

Decision No. C03-0360

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-139TO

IN THE MATTER OF PROPOSED RULES REGULATING TOWING CARRIER
TRANSPORTATION BY MOTOR VEHICLE.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: April 16, 2003

Adopted Date: April 16, 2003

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission gives notice of proposed rulemaking regarding new Rules Regulating Towing Carrier Transportation by Motor Vehicle. The Rules currently applicable to such activities are found at 4 CCR 723-9. The basis for and purpose of the proposed new Rules is to describe the manner and scope of regulation over persons providing towing carrier services by motor vehicle in the State of Colorado. These Rules address a wide variety of subject areas including, but not limited to: safety; civil penalties; the issuance, extension, transfer, and revocation of operating authority; insurance and registration requirements; towing and storage rates; the identification, condition, and leasing of motor vehicles; record keeping; and service standards.

2. A copy of the new Rules is attached to this notice of proposed rulemaking. The statutory authority for the proposed Rules is found within Title 40, specifically in § 40-2-108 and § 40-13-107, C.R.S.

3. The Commission will conduct a hearing on the proposed rules and related issues at the below stated time and place. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. The Commission also encourages interested persons to submit written comments before the hearing schedule in this matter. In the event interested persons wish to file comments before the hearing, the Commission requests that such comments be filed ten days prior to the hearing date. The Commission will consider all submissions.

II. ORDER

A. The Commission Orders That:

1. This Notice of Proposed Rulemaking shall be filed with the Colorado Secretary of State for publication in the May 10, 2003 edition of The Colorado Register.

2. A Hearing on the proposed rules and related matters shall be held before an Administrative Law Judge of the Commission as follows:

DATE: June 12, 2003
TIME: 9:00 a.m.
PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, Colorado

At the time set for hearing in this matter, interested persons may submit written comments and may present these orally unless oral comments are deemed unnecessary.

4. Interested persons may file written comments in this matter before hearing. The Commission requests that such pre-filed comments be submitted at least ten days before the

scheduled hearing. All submissions, whether oral or written, will be considered by the Commission.

5. This Order is effective immediately upon its Mailed Date.

B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING APRIL 16, 2003.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

ATTEST: A TRUE COPY

Bruce N. Smith
Director

**THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO**

RULES REGULATING TOWING CARRIER TRANSPORTATION BY MOTOR VEHICLE

4 CCR 723-9

BASIS, PURPOSE, AND STATUTORY AUTHORITY.....	1
TOWING CARRIER RULES.....	2
6500. Applicability of Towing Carrier Rules.....	2
6501. Definitions.....	2
6502. Applications.....	5
6503. Reports, Name or Address Changes.....	5
6504. Permit Requirement.....	5
6505. Permit Application.....	5
6506. Revocation, Suspension, Alteration, or Amendment, of Permit.....	7
6507. Financial Responsibility.....	7
6508. Summary Suspensions and/or Revocations for Lack of Financial Responsibility.....	11
6509. Written Request for Financial Responsibility Information..	12
6510. Annual Motor Vehicle Identification Fees.....	12
6511. External Markings of Motor Vehicles.....	13
6512. Designation of Agent.....	13
6513. Leasing of Motor Vehicles.....	14
6514. Equipment and Accessories.....	14
6515. Storage Facilities.....	16
6516. Authorization for Towing of Motor Vehicles.....	17
6517. Tow Record/Invoice.....	19
6518. Disclosure of Rates and Charges.....	20
6519. Rates and Charges.....	20
6520. Inspection of Records, Facilities, and Towing Vehicles....	24
6521. Violations, Civil Enforcement, and Enhancement of Civil Penalties.....	24
6522. Waivers and Variances.....	25

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over persons providing towing carrier services by motor vehicle in the State of Colorado. These rules address a wide variety of subject areas including, but not limited to: safety; civil penalties; the issuance, extension, transfer, and revocation of operating authority; insurance and registration requirements; towing and storage rates; the identification, condition, and leasing of motor vehicles; record keeping; and service standards.

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108 and 40-13-107, C.R.S.

TOWING CARRIER RULES

6500. Applicability of Towing Carrier Rules.

- (a) Rules 6500 through 6599 apply to all towing carriers.
- (b) Nothing in these towing carrier rules shall be construed to prohibit a law enforcement agency from adopting and enforcing additional or more stringent requirements relating to safety, equipment, and accessories for any towing carrier providing towing services at the direction of the law enforcement agency.

