 Transcripts of hearings.

(APPLICABLE UNTIL JULY 1, 1989, EXCEPT
AS PROVIDED IN NAC 90.005.)

GENERAL PROVISIONS

90.300 Definitions. [Expires by limitation July 1, 1989.]
90.305 Filing of documents. [Expires by limitation July 1, 1989.]
90.310 Payment of fees. [Expires by limitation July 1, 1989.]
90.315 Availability of forms. [Expires by limitation July 1, 1989.]

SECURITIES AGENTS

General Provisions

90.320 "Central registration depository" defined. [Expires by limitation July 1, 1989.]
90.325 Availability of registration materials for uniform securities agent state law examination. [Expires by limitation July 1, 1989.]

Broker-Dealers

90.330 Applicant for licensing: Filing of documents; fees; effective date of licensing. [Expires by limitation July 1, 1989.]
90.335 Filing of balance sheet. [Expires by limitation July 1, 1989.]
90.340 Failure to comply with Rule 15c3-1: Disciplinary proceedings. [Expires by limitation July 1, 1989.]
90.345 Renewal of license: Filing of required documents; fees. [Expires by limitation July 1, 1989.]
90.350 Request for withdrawal from registration. [Expires by limitation July 1, 1989.]

Sales Representatives

90.355 Applicant for licensing: Filing of documents; fees; effective date of licensing. [Expires by limitation July 1, 1989.]
90.360 Transfer of license. [Expires by limitation July 1, 1989.]
90.365 Renewal of license: Filing of written request; fees. [Expires by limitation July 1, 1989.]
90.370 Withdrawal from licensing. [Expires by limitation July 1, 1989.]

Investment Advisers

90.375 Applicant for licensing: Filing of documents; effective date of licensing. [Expires by limitation July 1, 1989.]
90.380 Renewal of license: Filing of annual report; fees. [Expires by limitation July 1, 1989.]
90.385 Withdrawal from licensing. [Expires by limitation July 1, 1989.]
90.390 Required net capital or tangible net worth. [Expires by limitation July 1, 1989.]

REGISTRATION OF SECURITIES

General Provisions

90.395 Definitions. [Expires by limitation July 1, 1989.]
90.400 Filing of fiscal year-end report. [Expires by limitation July 1, 1989.]
90.405 Application of statements of policy to offerings; offerings made with unreasonable amounts of underwriters' and sellers' compensation; aggregate amount of compensation. [Expires by limitation July 1, 1989.]
90.410 Registration statements deemed abandoned; denial or revocation of statement. [Expires by limitation July 1, 1989.]
90.415 Waiver of provisions. [Expires by limitation July 1, 1989.]

Registration by Filing

90.420 Documents required to accompany filing. [Expires by limitation July 1, 1989.]
90.425 Accelerated effectiveness. [Expires by limitation July 1, 1989.]
90.430 Post-effective amendment. [Expires by limitation July 1, 1989.]
90.435 Timely filing of reports. [Expires by limitation July 1, 1989.]

Registration by Coordination

90.440 Documents required to accompany filing. [Expires by limitation July 1, 1989.]
90.445 Accelerated effectiveness. [Expires by limitation July 1, 1989.]
90.450 Post-effective amendment. [Expires by limitation July 1, 1989.]
90.455 Written notice of date federal registration statement became effective. [Expires by limitation July 1, 1989.]

Registration by Qualification

90.460 Documents required to accompany filing. [Expires by limitation July 1, 1989.]
90.465 Amendment to prospectus, pamphlet or similar document: Filing of copy and notice of amendment. [Expires by limitation July 1, 1989.]
90.470 Financial statement: Preparation; auditing; interim financial statement; consolidated financial statement. [Expires by limitation July 1, 1989.]

Development Stage Companies

90.475 Applicability. [Expires by limitation July 1, 1989.]
90.480 Contents of registration statement or offering document; penalty for failure to comply. [Expires by limitation July 1, 1989.]
90.485 Limitation on amount of dilution in offering; penalty for violation. [Expires by limitation July 1, 1989.]
90.490 Offering of debt securities, equity securities, or securities convertible to equity securities; offering of partnership units or trust certificate. [Expires by limitation July 1, 1989.]

Exemptions from Registration

90.495 Annual filing of claim of exempt security; fee. [Expires by limitation July 1, 1989.]
90.500 Security listed on Chicago Board of Options Exchange. [Expires by limitation July 1, 1989.]
90.505 Rated promissory note, draft, bill of exchange or banker's acceptance. [Expires by limitation July 1, 1989.]
90.510 Nonissuer transaction when information on issuer contained in designated securities manual. [Expires by limitation July 1, 1989.]
90.515 Offering complying with Regulation D of Securities and Exchange Commission; fee. [Expires by limitation July 1, 1989.]
90.520 Security representing interest in or direct obligation of depository institution; fee. [Expires by limitation July 1, 1989.]
90.525 Isolated transaction. [Expires by limitation July 1, 1989.]
90.530 Claim of exempt transaction for nonissuer transaction in outstanding security. [Expires by limitation July 1, 1989.]

90.535 **Claim of exempt transaction for transaction pursuant to offer to sell to existing security holders of issuer. [Expires by limitation July 1, 1989.]**

PROCEEDINGS BEFORE THE ADMINISTRATOR

90.540 **Applicability. [Expires by limitation July 1, 1989.]**
90.545 **Notice. [Expires by limitation July 1, 1989.]**
90.550 **Representation by counsel. [Expires by limitation July 1, 1989.]**
90.555 **Administrator's staff to bring proceeding; respondent. [Expires by limitation July 1, 1989.]**
90.560 **Complaint; answer; hearing set. [Expires by limitation July 1, 1989.]**
90.565 **Motions. [Expires by limitation July 1, 1989.]**
90.570 **Pleading, motion or other paper: Filing of copies; service of documents. [Expires by limitation July 1, 1989.]**
90.575 **Discovery. [Expires by limitation July 1, 1989.]**
90.580 **Location of hearing. [Expires by limitation July 1, 1989.]**
90.585 **Conduct of hearing. [Expires by limitation July 1, 1989.]**
90.590 **Record. [Expires by limitation July 1, 1989.]**
90.595 **Continuance or adjournment of hearing. [Expires by limitation July 1, 1989.]**
90.600 **Fees of witnesses. [Expires by limitation July 1, 1989.]**
90.605 **Rendering of order or decision; petition for rehearing. [Expires by limitation July 1, 1989.]**
90.610 **Granting or denying petition for rehearing. [Expires by limitation July 1, 1989.]**

(APPLICABLE ON AND AFTER JULY 1, 1989,
AND AS PROVIDED IN NAC 90.005.)

GENERAL PROVISIONS

90.005 **Applicability of NAC 90.010 to 90.290, inclusive, [Expires by limitation July 1, 1989.]** The provisions of NAC 90.010 to 90.290, inclusive, apply to any:

1. Registration effective under the provisions of NRS 90.010 to 90.205, inclusive.
2. Proceeding pending before the administrator on January 1, 1988.
3. Proceeding initiated on the basis of facts or circumstances occurring before January 1, 1988.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.010 **"Administrator" defined. [Effective until July 1, 1989.]** As used in NAC 90.005 to 90.290, inclusive, unless the context otherwise requires, "administrator" means the secretary of state, as designated in subsection 1 of NRS 90.160.

[Sec'y of State, Practice Rules § 2.3, eff. 7-1-65; A and renumbered as § 1.1, 4-23-76]--(NAC A 4-22-88)

90.010 **"Administrator" defined. [Effective July 1, 1989.]** As used in this chapter, unless the context otherwise requires, "administrator" means the secretary of state, as designated in subsection 1 of NRS 90.160.

[Sec'y of State, Practice Rules § 2.3, eff. 7-1-65; A and renumbered as § 1.1, 4-23-76]--(NAC A 4-22-88, eff. 7-1-89)

REGISTRATION OF BROKER-DEALERS AND AGENTS, BULLION DEALERS, INVESTMENT ADVISERS AND TRANSFER AGENTS

90.050 **Surety bond required.** The registrant shall provide a surety bond which must be no less than \$25,000 and no more than \$150,000 as established by the administrator.

[Sec'y of State, Bond Requirement Reg., eff. 11-6-75]

90.060 **Cash deposit in lieu of surety bond.**

1. In lieu of a surety bond, the applicant may make a cash deposit of no less than \$25,000 and no more than \$150,000 as established by the administrator, which can be, but is not limited to, securities, government securities, savings and loan passbook or time certificate of deposit.

2. For the purposes of this section, "securities" means those which are publicly traded on listed exchanges or over the counter. These must be placed with the state treasurer for safekeeping and must be accompanied by a stock power.

3. A continuing evaluation will be made by the administrator and if any deficiency arises, the administrator will request the applicant to deposit additional securities or money immediately. Failure to furnish such additional securities or money will result in suspension of the registration.

[Sec'y of State, Bond Requirement Reg., eff. 11-6-75]

90.070 Blanket or combination bond in lieu of surety bond.

1. In lieu of individual surety bonds, a blanket bond or combination bond may be submitted.

2. The requirements are as follows:

Broker with one to five agents.....	\$40,000
Broker with six to ten agents	50,000
Broker with eleven to fifteen agents	60,000
Broker with sixteen to twenty agents.....	70,000
Broker with twenty-one to thirty agents.....	80,000
Broker with over thirty agents	100,000

[Sec'y of State, Bond Requirement Reg., eff. 11-6-75]

RULES OF PRACTICE

90.100 Scope and construction. [Effective until July 1, 1989.] NAC 90.100 to 90.290, inclusive:

1. Govern all practice and procedure before the administrator in:

(a) Any contested case involving the denial by the administrator of the approval of the statement of any security or commodity option or the registration of a broker-dealer, bullion dealer, issuer, agent, investment adviser or transfer agent;

(b) The prohibition or suspension by the administrator of the sale of any security or commodity option;

(c) The prohibition or suspension by the administrator of any person from acting as a broker-dealer, bullion dealer, issuer, agent, investment adviser or transfer agent; or

(d) The imposition of civil penalties.

2. Must be liberally construed to secure just, speedy and economical determination of all issues presented to the administrator and to effectuate the purposes of NRS 90.010 to 90.205, inclusive, and chapter 233B of NRS.

3. Must not be construed as conflicting with any provisions of NRS as they pertain to the powers and duties of the administrator, but rather must be construed as being in harmony with them.

[Sec'y of State, Practice Rules §§ 1:1, 1.2 & 1.4, eff. 7-1-65; A and renumbered as §§ 1.3, 1.4 & 1.6, 4-23-76]--(NAC A 4-22-88)

90.100 Scope and construction. [Effective July 1, 1989.] NAC 90.100 to 90.290, inclusive:

1. Govern all practice and procedure before the administrator in:

(a) Any contested case involving the denial by the administrator of the approval of the statement of any security or commodity option or the registration of a broker-dealer, bullion dealer, issuer, agent, investment adviser or transfer agent;

(b) The prohibition or suspension by the administrator of the sale of any security or commodity option;

(c) The prohibition or suspension by the administrator of any person from acting as a broker-dealer, bullion dealer, issuer, agent, investment adviser or transfer agent; or

(d) The imposition of civil penalties.

2. Must be liberally construed to secure just, speedy and economical determination of all issues presented to the administrator and to effectuate the purposes of chapters 90 and 233B of NRS.

3. Must not be construed as conflicting with any provisions of NRS as they pertain to the powers and duties of the administrator, but rather must be construed as being in harmony with them.

[Sec'y of State, Practice Rules §§ 1.1, 1.2 & 1.4, eff. 7-1-65; A and renumbered as §§ 1.3, 1.4 & 1.6, 4-23-76]--(NAC A 4-22-88, eff. 7-1-89)

90.110 Relief from regulations. In special cases, where good cause appears, not contrary to law, the administrator may permit deviation from NAC 90.100 to 90.290, inclusive, where compliance is found to be impractical or unnecessary.

[Sec'y of State, Practice Rules § 1.3, eff. 7-1-65; A and renumbered as § 1.5, 4-23-76]

90.120 Severability. If any provision of NAC 90.100 to 90.290, inclusive, or the application thereof to any person, thing or circumstance is held invalid, such invalidity does not affect the provisions or application of those sections which can be given effect without the invalid provision or application, and to this end the provisions of NAC 90.100 to 90.290, inclusive, are declared to be severable.

[Sec'y of State, Practice Rules § 1.5, eff. 7-1-65]

90.130 Communications with administrator.

1. All written communications and documents should be addressed to the secretary of state, securities division, and will be deemed to be officially received only when delivered at the principal office of the administrator.

2. The principal office of the administrator is: Office of the Secretary of State, Securities Division, The Capitol, Carson City, Nevada 89710. The Las Vegas branch office of the administrator is: Office of the Secretary of State, Securities Division, 2501 East Sahara Avenue, Las Vegas, Nevada 89104.

3. The offices of the administrator will be open from 8:00 a.m. to 5:00 p.m. each day except Saturday, Sunday and legal holidays.

[Sec'y of State, Practice Rules §§ 2.1 & 2.2, eff. 4-23-76]

90.140 Parties.

1. The staff of the administrator shall bring proceedings before the administrator.

2. Parties against whom proceedings are brought shall be styled respondents.

3. The administrator's staff may appear at any hearing and have all rights of participation as a party to the proceeding. If counsel is desired, the attorney general will represent the staff.

[Sec'y of State, Practice Rules §§ 2.1, 2.2, 2.4 & 2.5, eff. 7-1-65; A and renumbered as §§ 3.1 & 3.2, 4-23-76]

90.150 Pleadings.

1. Pleadings before the administrator must be entitled complaint and answer.

2. The administrator may, in his discretion, allow any pleading to be amended or corrected for any omissions to be supplied.

3. All pleadings must be liberally construed with a view to effect justice between the parties, and the administrator will, at every stage of any proceeding, disregard errors or defects in the pleadings or proceedings which do not affect the substantial rights of the parties.

4. Upon the initiative of the staff of the administrator, a complaint may be made alleging one or more causes of action based upon NRS 90.115, 90.133, 90.135 or 90.175.

5. The facts constituting acts or omissions must be stated with such particularity as to enable the respondent to prepare a defense to the complaint. All applicable citations, statutes, rules, regulations or orders of the administrator should be stated, and the dates on which the acts or omissions occurred. If more than one cause of action is alleged, each cause of action should be stated and numbered separately.

6. Complaints will be set for hearing at the earliest convenience of the administrator, unless notice of satisfaction of the complaint, by answer or otherwise, is received by the administrator.

7. Within 20 days of service of the complaint upon a respondent, he shall file with the administrator an answer to the complaint. Matters alleged by way of affirmative defense must be separately stated and numbered. In case a party fails to answer within the time prescribed, he shall be deemed to be in default and the administrator may then take any appropriate action against the respondent as is authorized by law. The administrator may set aside a default for good cause shown.

[Sec'y of State, Practice Rules §§ 5.1-5.5, eff. 4-23-76]

90.160 Filing and service.

1. An original and two legible copies of all pleadings, motions or other papers must be filed with the administrator.

2. All notices, opinions, decisions, orders and documents required to be served by the administrator, and all documents filed by any party may be served personally or by registered or certified mail, and, in the case of service by mail, service is complete when a true copy of the paper or document, properly addressed and stamped, is deposited in the United States mail.

3. All documents served by any party must contain an acknowledgment or certificate of service.

4. Answers to complaints must be filed with the administrator within 20 days after service of the complaint, unless for good cause the administrator extends the time in which answer may be made.