6501. Definitions. The following definitions apply only in the context of these Towing Carrier Rules:

- (a) "Abandoned motor vehicle" means an "abandoned motor vehicle" as defined by §§ 42-4-1802 and 42-4-2102, C.R.S.
- (b) "Authorized agent" means a person who has been given written or oral permission by the owner or lessee of a motor vehicle to act as agent for the disposition of said motor vehicle.
- (c) "Authorized operator" means a person who has been given written or oral permission to drive a motor vehicle by the owner or lessee of said motor vehicle.
- (d) "Enforcement official" means authorized personnel of the Commission, the Colorado Department of Revenue, the Colorado State Patrol, and any other law enforcement agency.
- (e) "Exempt interstate carrier" means any interstate or foreign commerce carrier by motor vehicle operating into, from, within, or through the State of Colorado pursuant to federal exemptions or partial exemptions from economic regulation, as described in § 40-10-120(3) and 40-11-115(3), C.R.S.
- (f) "Form D-1" means a NARUC Uniform Identification Cab Card for motor vehicle or driveaway operations conducted by an exempt interstate carrier.
- (g) "Form E" means a NARUC Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, executed by a duly authorized agent of the insurer.
- (h) "Form G" means a NARUC Form G Uniform Motor Carrier Bodily Injury and Property Damage Liability Surety Bond, executed by a duly authorized agent of the surety.

- (i) "Form H" means a NARUC Form H Uniform Motor Carrier Cargo Certificate of Insurance, executed by a duly authorized agent of the insurer.
- (j) "Form J" means a NARUC Form J Uniform Motor Carrier Cargo Surety Bond, executed by a duly authorized agent of the surety.
- (k) "Form K" means a NARUC Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies.
- (l) "Form L" means a NARUC Form L Uniform Notice of Cancellation of Motor Carrier Surety Bonds.
- (m) "Form RS-3 registration receipt" means a receipt issued to a regulated interstate carrier indicating that the required financial responsibility has been filed with the Commission and fees have been paid.
- (n) "GCWR" means gross combination weight rating, the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.
- (o) "GVWR" means gross vehicle weight rating, the value specified by the manufacturer as the loaded weight of a single motor vehicle.
- (p) "Holidays" means those days designated as legal holidays by the Colorado General Assembly.
- (q) "Legal disability" means the condition of a trailer or semi-trailer that, due to its weight, height, or other size characteristics, is unable to be transported when attached to the vehicle that was pulling it.
- (r) "Motor vehicle" means any vehicle that is propelled or drawn by mechanical power on the public ways of the State of Colorado. The term also includes any trailer or semi-trailer attached to the vehicle, or any trailer or semi-trailer which, due to collision, mechanical disablement, legal disability, order of a law enforcement officer or property owner, must be towed or transported separately from the vehicle from which it was detached.
- (s) "Mountain area" means that part of the State of Colorado west of a line drawn ten air miles west of, and parallel to, Interstate Highway 25.
- (t) "NARUC" means the National Association of Regulatory Utility Commissioners.

- (u) "Non-consensual tow" means a tow authorized or directed by a person other than the owner, authorized operator, or authorized agent of the owner. A non-consensual tow includes, but is not limited to:
 - (I) a private property tow;
 - (II) any tow performed contrary to the specific direction of the owner, authorized operator, or authorized agent of the owner;
 - (III) except for a private property tow or a tow ordered by a law enforcement official, any tow performed without disclosure of the rates and charges to be assessed as set forth in rule 6518; or
 - (IV) a tow directed or authorized by a law enforcement officer, either verbally or in writing, in any circumstance when the owner, authorized operator, or authorized agent of the owner is unavailable, unable, or unwilling to direct the tow.
- (v) "Normal business hours" means 8:00 AM to 5:00 PM, Monday through Friday, excluding holidays, and any additional hours and days the towing carrier may designate.
- (w) "Private property tow" means the towing of a motor vehicle from private property at the request of the property owner, as those terms are defined in paragraph 6516(a).
- (x) "Public ways" include, but are not limited to, every street, road, or highway in the state of Colorado over which the public generally has a right to travel.
- (y) "Regulated interstate carrier" means any interstate or foreign commerce carrier by motor vehicle operating into, from, within, or through the State of Colorado under authority issued by the Federal Motor Carrier Safety Administration or its predecessor agency, as described in §§ 40-10-120(2) and 40-11-115(2), C.R.S.
- (z) "Towing carrier" means "towing carrier" as defined by § 40-13-101(3), C.R.S.
- (aa) "Towing carrier permit" means the permit issued to a towing carrier pursuant to § 40-13-103(1), C.R.S.
- (bb) "Towing Carrier Rules" means rules 6500 through 6599, inclusive.
- (cc) "Towing vehicle" means "towing vehicle" as defined by § 40-13-101(4), C.R.S.