5. Any motion directed toward a complaint must be filed before the answer is due, otherwise an objection must be raised in the answer. If a motion is directed toward an answer, it must be filed within 10 days of the service of the answer. Other motions must be timely filed. A responding party shall file and serve upon all parties within 10 days after the service of a motion, an opposition to the motion. The moving party may serve and file a reply to the opposition within 5 days after service of the opposition to the motion.

[Sec'y of State, Practice Rules § 3.11, eff. 7-1-65; A and renumbered as §§ 7.1-7.5, 4-23-76]

90.170 Motions.

1. All motions, unless made during a hearing, must be in writing.

2. All written motions must contain a memorandum describing with particularity the grounds of the motion, and describing the relief or order sought. Supporting affidavits may be included.

3. An opposing party may serve and file an answering memorandum and counter-affidavit.

4. The moving party must serve and file a reply memorandum only if an opposition to the motion has been served and filed.

5. A decision will be rendered without oral argument unless oral argument is requested by the administrator, in which event the administrator will set a date and time for hearing.

[Sec'y of State, Practice Rules §§ 6.1-6.5, eff. 4-23-76]

90.180 Depositions.

1. The testimony of any material witness residing within or without the state may be taken by deposition in the manner provided by the Nevada Rules of Civil Procedure.
2. The provisions of subsections (d), (e) and (f) of Rule 26 of the Nevada Rules of Civil Procedure, where appropriate, apply to the use of such depositions, objections to their admissibility and the effect of taking or using depositions.

[Sec'y of State, Practice Rules § 3.9, eff. 7-1-65]

90.190 Briefs. The administrator may order briefs to be filed within such time as may be allowed by the administrator and the brief must be accompanied by proof of service in accordance with subsection 3 of NAC 90.160.

[Sec'y of State, Practice Rules § 8.12, eff. 4-23-76]

90.200 Subpenas.

1. For the purposes of the hearing, the administrator shall issue subpenas and subpenas duces tecum at the request of a party thereto. Parties shall prepare and present their requests to the administrator for issue and shall bear all costs in connection therewith.

2. Fees are allowed to witnesses summoned by subpena as provided in Rule 45(c) of the Nevada Rules of Civil Procedure. Fees must be paid by the party at whose request the witness is subpenaed.

[Sec'y of State, Practice Rules § 3.8, eff. 7-1-65; A and renumbered as § 8.15, 4-23-76]

90.210 Consolidation of hearings. The administrator may consolidate two or more proceedings into one hearing whenever it appears that the issues are substantially the same and the interest of the parties will not be prejudiced by such consolidation. At any consolidated hearing, the administrator will determine the order of procedure.

[Sec'y of State, Practice Rules § 3.5, eff. 7-1-65; A and renumbered as § 8.7, 4-23-76]

90.220 Notice of hearing; failure to appear.

1. Hearings will be held before the administrator.
2. Notice of the hearing will be served at least 10 days before the time set for them.
3. Hearings will be held at such times and places in the state as may be designated by the administrator in the notice of hearing.
4. If a party fails to appear at a hearing scheduled by the administrator and no continuance has been requested or granted, the administrator may hear the

evidence of such witnesses as may have appeared and the administrator may proceed to consider the matter and dispose of it on the basis of the evidence before him in the manner required by NAC 90.100 to 90.290, inclusive. Where, because of accident, sickness or other reasonable cause, a person fails to appear for a hearing scheduled by the administrator or fails to request a continuance, the person may, within a reasonable period of time, not to exceed 15 days, apply to the administrator to reopen the proceedings, and the administrator upon finding such cause sufficient and reasonable will immediately fix a time and place for hearing and give the person notice of the hearing. Witnesses who have previously testified are not required to appear at the second hearing unless so directed by the administrator.

[Sec'y Of State, Practice Rules § 3.2, eff. 7-1-65; A and renumbered as §§ 8.1 & 8.2, 4-23-76]

90.230 Appearance at hearing.

1. At any hearing, all parties named in NAC 90.140 are entitled to enter an appearance, to introduce evidence, examine and cross-examine witnesses, make arguments and participate in the conduct of the proceeding.

2. Parties shall enter their appearance at the beginning of a hearing or at any time as may be designated by the administrator by giving their names and addresses and stating their position or interest to the administrator. Their appearance must be recorded in the transcript of the hearing.

3. Appearances and representation of parties must be made as follows:

(a) A party is entitled to be heard in person or by his attorney.

(b) An attorney appearing as counsel in any proceeding must be an attorney at law, admitted to practice and in good standing before the highest court of any state. If the attorney is not admitted and entitled to practice before the supreme court of Nevada, an attorney so admitted and entitled to practice must be associated.

4. Following the entry of an appearance by an attorney for a party, all notices, pleadings and orders thereafter served must be served upon the attorney and service is considered valid service for all purposes upon the party represented.

[Sec'y of State, Practice Rules §§ 4.1-4.4, eff. 4-23-76]

90.240 Withdrawal of attorney. Any attorney of record wishing to withdraw from a proceeding before the administrator shall in writing, immediately notify the administrator and the party he represented.

[Sec'y of State, Practice Rules § 4.5, eff. 4-23-76]

90.250 Conduct at hearings.

1. A person appearing in a proceeding shall conform to the recognized standards of ethical and courteous conduct. All parties to hearings, their counsel and spectators will conduct themselves in a respectful manner.

2. Smoking is not permitted at hearings of the administrator while in session.

[Sec'y of State, Practice Rules §§ 4.6 + 8.4, eff. 4-23-76]

90.260 Hearings: Preliminary procedure; evidence.

1. The administrator will call the proceeding to order and proceed to take the appearances and act upon any pending motions. The parties may then make opening statements if they desire.

2. All testimony to be considered by the administrator in any hearing, except matters noticed officially or entered by stipulation, must be sworn testimony. Before taking the witness stand, each person shall swear or affirm that the testimony he is about to give in hearing before the administrator is the truth, the whole truth and nothing but the truth.

3. Evidence will ordinarily be received in the following order:

- (a) Staff.
- (b) Respondent.
- (c) Rebuttal by staff.

This procedure may be modified by the administrator. Closing statements by the parties may be allowed by the administrator.

4. With the approval of the administrator, the parties may stipulate as to any fact at issue, either by written stipulation introduced in evidence as an exhibit or by oral statement shown upon the record. Any such stipulation is binding upon all parties to the stipulation, and it may be treated as evidence at the hearing. The administrator may require proof by evidence of the facts stipulated to, notwithstanding the stipulation of the parties.

5. Parties are not bound by the technical rules of evidence and no informality in any proceeding or in the manner of taking of testimony may invalidate any order, decision or regulation made, approved or confirmed by the administrator, so long as it is not contrary to NRS 233B.123. Rules of evidence before the courts of Nevada may be followed but may be relaxed in the discretion of the administrator if deviation from the technical rules of evidence will aid in ascertaining the facts. When objection is made to the admissibility of evidence, such evidence may be received subject to a later ruling by the administrator. Parties objecting to the introduction of evidence shall briefly state the grounds of objection at the time such evidence is offered. Formal exceptions to rulings are unnecessary and need not be taken.

6. The administrator may take official notice of judicially cognizable facts and of recognized technical facts within the administrator's specialized knowledge, including the following matters:

- (a) Rules, regulations, official reports, decisions and orders of the administrator and any regulatory agency of the State of Nevada.
- (b) Contents of decisions, orders, standards or records of the administrator.
- (c) Matters of common knowledge and technical facts of established character.

(d) Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference. The proper and definite reference to such documents must be made by the party offering them and the documents must be published and generally circulated so an opportunity is given to all the parties to the hearing to examine them and present rebuttal evidence.

[Sec'y of State, Practice Rules §§ 3.3, 3.6, & 3.7, eff. 7-1-65; A and renumbered as §§ 8.5, 8.8 & 8.9, 4-23-76; + §§ 8.3 & 8.6, eff. 4-23-76]

90.270 Continuances. The administrator may prior to a hearing or during a hearing, and upon proper showing, grant continuances for submission of further or additional proof of any subject matter.

[Sec'y of State, Practice Rules § 8.11, eff. 4-23-76]

90.280 Decisions and orders.

1. A decision or order which is adverse to a party in any hearing must be in writing or stated in the record, and must include findings of fact and conclusions of law, separately stated.

2. Orders or decisions will be rendered within 30 days of the completion of the hearing.

3. A proceeding stands submitted for decision by the administrator after the taking of evidence or the filing of briefs or the presentation of such oral argument as may have been permitted by the administrator.

4. Decisions and orders of the administrator will be served by sending a copy thereof by registered or certified mail to the parties of record or their representatives or by personal service thereof. Additional copies of orders may be obtained upon written request.

[Sec'y of State, Practice Rules §§ 9.1-9.4, eff. 4-23-76]

90.290 Transcripts of hearings. The administrator will cause a record to be made of all hearings, in accordance with NRS 233B.121. Parties desiring copies of transcripts may obtain them from the administrator upon payment of fees for the cost of producing them.

[Sec'y of State, Practice Rules § 8.14, eff. 4-23-76]

(APPLICABLE UNTIL JULY 1, 1989,
EXCEPT AS PROVIDED IN NAC 90.005.)

GENERAL PROVISIONS

90.300 Definitions. [Expires by limitation July 1, 1989.]

1. As used in NAC 90.300 to 90.610, inclusive, and for the purposes of NRS 90.211 to 90.860, inclusive, unless the context otherwise requires, "fiscal year"

means an annual accounting period or, if no closing date has been adopted, the calendar year ending on December 31.

2. As used in NAC 90.300 to 90.610, inclusive, unless the context otherwise requires, "office of the administrator" means the Office of the Secretary of State, Securities Division, 2501 East Sahara Avenue, Suite 201, Las Vegas, Nevada 89158.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.305 Filing of documents. [Expires by limitation July 1, 1989.] Any document required to be filed with the administrator pursuant to NAC 90.300 to 90.610, inclusive, or pursuant to NRS 90.211 to 90.860, inclusive, must be filed at the office of the administrator.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.310 Payment of fees. [Expires by limitation July 1, 1989.] Any fee required to be paid to the administrator under the provisions of NAC 90.300 to 90.610, inclusive, or pursuant to NRS 90.211 to 90.860, inclusive, must be paid in the form of a check made payable to "Secretary of State, Securities Division."

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.315 Availability of forms. [Expires by limitation July 1, 1989.]

1. Any uniform application, notice, report or consent to service of process referred to in NAC 90.300 to 90.610, inclusive, may be obtained without cost from the Securities and Exchange Commission, Public Reference Branch, 450 5th Street N.W., Washington, D.C. 20549.

2. Any other form referred to in NAC 90.300 to 90.610, inclusive, may be obtained without cost from the office of the administrator.

(Added to NAC by Sec'y of State, eff. 4-22-88)

SECURITIES AGENTS

General Provisions

90.320 "Central registration depository" defined. [Expires by limitation July 1, 1989.] As used in NAC 90.320 to 90.390, inclusive, unless the context otherwise requires, "central registration depository" means the Central Registration Depository of the National Association of Securities Dealers and the North American Securities Administrators Association, P.O. Box 9401, Gaithersburg, Maryland 20898-9401.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.325 Availability of registration materials for uniform securities agent state law examination. [Expires by limitation July 1, 1989.] Registration materials for the uniform securities agent state law examination may be obtained from the National Association of Securities Dealers, P.O. Box 9401, Gaithersburg, Maryland 20898-9401.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Broker-Dealers

90.330 Applicant for licensing: Filing of documents; fees; effective date of licensing. [Expires by limitation July 1, 1989.]

1. An applicant for licensing as a broker-dealer shall include in his application:

- (a) The uniform application for broker-dealer registration (Form BD);
- (b) The uniform consent to service of process (Form U-2);
- (c) A balance sheet, prepared as required by NAC 90.335; and
- (d) A certificate that he has qualified to do business in this state, if qualification is required by NRS 80.010.

The original signature of the applicant must be used on the uniform application and consent to service required by paragraphs (a) and (b), respectively.

2. In addition to the documents required by subsection 1, an applicant who is not registered with the National Association of Securities Dealers, or who is not registered under the Securities Exchange Act of 1934, shall file:

- (a) A fidelity bond in the amount of \$10,000, issued by a corporate surety qualified to do business in this state, or proof of membership in the Securities Investor Protection Corporation;
- (b) The uniform application for securities industry registration or transfer (Form U-4) for a designated official of the applicant; and
- (c) Proof of successful completion by one or more designated employees of the applicant of the uniform securities agent state law examination and any principal examination required by the National Association of Securities Dealers for registration of the applicant.

3. The documents required by this section and the fee required by NRS 90.360 must be filed with and paid to the administrator, regardless of whether the applicant is a member of the National Association of Securities Dealers.

4. An effective date of licensing earlier than that otherwise provided for in subsection 1 of NRS 90.380 will not be authorized by the administrator except under extraordinary circumstances.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.335 Filing of balance sheet. [Expires by limitation July 1, 1989.] The balance sheet filed pursuant to NAC 90.330 by an applicant for licensing as a broker-dealer:

1. Must be prepared in accordance with generally accepted accounting principles;
2. Must be accompanied by a report of audit containing the unqualified opinion of an independent certified public accountant;
3. In the case of an applicant who is not acting as a broker-dealer in another state, must be prepared as of a date not earlier than 60 days before the date of filing; and
4. In the case of an applicant who is acting as a broker-dealer in another state, must consist of:
 - (a) The most recent audited financial statement relating to the applicant; and
 - (b) An interim unaudited financial statement, prepared as of a date not earlier than 60 days before the date of filing.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.340 Failure to comply with Rule 15c3-1: Disciplinary proceedings. [Expires by limitation July 1, 1989.] Disciplinary proceedings may be commenced pursuant to NRS 90.420 against a broker-dealer who fails to comply with the provisions of Rule 15c3-1 of the Securities and Exchange Commission, relating to capital requirements.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.345 Renewal of license: Filing of required documents; fees. [Expires by limitation July 1, 1989.]

1. A broker-dealer shall renew his license annually by paying the fee required by NRS 90.360 and, if the provisions of subsection 2 are applicable to him, by filing the documents required by that subsection. Except as otherwise provided in subsection 3, the fee must be paid to the administrator and the documents filed with him on or before December 31.
2. A broker-dealer who is not registered with the National Association of Securities Dealers, or who is not registered under the Securities Exchange Act of 1934, shall file:
 - (a) A written request for renewal of his license; and
 - (b) A fidelity bond, in a form acceptable to the administrator, or proof of membership in the Securities Investor Protection Corporation.
3. A broker-dealer who is a member of the National Association of Securities Dealers shall pay the fee required by NRS 90.360 to the central registration depository on or before December 31.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.350 Request for withdrawal from registration. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2, a broker-dealer who withdraws from licensing in this state shall file with the administrator the uniform request for withdrawal from registration as a broker-dealer (Form BDW).

2. If a broker-dealer who withdraws from licensing is a member of the National Association of Securities Dealers and is withdrawing from licensing in all states in which he is licensed, he shall file the request for withdrawal with the central registration depository.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Sales Representatives

90.355 Applicant for licensing: Filing of documents; fees; effective date of licensing. [Expires by limitation July 1, 1989.]

1. An applicant for licensing as a sales representative shall include in his application the uniform application for securities industry registration or transfer (Form U-4) with his original signature and:

(a) Proof of successful completion of:

(1) The uniform securities agent state law examination; and

(2) Any applicable qualifying examination required by the Securities and Exchange Commission or the National Association of Securities Dealers; or

(b) Proof of waiver of those examinations.