6502. Applications. Towing carriers may seek Commission action regarding any of the following matters through the filing of an appropriate application:

- (a) For a permit to operate as a towing carrier, as provided in rule 6505.
- (b) For any other matter provided by statute or rule but not specifically described in this rule.

6503. Reports, Name or Address Changes.

- (a) Each towing carrier shall immediately file a signed report with the Commission detailing any name change or address change. Such a filing shall indicate all the affected towing carrier permit numbers. Name change filings, including trade name changes or trade name additions, shall include supporting documentation from the Colorado Secretary of State and/or the Colorado Department of Revenue.
- (b) In the event of any name or address change, the towing carrier shall comply with all other applicable Commission rules, including but not limited to, rules regarding financial responsibility filings.
- (c) Notice sent by any person to the towing carrier's address on file with the Commission shall constitute prima facie evidence that such notice is sufficient.

6504. Permit Requirement.

- (a) Permit required.
 - (I) No person, unless exempted by § 40-13-103(2), C.R.S., shall operate as a towing carrier without a valid towing carrier permit issued by the Commission.
 - (II) Towing carrier permits do not authorize transportation services covered by Articles 10, 11, or 16 of Title 40, C.R.S.
- (b) Every towing carrier shall maintain a copy of its towing carrier permit issued under this rule in each towing vehicle it owns, controls, operates, or manages under said permit.

6505. Permit Application.

- (a) Any person seeking a permit to operate as a towing carrier shall submit an application for a permit to the Commission.
- (b) The application shall contain the following information:

- (I) The name of the applicant, and the trade name under which operations shall be conducted.
- (II) The applicant's telephone number, and complete physical and mailing addresses. A post office box is only acceptable if a physical address is also provided.
- (III) If the applicant is a corporation:
 - (A) The name of the state in which it is incorporated. If the state of incorporation is not Colorado, the application shall also contain a certificate from the Colorado Secretary of State that qualifies the applicant to do business in Colorado.
 - (B) The location of its principal office in the State of Colorado.
 - (C) The names of its directors and officers.
 - (D) A copy of its articles of incorporation or charter.
 - (E) A copy of its certificate of assumed trade name, if any.
- (IV) If the applicant is a limited liability company:
 - (A) The state in which the company is organized. If the state of organization is not Colorado, the application shall also contain a certificate from the Colorado Secretary of State that qualifies the applicant to do business in Colorado.
 - (B) The location of the company's principal office in the State of Colorado.
 - (C) The name, title, and business address of each member.
 - (D) A copy of its certificate of assumed trade name, if any.
- (V) If the applicant is a partnership, the name, title, and business address of each partner.
- (VI) A list with a complete description of the equipment to be operated, including information regarding motor vehicle year, make, model, vehicle identification number, and GVWR.
- (VII) A statement that applicant is familiar with the Towing Carrier Rules and all applicable safety rules, and will comply with them.

- (VIII) A statement that applicant understands that the mere filing of an application does not constitute authority to operate.
- (IX) A statement whether or not the towing carrier will provide storage for towed motor vehicles. If storage is provided, the application shall contain the storage facility's address, and phone number if any.
- (X) A signature by an authorized owner, officer, or agent of the applicant. The application shall contain the complete address of the signatory.

6506. Revocation, Suspension, Alteration, or Amendment of Permit.

- (a) After a hearing upon at least ten days' notice to the towing carrier affected, a towing carrier permit may be revoked, suspended, altered, or amended by the Commission, for any of the following reasons:
 - (I) Violation of or failure to comply with any statutory enactment, or supporting regulation, concerning towing carriers or the towing, storage, or disposal of towed motor vehicles. This paragraph includes, but is not limited to, violations of statutory provisions and regulations of the Department of Revenue.
 - (II) Violation of or failure to comply with the terms and conditions of the permit.
 - (III) Exceeding the authority granted in the permit.
 - (IV) Violation of or failure to observe and comply with any lawful order, rule, or regulation of the Commission.
- (b) Revoked permits not reissued. Any towing carrier whose towing carrier permit(s) is revoked for a third time pursuant to § 40-13-109, C.R.S., shall not obtain another towing carrier permit for one year from the date of the third permit revocation. Such revocation does not include revocation for failure to maintain the financial responsibility required by Rule 6507 unless it is shown that the towing carrier knowingly operated without such financial responsibility.

6507. Financial Responsibility.

- (a) Financial responsibility required.
 - (I) Motor vehicle liability. Every towing carrier shall obtain and keep in force at all times motor vehicle liability insurance coverage or a surety bond providing the same

coverage. Motor vehicle liability means liability for bodily injury and property damage.