2. If an applicant is to be licensed for a broker-dealer who is a member of the National Association of Securities Dealers, the documents required by this section and the fee required by NRS 90.360 must be filed with and paid to the central registration depository. In any other case, the documents and the fee must be filed with and paid to the administrator.

3. An applicant may apply to the administrator for an order authorizing an effective date of licensing earlier than that otherwise provided for in subsection 1 of NRS 90.380.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.360 Transfer of license. [Expires by limitation July 1, 1989.]

1. A sales representative whose employment or contractual relationship with a broker-dealer is terminated, and who intends to continue to transact business in this state as a sales representative, shall transfer his license as provided in this section.

2. Except as otherwise provided in subsection 3, if a sales representative is licensed for a broker-dealer who is a member of the National Association of Securities Dealers, he shall transfer his license through the temporary agent

transfer program of the North American Securities Administrators Association and the central registration depository.

3. If a sales representative is licensed for an issuer or a broker-dealer who is not a member of the National Association of Securities Dealers, or if he intends to be licensed for such a broker-dealer, he shall transfer his license by filing with the administrator the uniform termination notice for securities industry registration (Form U-5) and the uniform application for securities industry registration or transfer (Form U-4).

4. Unless the information provided by the sales representative is incomplete in any material respect, the transfer of a license becomes effective upon the filing of the documents required by this section.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.365 Renewal of license: Filing of written request; fees. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2, a sales representative shall renew his license annually by paying to the administrator the fee required by NRS 90.360 and filing with the administrator a written request for renewal of his license. The fee must be paid and the request for renewal filed on or before December 31.

2. If the sales representative is licensed for a broker-dealer who is a member of the National Association of Securities Dealers, no request for renewal is required and the fee required by NRS 90.360 must be paid to the central registration depository on or before December 31.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.370 Withdrawal from licensing. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2, a sales representative who withdraws from licensing shall file with the administrator the uniform termination notice for securities industry registration (Form U-5).

2. If a sales representative who withdraws from licensing is licensed for a broker-dealer who is a member of the National Association of Securities Dealers, the broker-dealer shall file the request for withdrawal with the central registration depository.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Investment Advisers

90.375 Applicant for licensing: Filing of documents; effective date of licensing. [Expires by limitation July 1, 1989.]

1. An applicant for licensing as an investment adviser shall include in his application:

- (a) The uniform application for investment adviser registration (Form ADV), including all the information and exhibits required for that application;
- (b) The uniform consent to service of process (Form U-2);
- (c) Proof of successful completion of the uniform securities agent state law examination by the applicant, if he is a natural person, or by an owner, officer or director of the applicant in any other case;
- (d) The uniform application for securities industry registration or transfer (Form U-4); and
- (e) A certificate that he has qualified to do business in this state, if qualification is required by NRS 80.010.

The original signature of the applicant must be used on the uniform application and consent to service required by paragraphs (a) and (b), respectively.

2. An effective date of licensing earlier than that otherwise provided for in subsection 1 of NRS 90.380 will not be authorized by the administrator except under extraordinary circumstances.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.380 Renewal of license: Filing of annual report; fees. [Expires by limitation July 1, 1989.] An investment adviser shall renew his license annually by paying the fee required by NRS 90.360 and by filing with the administrator a copy of his most recent annual report (Form ADV-S). The fee must be paid to the administrator and the report filed with him on or before December 31.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.385 Withdrawal from licensing. [Expires by limitation July 1, 1989.] An investment adviser who withdraws from licensing shall file with the administrator the uniform notice of withdrawal from registration as an investment adviser (Form ADV-W).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.390 Required net capital or tangible net worth. [Expires by limitation July 1, 1989.]

1. Unless he is exempt from registration under the Investment Advisers Act of 1940, an investment adviser who is not registered under that Act, and who takes or retains custody of securities or money of a client, shall maintain net capital of not less than \$20,000 or a tangible net worth of not less than \$35,000.

2. As used in subsection 1, "tangible net worth" means the net worth of the investment adviser, reduced by the total of:

- (a) Prepaid expenses, except items properly classified as current assets under generally accepted accounting principles;
- (b) Deferred charges;

- (c) The value of his intangible assets, including goodwill, franchises, organizational expenses, and unamortized debt discount and expense;
- (d) In the case of a natural person, the value of his personal property which is not readily marketable and the fair market value of his homes, furnishings and automobiles, less any indebtedness secured by such property, to the extent that the indebtedness is not greater than the carrying value of the property;
- (e) In the case of a corporation, advances or loans to stockholders or officers; and
- (f) In the case of a partnership, advances or loans to partners.

(Added to NAC by Sec'y of State, eff. 4-22-88)

REGISTRATION OF SECURITIES

General Provisions

90.395 Definitions. [Expires by limitation July 1, 1989.] As used in NAC 90.395 to 90.535, inclusive, unless the context otherwise requires:

1. "Commission" means any consideration paid for services rendered, whether received by or accruing to the benefit of a person in connection with the distribution of securities or otherwise. The term includes cash, selling discounts, fees, securities, contracts and any other thing of value.

2. "Dilution" means the difference between:

(a) The net tangible asset value of the issuer allocable to the equity securities being offered, calculated by dividing the net tangible asset value of the issuer by the number of equity securities outstanding, including the securities being offered; and

(b) The aggregate offering price for the securities being offered.

3. "Underwriter" means a person who purchases any security from the issuer with a view to, or offers or sells any security for an issuer in connection with, the distribution of the security, or participates in the direct or indirect underwriting of any such undertaking, but does not include a person whose interest in an undertaking is limited to that of a distributor or seller, and who receives a commission, if a commission is paid, not in excess of the usual and customary commission received by a distributor or seller.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.400 Filing of fiscal year-end report. [Expires by limitation July 1, 1989.] If an open-end management company, face amount certificate company or unit investment trust is required to file a report pursuant to paragraph (b) of subsection 3 of NRS 90.500, it shall satisfy that requirement by filing with the administrator a fiscal year-end report (Nevada Form 500-3).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.405 Application of statements of policy to offerings; offerings made with unreasonable amounts of underwriters' and sellers' compensation; aggregate amount of compensation. [Expires by limitation July 1, 1989.]

1. For the purposes of NRS 90.510:

(a) Except as otherwise provided in paragraph (b), statements of policy adopted by the North American Securities Administrators Association may be used by the administrator to determine whether an offering:

- (1) Is complete with respect to the disclosure provided;
- (2) Works or will tend to work a fraud upon purchasers; or
- (3) Is or will be made with unreasonable amounts of promoters' profits or participation, or unreasonable amounts or kinds of options.

(b) An offering is made with unreasonable amounts of underwriters' and sellers' discounts, commissions or other compensation if the aggregate amount of that compensation, calculated as provided in subsection 2:

- (1) Is greater than 15 percent; or
- (2) When added to the total amount of expenses incurred or to be incurred in connection with the offering, is greater than 20 percent, of the aggregate offering price.