(II) Cargo liability. Every towing carrier shall obtain and keep in force at all times cargo liability insurance coverage or a surety bond providing the same coverage. Cargo liability coverage for a towing carrier shall include coverage of physical damage to the motor vehicle in tow (on hook) and loss of its contents.

(III) Garage keeper's liability. Towing carriers providing storage, directly or through an agent, shall obtain and keep in force at all times garage keeper's liability insurance coverage.

(b) Financial responsibility, minimum levels. The minimum levels of financial responsibility are prescribed as follows:

(I) Motor vehicle liability coverage.

(A) Motor vehicle liability coverage shall be combined single limit liability.

(B) Schedule of limits:

Type of Carrier	Vehicle GVWR	Minimum Level
Towing Carriers	Any GVWR	\$ 750,000

(C) Towing carriers may obtain a certificate of self-insurance issued pursuant to §§ 10-4-716 and 42-7-501, C.R.S.

(II) Cargo liability coverage shall provide coverage to the extent of the towing carrier's legal liability for loss or damage to the property of any person or persons, other than the insured, which is carried in, upon, or attached to the towing vehicle and/or its trailers or dollies operated by, or for, or under the control of the towing carrier.

(III) Garage keeper's liability coverage shall provide coverage to the extent of the towing carrier's legal liability for loss or damage to the property of any person or persons, other than the insured, which is stored by the towing carrier directly or through an agent.

(c) Coverage criteria. The towing carrier shall ensure that insurance or surety bond coverage:

(I) is provided only by insurance or surety companies authorized to provide such coverage in the State of Colorado;

- (II) is not less than the minimum limits set forth under paragraph (b) of this rule;
 - (III) covers all motor vehicles which may be operated by or for the towing carrier under its towing carrier permit, with such coverage being accomplished by a "Waiver of Description" endorsement on each policy;
 - (IV) provides for the payment of benefits by the insurance or surety bond company directly to parties damaged by the towing carrier on a "first dollar"/"dollar one" basis;
 - (V) if the coverage contains a retained risk provision, such provision shall obligate the insurance or surety company to pay the party damaged by the towing carrier regardless of the level of funds in the retained risk pool; and
 - (VI) does not permit a towing carrier to pay benefits directly to a party damaged by said carrier.
- (d) The provisions of subparagraphs (IV) - (VI) of paragraph (c) of this rule shall not apply to towing carriers who have filed proof of self-insurance pursuant to §§ 10-4-716 or 42-7-501, C.R.S., or 49 C.F.R. Part 387.
- (e) Policy retention. The towing carrier shall retain each original insurance or surety policy for required coverage and maintain a copy of its motor vehicle liability coverage in each motor vehicle that it operates.
- (f) Forms. The towing carrier shall cause to be filed with the Commission the appropriate form in lieu of the original policy as follows:
- (I) Motor vehicle liability.
 - (A) For all towing carriers, a Form E or G; except that a Colorado Form 10-INS may be used until December 31, 2003.
 - (B) For towing carriers obtaining a certificate of self-insurance under the provisions of §§ 10-4-716 or 42-7-501, C.R.S., a copy of said certificate. Upon renewal of the certificate, the carrier shall file a copy of the most current certificate.
 - (II) Cargo liability. For all towing carriers, a Form H or J; except that a Colorado Form 12-INS may be used until December 31, 2003.
 - (III) Garage keeper's liability. For all towing carriers, a Colorado Form 14-INS containing:

(A) The following language:

This is to certify that the [name and address of insurance company] (hereinafter called the Company) has issued to [name and address of towing carrier] a policy or policies of insurance effective from [month, day, year] 12:01 AM standard time at the address of the insured stated in said policy or policies and continuing until canceled as provided herein, which, by attachment of the uniform garage keeper's liability insurance endorsement, has or have been amended to provide garage keeper's liability insurance covering the obligations imposed upon such towing carrier by the provisions of the motor carrier law of the Public Utilities Commission of the State of Colorado (hereinafter called the Commission).

This Policy is executed on our standard form of policy, a copy of which is on file with the Insurance Commissioner of the State of Colorado. Whenever requested by the Commission, the Company agrees to furnish to the Commission a copy of said policy and all endorsements thereof.

Description of the motor vehicle or motor vehicles insured is hereby waived.

The certificate and the endorsement described herein may not be canceled without cancellation of the policy to which it is attached. Such cancellation may be effected by the Company or its authorized agent giving thirty days' notice in writing to the Commission, at its office in Denver, Colorado, said thirty days' notice to commence to run from the date notice is actually received at the office of the Commission.

(B) The policy number, the policy effective date, and the address and signature of the insurance company's authorized agent or representative.