2. Except as otherwise provided in this subsection, the aggregate amount of compensation includes the fair market value of any options or warrants given in connection with the offering to underwriters and sellers. If there is no evidence sufficient to establish a fair market value or other value, the value of these options and warrants shall be deemed to be not less than 20 percent of the public offering price of the stock to which they relate.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.410 Registration statements deemed abandoned; denial or revocation of statement. [Expires by limitation July 1, 1989.] The administrator may issue an order pursuant to NRS 90.510 denying or revoking the effectiveness of a registration statement which has been abandoned. A statement shall be deemed abandoned if its effectiveness is delayed or suspended for any cause and, during the 120 days following the delay or suspension, no communication concerning the registration is received by the administrator.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.415 Waiver of provisions. [Expires by limitation July 1, 1989.] The administrator may waive the application of any provision of NAC 90.395 to 90.535, inclusive, if a written request for the waiver is filed with the administrator by the registrant affected and the administrator determines that waiver is appropriate and is in the public interest.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Registration by Filing

90.420 Documents required to accompany filing. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2, a registration statement filed pursuant to NRS 90.470 must be accompanied by:
 - (a) The uniform application to register securities (Form U-1);
 - (b) The uniform consent to service of process (Form U-2);
 - (c) A copy of the final offering prospectus or, pending preparation of the final prospectus, a copy of the preliminary prospectus; and
 - (d) Any other document or information requested by the administrator in writing before the effective date of the offering.
2. Except as the administrator may direct:
 - (a) Any pre-effective amendment to the registration statement; and
 - (b) The exhibits accompanying the uniform application to register securities (Form U-1),need not be filed. If a pre-effective amendment to the registration statement is filed, it must be accompanied by a notice of amendment (Nevada Form 460).
(Added to NAC by Sec'y of State, eff. 4-22-88)

90.425 Accelerated effectiveness. [Expires by limitation July 1, 1989.] The effectiveness of a registration statement filed pursuant to NRS 90.470 may be accelerated by the administrator upon the filing of a written request for acceleration. The request must be filed by the registrant and must set forth, in clear and concise terms, the basis for the request.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.430 Post-effective amendment. [Expires by limitation July 1, 1989.] A post-effective amendment of a registration statement filed pursuant to NRS 90.470 must:

1. Be filed with the administrator not later than 5 business days after the date it is filed with the Securities and Exchange Commission; and
2. Be accompanied by a notice of amendment (Nevada Form 460).
(Added to NAC by Sec'y of State, eff. 4-22-88)

90.435 Timely filing of reports. [Expires by limitation July 1, 1989.] For the purposes of paragraph (e) of subsection 1 of NRS 90.470, all reports required to be filed during the 12 calendar months next preceding the filing of the federal registration statement shall be deemed to have been timely filed if they have:

1. Been filed within the time, including any permitted extensions of time, allowed by the Securities and Exchange Commission pursuant to its regulations; or
2. Been on file with the Securities and Exchange Commission for not less than 60 days.
(Added to NAC by Sec'y of State, eff. 4-22-88)

Registration by Coordination

90.440 Documents required to accompany filing. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2, a registration statement filed pursuant to NRS 90.480 must be accompanied by:

- (a) The uniform application to register securities (Form U-1);
- (b) The uniform consent to service of process (Form U-2);
- (c) A copy of the final offering prospectus or, pending preparation of the final prospectus, a copy of the preliminary prospectus; and
- (d) Any other document or information requested by the administrator in writing before the effective date of the offering.

2. Except as the administrator may direct:

- (a) Any pre-effective amendment to the registration statement; and
- (b) The exhibits accompanying the uniform application to register securities (Form U-1),

need not be filed. If a pre-effective amendment to the registration statement is filed, it must be accompanied by a notice of amendment (Nevada Form 460).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.445 Accelerated effectiveness. [Expires by limitation July 1, 1989.] The effectiveness of a registration statement filed pursuant to NRS 90.480 may be accelerated by the administrator upon the filing of a written request for acceleration. The request must be filed by the registrant and must set forth, in clear and concise terms, the basis for the request.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.450 Post-effective amendment. [Expires by limitation July 1, 1989.] A post-effective amendment of a registration statement filed pursuant to NRS 90.480 must:

1. Be filed with the administrator not later than 5 business days after the date it is filed with the Securities and Exchange Commission; and

2. Be accompanied by a notice of amendment (Nevada Form 460).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.455 Written notice of date federal registration statement became effective. [Expires by limitation July 1, 1989.] The notice to the administrator required by subsection 4 of NRS 90.480 must be given by the registrant in writing. The administrator will promptly acknowledge receipt of the notice.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Registration by Qualification

90.460 Documents required to accompany filing. [Expires by limitation July 1, 1989.]

1. A registration statement filed pursuant to NRS 90.490 must be accompanied by:

- (a) The uniform application to register securities (Form U-1), including the exhibits required by that application;
- (b) The uniform consent to service of process (Form U-2);
- (c) A copy of the final offering prospectus or, pending preparation of the final prospectus, a copy of the preliminary prospectus; and
- (d) Any other document or information requested by the administrator in writing before the effective date of the offering.

2. If an amendment to the registration statement is filed, it must be accompanied by a notice of amendment (Nevada Form 460).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.465 Amendment to prospectus, pamphlet or similar document: filing of copy and notice of amendment. [Expires by limitation July 1, 1989.]

Within 30 days after the effective date of a registration statement filed pursuant to NRS 90.490, the registrant shall file with the administrator a copy of any amendment to any prospectus, pamphlet or other document filed pursuant to paragraph (m) of subsection 2 of NRS 90.490, accompanied by a notice of amendment (Nevada Form 460).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.470 Financial statement: Preparation; auditing; interim financial statement; consolidated financial statement. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2 of this section, a financial statement filed pursuant to paragraph (q) of subsection 2 of NRS 90.490 must be:

- (a) Prepared in accordance with generally accepted accounting principles;
- (b) Audited in accordance with generally accepted auditing standards; and
- (c) Except as otherwise approved by the administrator under the circumstances of the case, contain the unqualified opinion of an independent certified public accountant.

2. If an issuer has an established fiscal year and submits a financial statement which:

- (a) Is audited as provided in this section; and
- (b) Covers at least 1 fiscal year,

any interim financial statement which is filed for the period between the end of the issuer's last fiscal year and the date of filing need not be audited, but must be prepared in accordance with generally accepted accounting principles.

3. In the case of a registration by an issuer with one or more subsidiaries, a consolidated financial statement complying with the requirements of this section and NRS 90.490 must be filed.

4. The requirements of this section are met by a financial statement prepared in accordance with any requirements prescribed for the issuer by the Securities and Exchange Commission.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Development Stage Companies

90.475 Applicability. [Expires by limitation July 1, 1989.]

1. The provisions of NAC 90.475 to 90.490, inclusive, are applicable to the registration pursuant to NRS 90.480 or 90.490 of any security issued by a development stage company. As used in this subsection, "development stage company" means an issuer which has no public market for its securities and no significant earnings or revenues from continuing operations during the last 5 years or any shorter period of its existence.

2. For the purposes of subsection 1:

(a) "Public market" does not include any thin market which does not result in reliable prices. In determining whether a market is a public market, the administrator may consider:

- (1) The history of the market;
- (2) The public trading volume in the market;
- (3) Any spread between bid and asked prices in the market;
- (4) The number of market makers in the market;
- (5) Public float in the market;
- (6) The pricing formula used in the market;
- (7) Inclusion of the market in the automated quotation system of the National Association of Securities Dealers (NASDAQ); and
- (8) Any other relevant factor.

(b) An issuer shall be deemed to have significant earnings from continuing operations if, during each of any two consecutive fiscal years during the period prescribed by subsection 1, the issuer had earnings per share equal to at least 5 percent of the initial public offering price per common share. Nothing in this paragraph shall be deemed to preclude the administrator from considering other indicators of earnings or revenues.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.480 Contents of registration statement or offering document; penalty for failure to comply. [Expires by limitation July 1, 1989.]

1. The registration statement, in the case of a security registered pursuant to NRS 90.480, or the offering document required by subsection 11 of NRS

90.500 in the case of a security registered pursuant to NRS 90.490, must set forth with reasonable specificity:

- (a) The intended use of the proceeds of the offering;
- (b) The type of business in which the issuer is or will be engaged;
- (c) The product or service offered or to be offered by the issuer; and
- (d) The name of each principal manager of the business of the issuer.