(IV) Colorado Form 10-INS, Colorado Form 12-INS, and Colorado Form 14-INS are available from the Commission or its website.

(g) The towing carrier shall ensure that the policy and the forms noted in this rule contain the towing carrier's exact name, trade name (if any), and address as shown in the records of the Commission; and

- (h) Any subsequent changes of name, address, or policy number shall be reflected by the filing of an appropriate endorsement or amendment with the Commission.
- (i) The proof of minimum levels of financial responsibility required by this rule shall be considered public information and shall be produced for review upon reasonable request by a member of the public.
- (j) Insurance cancellation. Each certificate of insurance required by and filed with the Commission shall be kept in full force and effect unless and until canceled by a 30-day written notice, on Form K or Form L, as applicable, from the insurer to the Commission. Time shall run from the date the notice is received by the Commission. In lieu of the prescribed form, the insurer may cancel a certificate of insurance by letter to the Commission containing the same information as required by the prescribed form.

6508. Summary Suspensions and/or Revocations for Lack of Financial Responsibility.

- (a) Whenever Commission records indicate that a towing carrier's required insurance or surety coverage, except for garage keeper's coverage, is or will be canceled, and the Commission has no proof on file indicating replacement coverage, the Commission shall summarily suspend such carrier's authority to operate its motor vehicles. The summary suspension shall be effective on the date of coverage cancellation.
- (b) The Director of the Commission shall send a notice of canceled insurance or surety coverage to such a towing carrier. The notice shall advise the carrier that its authority to operate is summarily suspended as of the coverage cancellation date and that the Commission has initiated or may initiate revocation proceedings.
- (c) A towing carrier receiving notice of summary suspension shall not conduct operations under any of its authorities, including operations under any permit, until proper proof of insurance or surety coverage is filed with the Commission.
- (d) If the Commission receives proper proof of coverage, the summary suspension will be deemed lifted without further order of the Commission.
- (e) If the Commission has initiated revocation proceedings, but receives proper proof of coverage prior to revocation, the Commission shall lift the summary suspension, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to civil penalty assessments.

6509. Written Request for Financial Responsibility Information. In the event of damage to a towed motor vehicle, which damage occurs during the tow or storage, the towing carrier shall identify the name of its insurance or surety company and its policy number within 48 hours after receiving a written request for that information from the owner, authorized operator, or authorized agent of the owner of the towed motor vehicle.

6510. Annual Motor Vehicle Identification Fees.

- (a) Every towing carrier shall pay to the Commission an annual identification fee of five dollars before the first day of January of each calendar year, for each motor vehicle that such carrier owns, controls, operates, or manages within the State of Colorado as set forth in § 40-2-110.5, C.R.S.
- (b) Towing carriers obtaining new authority or acquiring additional motor vehicles during the year may pay the annual identification fees at any time during the year for said motor vehicles.
- (c) Annual identification fees shall be valid only for the calendar year for which they are purchased.
- (d) Proof of payment of each annual identification fee shall be in the form of a vehicle identification stamp issued by the Commission; except that a Form RS-3 shall be issued to a regulated interstate carrier registered under the Single State Registration System.
 - (I) Except as provided in subparagraphs (II) or (III) of this paragraph, a towing carrier shall not operate a motor vehicle unless it has affixed a valid vehicle identification stamp to the inside lower right-hand corner of the motor vehicle's windshield.
 - (II) Towing carriers that are also exempt interstate carriers shall carry a Form D-1 with the identification stamp affixed on the back of the cab card in the square bearing the name of the State of Colorado in lieu of affixing the vehicle identification stamp to the windshield.
 - (III) Towing carriers that are also interstate carriers registered under the Single State Registration System shall carry a copy of the current year's Form RS-3 Registration Receipt in each motor vehicle in lieu of affixing the vehicle identification stamp to the windshield or to the Form D-1.
- (e) Towing carriers using a motor vehicle in both interstate and intrastate operations need only pay the fees associated with interstate operations for that motor vehicle.

6511. External Markings of Motor Vehicles.

- (a) Except as provided by paragraphs (b) or (c) of this rule, a towing carrier shall mark each of its motor vehicles in accordance with this rule.
 - (I) The markings shall:
 - (A) be placed on both sides of the motor vehicle;
 - (B) contain only characters that contrast sharply with the background on which the characters are placed; and
 - (C) contain only characters that are readily legible at a distance of 50 feet from the motor vehicle. Legibility shall be determined during daylight hours and while the motor vehicle is stationary.
 - (II) The markings shall contain the following information:
 - (A) the name or trade name as set forth in the towing carrier's towing carrier permit; and
 - (B) the letter and number designation of the towing carriers towing carrier permit, preceded by the letters "CO PUC".
- (b) A towing carrier shall remove all markings from a motor vehicle if the carrier is permanently withdrawing the motor vehicle from service, or leasing the motor vehicle to another person for purposes not related to operations under the carrier's permit.

6512. Designation of Agent.

- (a) Each towing carrier shall file in writing with the Commission, and shall maintain on file, its designation of the name and address of a person upon whom service may be made of any lawful notice, order, process, or demand. The Secretary of State of the State of Colorado shall not be the person designated. The person designated, if a natural person, shall be at least 18 years of age. The address of the person designated shall be in the State of Colorado.
- (b) If the designated agent changes, or if the agent's name or address changes, the towing carrier shall immediately notify the Commission by filing a new designation.
- (c) Service upon the designated agent filed with the Commission by a towing carrier shall be deemed to be service upon said towing carrier.

6513. Leasing of Motor Vehicles.

- (a) For purposes of this rule, "lessee" means a towing carrier, and "lessor" means the motor vehicle owner.
- (b) A lessee may lease motor vehicles for use in the lessee's fleet, subject to the requirements of this rule.
- (c) The lessee shall ensure that leases are in writing on a form supplied by the Commission. The form shall contain: the name and signature of the lessor; the name and signature of the lessee; the date of the agreement; the motor vehicle's make, model, year, and identification number; the period covered by the lease; and the consideration to be paid by the lessee. Nothing in this rule shall preclude the use of a more comprehensive lease supplementing the Commission's lease form. The lessee shall ensure that any supplemental lease provisions do not conflict with the required information of the Commission's lease form.
- (d) The lessee shall ensure that a copy of the lease is carried in the leased motor vehicle during the time that the lease is effective and is maintained in the lessee's files during the time that the lease is effective and for six months after the motor vehicle leaves the lessee's control.
- (e) During the existence of the lease, the lessee shall have full discretion and complete control of the leased motor vehicle and will be fully responsible for its operation in accordance with applicable public utilities law. This responsibility includes, but is not limited to, compliance with marking requirements, safety of the motor vehicle and its equipment and accessories, and all financial responsibility required by rule 6507.

6514. Equipment and Accessories. All towing vehicles, in addition to complying with all applicable safety regulations, shall meet the following minimum requirements:

- (a) Basic towing vehicle requirements.
 - (I) A towing carrier shall equip its towing vehicles with engines, transmissions, differentials, driveline components, brake systems, frames, steering components, and suspensions of sufficiently heavy construction to safely winch, lift, tow, load, and transport the towed motor vehicle.
 - (II) A towing carrier shall maintain its towing vehicles in a manner ensuring the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle.
 - (III) A towing carrier shall ensure that all its towing vehicles have each of the following:

- (A) a GVWR of at least 10,000 pounds;
 - (B) fender coverings for front and rear wheels;
 - (C) the following operational electric lights:
 - (i) one spotlight, mounted behind the cab, capable of lighting the scene of disability and the motor vehicle to be moved (reverse/back-up lights of the towing vehicle shall not be used in lieu of the spotlight); and
 - (ii) one portable, combination light system capable of being securely attached on the rear of the towed motor vehicle; consisting of (with an equal number on each side) two tail lamps, two stop lamps, and two turn signals; and operated in conjunction with analogous lights on the towing vehicle; and
 - (D) the following accessories:
 - (i) one shovel;
 - (ii) one broom; and
 - (iii) one steering wheel tying device free from cracks, fraying or deterioration.
- (b) Towing equipment options. Winching, lifting, towing, and carrying equipment shall be maintained in a manner to ensure the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle, and shall include at least one of the following combinations:
- (I) Winch and crane--A power-driven winch and crane with a capacity of not less than 6,000 pounds with a winch cable capable of withstanding a test of not less than 10,000 pounds at breaking point or hydraulic system vehicle lift and a cradle, with a tow plate or sling, equipped with safety chains and chains with J-hooks of sufficiently heavy construction to ensure the safe lifting of the motor vehicle;
 - (II) Wheel-lift system--A wheel-lift system with a stinger, L-arm brackets, safety chains and tie-down straps, or a mechanical wheel retainer device forming an integral part of the L-arm bracket, of sufficiently heavy construction to secure the motor vehicle to the wheel-lift unit and to ensure the safe lifting and towing of the motor vehicle; or