2. If the information required by subsection 1 is not set forth with the specificity required by that subsection, the administrator may deem the offering to be a blank check blind pool and may deny, suspend or revoke the effectiveness of the registration statement pursuant to NRS 90.510 unless:

(a) The net offering proceeds to the issuer, after deducting offering expenses and commissions, are not less than \$150,000;

(b) Notwithstanding the provisions of NAC 90.490, the issuer has equity, contributed in cash, of not less than 10 percent of the aggregate offering price;

(c) Specific disclosure is made of the criteria to be used by management in acquiring a business or other asset;

(d) Disclosure is made of any previous involvement of any officer or director of the issuer in any similar offering, including:

(1) The nature of any transaction entered into by the issuer in connection with that offering;

(2) The dilution experienced by public shareholders as a result of that transaction; and

(3) The extent to which the criteria for selection set forth in the original prospectus were followed in effecting the transaction;

(e) The issuer undertakes in the prospectus to obtain the approval of a majority of disinterested shareholders if he proposes to:

(1) Spend more than 50 percent of the net offering proceeds in a transaction or series of related transactions;

(2) Issue new shares of stock equivalent, after completion of the transaction or series of related transactions, to more than 50 percent of the issued and outstanding stock;

(3) Change, without a meeting of the shareholders and within any 12-month period, more than one-half the members of the board of directors; or

(4) Change the criteria for acquisitions set forth in the prospectus; and

(f) The issuer undertakes in the prospectus to distribute an informational statement, before any vote of the shareholders conducted pursuant to paragraph (e), setting forth:

(1) All material facts regarding the proposal, including specific disclosure of the manner in which the criteria for selection set forth in the offering prospectus have been applied;

(2) A reasonably detailed description of any business or asset to be acquired in the proposed transaction;

(3) A detailed disclosure of any related-party transaction, finders' fee, consulting fee or agreement expected to be entered into or paid within the 12

months following the proposed transaction with or to any person who is an officer, director, promoter or principal shareholder of the issuer; and

(4) A pro forma balance sheet, prepared in accordance with generally accepted accounting principles, which gives effect to the proposed transaction and discloses the dilution to shareholders resulting from the transaction and the book value of the issuer immediately before and immediately after the transaction.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.485 Limitation on amount of dilution in offering; penalty for violation. [Expires by limitation July 1, 1989.] The amount of dilution in an offering by a development stage company may not exceed 50 percent of the aggregate offering price. For any violation of this section, the administrator may deem the offering to be one which will be made with unreasonable amounts of promoters' profits or participation and issue an order denying effectiveness to, or suspending or revoking the effectiveness of, the registration statement filed in connection with the offering.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.490 Offering of debt securities, equity securities, or securities convertible to equity securities; offering of partnership units or trust certificate. [Expires by limitation July 1, 1989.]

1. In the case of an offering by a development stage company of debt securities, equity securities or securities which are convertible to equity securities, the company must maintain equity of not less than \$50,000 or 5 percent of the aggregate offering price, whichever is less. For the purposes of this subsection, "equity" means the sum of consideration contributed for the equity securities of the issuer plus retained earnings. Retained deficits do not reduce the equity of the issuer for the purposes of this subsection. Capital contributed in the form of services, tangible or intangible property, or evidence of indebtedness may qualify as equity for the purposes of this subsection if approved by the administrator and:

(a) There is objective evidence of the market value of the services or the tangible or intangible property and title to the property is held by the issuer;

(b) The indebtedness is recourse debt against an obligor who has a verifiable net tangible asset value equal to 100 percent of the principal amount of the indebtedness; or

(c) The indebtedness is secured by collateral with an objectively verified market value at least equal to the principal amount of the indebtedness.

In any case where noncash consideration is contributed as equity to satisfy the requirements of this subsection, the market value of all services and tangible and intangible property, plus the principal amount of all evidence of indebtedness and all cash consideration must equal at least 120 percent of the equity required by this subsection.

2. In the case of an offering of partnership units or a trust certificate, one or more of the general partners, promoters or managers of the partnership or trust must, before the effective date of the registration statement:

(a) Acquire an equity interest in the partnership or trust for a cash consideration of not less than \$50,000 or 5 percent of the aggregate offering price, whichever is less;

(b) Irrevocably agree to acquire an interest of the kind described in paragraph (a), for the consideration required by that paragraph, demonstrating to the satisfaction of the administrator his or their ability to perform under the agreement; or

(c) Maintain a tangible net worth, exclusive of homes, furnishings or automobiles, of not less than 10 percent of the aggregate offering price. Any tangible net worth which is used to satisfy the requirements of this paragraph in connection with an offering may not be used to satisfy these requirements in connection with another offering.

(Added to NAC by Sec'y of State, eff. 4-22-88)

Exemptions from Registration

90.495 Annual filing of claim of exempt security; fee. [Expires by limitation July 1, 1989.]

1. A person who claims an exemption from registration pursuant to subsection 2 of NRS 90.520, other than an exemption provided in paragraph (k), (m) or (n) of that subsection, must file annually with the administrator a claim of exempt security (Nevada Form 520) and pay the fee provided for in subsection 5 of NRS 90.520.

2. A person may, by the payment of a single fee and the filing of a claim of exempt security (Nevada Form 520), claim an exemption of all securities of the issuer during the period covered by the filing which are exempt under NRS 90.520.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.500 Security listed on Chicago Board of Options Exchange. [Expires by limitation July 1, 1989.] For purposes of the exemption from registration provided by paragraph (g) of subsection 2 of NRS 90.520, a security is also exempt from registration if it is listed or approved for listing upon notice of issuance on the Chicago Board of Options Exchange.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.505 Rated promissory note, draft, bill of exchange or banker's acceptance. [Expires by limitation July 1, 1989.] For purposes of the exemption from registration provided by paragraph (l) of subsection 2 of NRS 90.520, a promissory note, draft, bill of exchange or banker's acceptance is exempt from

registration if it is rated by Standard & Poor's Corporation or Moody's Investors Service, Incorporated.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.510 Nonissuer transaction when information on issuer contained in designated securities manual. [Expires by limitation July 1, 1989.] For purposes of the exemption from registration provided by subsection 3 of NRS 90.530, a transaction is exempt from registration if the information required by that subsection is contained in:

1. Moody's Industrial Manual;
2. Moody's Municipal and Governmental Manual;
3. Moody's Public Utility Manual;
4. Moody's Transportation Manual;
5. Moody's Bank and Finance Manual; or
6. Standard & Poor's Corporation Records.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.515 Offering complying with Regulation D of Securities and Exchange Commission; fee. [Expires by limitation July 1, 1989.] An offering is exempt from the registration requirements of NRS 90.460 if:

1. It complies with the requirements of Regulation D of the Securities and Exchange Commission (17 C.F.R. §§ 230.501 to 230.506, inclusive), except for Rule 504 of that Regulation (17 C.F.R. § 230.504);
2. A manually signed copy of a notice of sale of securities pursuant to Regulation D (Form D) is filed with the administrator as provided in 17 C.F.R. § 230.503;
3. A fee of \$150 is paid to the administrator; and
4. A claim of special exemption (Nevada Form 540) is filed with the administrator.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.520 Security representing interest in or direct obligation of depository institution; fee. [Expires by limitation July 1, 1989.] A security is exempt from the requirements of NRS 90.460 and 90.560 if:

1. It is issued by and represents an interest in or a direct obligation of a depository institution;
2. The deposit accounts of that institution are insured by the Federal Savings and Loan Insurance Corporation;
3. A fee of \$150 is paid to the administrator; and
4. A claim of special exemption (Nevada Form 540) is filed with the administrator.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.525 Isolated transaction. [Expires by limitation July 1, 1989.]

1. For purposes of the exemption from registration provided by subsection 1 of NRS 90.530, a transaction is "isolated" if it does not occur more frequently, with respect to the same offeror or seller, than twice during any 12-month period.

2. The exemption may not be used by a person controlling the issuer or a person in common control with the issuer.

3. As used in this section, "control" means the possession of the power to direct, directly or indirectly, the management and policies of a person.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.530 Claim of exempt transaction for nonissuer transaction in outstanding security. [Expires by limitation July 1, 1989.] The information required by subsection 2 of NRS 90.530 to be filed and maintained with the administrator must be accompanied by a claim of exempt transaction (Nevada Form 530).