- (III) Rollback system--A rollback system with a winch and cable as described in subparagraph (I) of this paragraph, safety chains, tie-down equipment, and truck bed of sufficiently heavy construction to ensure the safe loading and transporting of the motor vehicle.
- (c) Dollies, wheel-lifts, and rollbacks. A towing carrier shall not tow any motor vehicle that is so extensively damaged as to be unmovable on its own wheels, unless the towing vehicle is equipped with dollies, a wheel-lift system, or a rollback system of sufficiently heavy construction to ensure the safe loading and towing of the damaged motor vehicle.
- (d) Rescue and recovery equipment.
 - (I) For purposes of this paragraph (d), rescue and recovery operation means that the motor vehicle must first be moved by means of the mechanical devices described in subparagraph (d)(II) before it is capable of being towed by the towing vehicle.
 - (II) The following equipment is required only if the towing carrier performs rescue and recovery operations:
 - (A) Dead-man blocks/scotch blocks and other tie-down equipment that are sufficient to hold the towing vehicle in place while performing the rescue or recovery operation;
 - (B) Web straps or slings that are free of cuts or fraying across 50 percent of the width of their surface;
 - (C) Snatch blocks that are free of any cracks and excessive wear, and are lubricated sufficiently to allow free movement of the sheave and other swivel points; and
 - (D) Chains that are capable of withstanding a test of not less than 10,000 pounds at breaking point, with links that are free of cracks and of wear that exceeds 15 percent of the original stock diameter.

6515. Storage Facilities.

- (a) Disclosure of facility location. The towing carrier, on placing a motor vehicle other than an abandoned motor vehicle in a storage facility, shall disclose the location of said storage facility as follows:
 - (I) By notifying the owner, the authorized operator, or the authorized agent of the owner of the towed motor vehicle;

- (II) By notifying the owner of the private property from which the motor vehicle was towed; or
 - (III) By notifying the responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed.
- (b) Disclosure for abandoned motor vehicles. The towing carrier, on placing an abandoned motor vehicle in a storage facility, shall disclose the location of said storage facility by complying with the procedure for abandoned motor vehicles in Parts 18 and 21 of Article 4 of Title 42, C.R.S.
 - (c) Noncompliance with disclosure requirements. A towing carrier that fails to comply with the disclosure requirements of this rule shall not charge, collect, or retain any fees or charges for storage of a motor vehicle.
 - (d) Release of motor vehicles from storage. A towing carrier that accepts for storage a motor vehicle that has been towed as a private property tow shall be available to release said motor vehicle within the first 48 hours of storage to the owner, authorized operator, or authorized agent of the owner of the motor vehicle either:
 - (I) With one hour's notice when at times other than normal business hours; or
 - (II) Upon demand during normal business hours.

6516. Authorization for Towing of Motor Vehicles.

- (a) For purposes of this rule:
 - (I) "Private property" includes publicly owned property except public ways.
 - (II) "Property owner" includes:
 - (A) a private property owner or lessee;
 - (B) an agent of the private property owner, authorized in writing to act as agent; or
 - (C) a federal, state, or local government entity, or such entity's employees responsible for publicly owned property.
 - (III) "Publicly owned property" includes, but is not limited to, medians, parking lots, or areas where parking is reserved, regulated by permits or meters, or otherwise restricted or prohibited.

- (b) Towing carrier not an agent. A towing carrier, its employees, partners, officers, directors, stockholders, or independent contractors working for or with the towing carrier shall not act as an agent for the property owner. Nothing in this paragraph shall preclude a towing carrier, which towing carrier has been paid for the private property tow by the private property owner at rates in accordance with rule 6519(a), from collecting the towing charges from the motor vehicle owner and reimbursing said charges to the private property owner.

- (c) Authorization.
 - (I) A towing carrier shall not tow any motor vehicle unless one of the following conditions is met:
 - (A) The towing carrier is directed to perform a tow by a law enforcement officer;
 - (B) The towing carrier is requested to perform a tow by the owner, authorized operator, or authorized agent of the owner of a motor vehicle; or
 - (C) The towing carrier is requested to perform a tow from private property upon the authorization of the property owner.
 - (II) Property owner authorization. The authorization from the property owner shall be in writing and shall identify the motor vehicle by make and license plate number (or in lieu thereof, the vehicle identification number) and include the date, time, and place of removal.
 - (A) The authorization shall be filled out in full, signed by the property owner, and given to the towing carrier at the time the motor vehicle is to be removed from the private property.
 - (B) No towing carrier shall accept or use blank authorizations pre-signed by the property owner.
 - (C) The towing carrier shall make the written authorization available for inspection by the owner of the towed motor vehicle or his or her authorized representative.
 - (D) The written authorization may be incorporated with the tow record/invoice required by Rule 6517.