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.535 Claim of exempt transaction for transaction pursuant to offer to sell to existing security holders of issuer. [Expires by limitation July 1, 1989.] An issuer who claims the exemption from registration provided by subsection 14 of NRS 90.530 must file with the administrator a claim of exempt transaction (Nevada Form 530).

(Added to NAC by Sec'y of State, eff. 4-22-88)

PROCEEDINGS BEFORE THE ADMINISTRATOR

90.540 Applicability. [Expires by limitation July 1, 1989.] The provisions of NAC 90.540 to 90.610, inclusive, govern practice and procedure before the administrator in any proceeding under NRS 90.420, 90.510, 90.630, 90.800 or 90.820.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.545 Notice. [Expires by limitation July 1, 1989.]

1. Notice of any hearing or opportunity for hearing required in a proceeding before the administrator must be:

(a) Served upon each respondent and any other person designated by order of the administrator, by personal service or by certified mail to the last known address of the person; and

(b) If the administrator by order so directs, published at least once in a newspaper of general circulation in the county specified by the administrator.

2. Except as otherwise provided in NRS 90.800, the notice must be served and published, if publication is ordered, not less than 10 days nor more than 30 days before the date fixed for the hearing, unless the administrator for good cause shown prescribes a shorter period.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.550 Representation by counsel. [Expires by limitation July 1, 1989.] Any party to a proceeding before the administrator is entitled to be represented by counsel. A person who is not a member of the State Bar of Nevada but who is a member in good standing and eligible to practice before the bar of any United States court or of the highest court of any state, territory or insular possession of the United States, and who has been retained to represent a client in a proceeding before the administrator, shall associate an active member of the State Bar of Nevada as counsel of record.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.555 Administrator's staff to bring proceeding; respondent. [Expires by limitation July 1, 1989.]

1. The staff of the administrator will bring any proceeding before the administrator or his representative, may appear at any hearing, and have all rights of participation as a party to the proceeding. If counsel is desired, the attorney general will represent the staff.

2. Any party against whom a proceeding is brought will be styled a respondent.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.560 Complaint; answer; hearing set. [Expires by limitation July 1, 1989.]

1. Pleadings before the administrator must be entitled complaint and answer.

2. Within 20 days after service of the complaint upon a respondent, he shall file with the administrator an answer to the complaint. Matters alleged by way of affirmative defense must be separately stated and numbered.

3. Except as otherwise provided in NRS 90.800, a complaint will be set for hearing at the earliest convenience of the administrator, unless notice of satisfaction of the complaint, by answer or otherwise, is received by the administrator.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.565 Motions. [Expires by limitation July 1, 1989.]

1. Any motion, except a motion made during a hearing, must:

(a) Be in writing;

(b) Except in the case of a motion for an extension of time or for additional discovery, contain a memorandum of law, not more than 10 pages in length, describing with particularity the grounds of the motion and the relief sought; and

(c) Be served upon each opposing party in the manner required by NAC 90.570 of this regulation.

2. A decision upon any motion which does not dispose of the proceeding on the merits will be rendered without oral argument unless a hearing is ordered by the administrator. Any motion not acted upon by the administrator shall be deemed denied upon the filing of the final order of the administrator in the proceeding.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.570 Pleading, motion or other paper: Filing of copies; service of documents. [Expires by limitation July 1, 1989.]

1. An original and two legible copies of any pleading, motion or other paper must be filed with the administrator.

2. Any opinion, decision, order, motion or other document required to be served by the administrator or any party must be served upon all parties to the proceeding by personal service or by certified mail. In the case of service by mail, service is complete when a true copy of the document, properly stamped and addressed, is deposited in the United States mail.

3. Any document served by the administrator or any party must contain an acknowledgment or certificate of service.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.575 Discovery. [Expires by limitation July 1, 1989.]

1. A party may request discovery by motion. A motion for additional discovery must be accompanied by a certificate of the moving party or his attorney, stating that an attempt has been made to obtain the requested discovery through informal means, but that the attempt has been unavailing.

2. The administrator may grant or deny discovery, or impose any limitation or condition upon discovery, as he deems appropriate.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.580 Location of hearing. [Expires by limitation July 1, 1989.]

1. Except as otherwise provided in subsection 2, any hearing in a proceeding before the administrator will be held before the administrator or his representative at the office of the administrator or at any other appropriate location designated by the administrator.

2. Any party may, by motion, request that any hearing be held at a place in this state other than the office of the administrator or the location designated by the administrator. No such motion will be granted unless the moving party:

(a) Agrees to pay any cost associated with the relocation of the hearing; and
(b) Deposits with the administrator an amount of money, to be determined by the administrator, sufficient to pay the cost of relocation.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.585 Conduct of hearing. [Expires by limitation July 1, 1989.]

1. The provisions of NRS 233B.121 to 233B.1235, inclusive, and this section will govern the conduct of any hearing on the merits in a proceeding before the administrator.

2. The administrator or his representative will call the hearing to order and proceed to take the appearances and act upon any pending motions.

3. The staff of the administrator will first introduce evidence sufficient to establish the scope of the hearing and the jurisdiction of the administrator. Evidence will thereafter be presented in the order determined by the administrator or his representative.

4. All testimony to be considered by the administrator or his representative in any hearing, except matters noticed by him or entered by stipulation, must be sworn testimony.

5. The administrator or his representative may rule on the admission or exclusion of evidence and may take any action necessary to assure the fair and orderly conduct of the hearing.

6. Oral proceedings at the hearing will be taken down and transcribed by a shorthand reporter.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.590 Record. [Expires by limitation July 1, 1989.] The administrator will cause a record to be made of the proceeding in accordance with the provisions of NRS 233B.121. A party desiring a copy of any record or transcript may obtain it from the administrator by paying the cost of preparing the record or transcript.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.595 Continuance or adjournment of hearing. [Expires by limitation July 1, 1989.] Before or during a hearing, the administrator or his representative may, upon proper showing or on his own motion, continue or adjourn the hearing to a later time or a different place.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.600 Fees of witnesses. [Expires by limitation July 1, 1989.] A witness required to appear at a hearing before the administrator is entitled to receive from the party calling him the fees and reimbursement for mileage provided to witnesses in civil cases pursuant to NRS 50.225.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.605 Rendering of order or decision; petition for rehearing. [Expires by limitation July 1, 1989.]

1. An order or decision on a hearing will be rendered within 30 days after the completion of the hearing.

2. Any party aggrieved by a decision of the administrator or his representative may file a petition for rehearing as provided in this section.

3. A petition for rehearing must:
 - (a) Not exceed 10 pages in length;
 - (b) Be filed and served upon each opposing party within 15 days after service of the decision; and
 - (c) Set forth with particularity each point of law or fact on which the petitioner relies.
4. Unless the administrator so orders, the filing of a petition for rehearing does not stay enforcement of the decision.
5. A rehearing may be granted for any of the following reasons:
 - (a) Irregularity in the hearing proceedings, to which timely objection has been made;
 - (b) Accident or surprise which ordinary prudence could not have guarded against; or
 - (c) Newly discovered material evidence which could not with reasonable diligence have been produced at the hearing.
6. The staff of the administrator may file and serve a written answer to the petition. The answer must be filed and served within 10 days after service of the petition.
7. Oral argument on the petition will not be permitted.

(Added to NAC by Sec'y of State, eff. 4-22-88)

90.610 Granting or denying petition for rehearing. [Expires by limitation July 1, 1989.]

1. If a petition for rehearing is granted, the administrator may reverse or modify the decision, order the matter set for hearing, or enter any other order appropriate under the circumstances.
2. An order granting or denying a petition for rehearing must be filed within 30 days after the filing and service of the petition. If a petition for rehearing is granted, a decision on rehearing must be filed within 60 days after service of the order granting the petition.

(Added to NAC by Sec'y of State, eff. 4-22-88)