- (d) Noncompliance. If a tow is performed in violation of this rule, or in violation of § 42-4-2103, C.R.S., the towing carrier shall not charge, collect, or retain any fees or charges for the unauthorized services it performs. Any motor vehicle that is

held in storage and was towed without proper authorization shall be released immediately to the registered owner, lien holder, or agent of the owner or lienholder.

6517. Tow Record/Invoice.

- (a) Towing carriers shall use and complete all applicable portions of a tow record/invoice form for all non-consensual tows. The form shall contain the following information:
 - (I) the serial number of the tow record/invoice;
 - (II) the name, address, permit number, and telephone number of towing carrier;
 - (III) the address of the storage facility used by the towing carrier, including any different telephone number for such facility;
 - (IV) the date and time of tow commencement and completion, the time of arrival on the scene if different from the time of commencement, the time the towed motor vehicle is placed in storage, and all other times necessary for the purpose of calculation of hourly charges;
 - (V) the make, model, year, vehicle identification number, and, if available, license plate number of the motor vehicle towed;
 - (VI) the origin address of the tow, the destination address, and the one-way mileage between such addresses;
 - (VII) the name, address, and telephone number of the person authorizing the tow;
 - (VIII) the signature of the person authorizing a private property tow;
 - (IX) a list of the contents of the motor vehicle towed;
 - (X) the unit number or license number of the towing vehicle;
 - (XI) the signature of towing vehicle operator;
 - (XII) the itemized invoice of all towing charges assessed; and
 - (XIII) the signature of the owner, authorized operator, or other authorized person to whom the motor vehicle is released.
- (b) The tow record/invoice shall be a multiple copy form. The copies shall be distributed as follows:

- (I) The towing carrier shall retain the copy bearing all required original signatures for authorization and release.
- (II) The towing carrier shall deliver a copy to the owner, authorized operator, or authorized agent of the owner, at the time of payment of towing charges and release of the towed motor vehicle.

6518. Disclosure of Rates and Charges.

- (a) The towing carrier shall, prior to performing any tow, disclose to the owner, authorized operator, or authorized agent of the owner of the motor vehicle all rates and charges to be assessed.
- (b) This disclosure may either be written or oral and shall include, but not be limited to:
 - (I) any extra charges because the towing carrier would, at the time, be unable to deliver the motor vehicle to a repair or body shop during the normal working hours of such repair or body shop;
 - (II) any extra charges because the towing carrier would, at the time, be unable to deliver the motor vehicle to a location and at a time agreed upon by the owner, authorized operator, or authorized agent to take delivery of the vehicle and pay the tow charges; and
 - (III) estimated charges for mileage and storage.
- (c) This rule does not apply to private property tows or tows ordered by law enforcement officials.

6519. Rates and Charges.

- (a) Rates and charges for private property tows. Except as otherwise provided by this rule, the maximum rate that may be charged for a private property tow of a motor vehicle with a GVWR of less than 10,000 pounds shall be no more than \$138.00, which shall include but not be limited to, charges for all towing services rendered, hookup fees, and use of dollies or go-jacks; gate fees, storage for first 24 hours, and release of the motor vehicle from storage pursuant to 6515 (d); and all commissions paid and other services rendered in performing such private property tow.
- (b) Except as provided in paragraph (a) of this rule, the maximum charge for release of a motor vehicle from storage at any time other than normal business hours shall be \$50.00.
- (c) Charge if retrieved before removal.

- (I) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is parked without authorization on private property attempts to retrieve said motor vehicle before its removal from the private property, the maximum release fee (whether motor vehicle is hooked up or not) shall not exceed \$53.00.
- (II) In such circumstances, the towing carrier shall advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle that he or she may offer payment of the towing carrier's release fee.
- (III) If payment of the release fee is offered before removal, the towing carrier shall immediately:
 - (A) accept payment;
 - (B) release the motor vehicle; and
 - (C) deliver a copy of the property owner's written authorization to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.
- (d) Certified VIN verification and surety bond procedure.
 - (I) When an abandoned motor vehicle that is less than five model years old and that the Colorado Department of Revenue cannot find in its records must be sold, the maximum rates that may be charged for a certified vehicle identification number (VIN) verification are as follows:
 - (A) \$69.00 for one additional hookup;
 - (B) \$69.00 per hour waiting time while waiting for inspection; and
 - (C) \$2.70 per mile mileage charges.
 - (II) The towing carrier may additionally charge for all other documented expenses of obtaining the VIN verification and the surety bond.
- (e) Notifications. The charges for notification(s) to the owner and the lienholder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1804(6)(a) and 42-4-2103(3)(c)(I), C.R.S., and the rules of the Colorado Department of Revenue.
- (f) Mileage. One-way mileage charges may be assessed for all private property tows at a rate not to exceed \$2.70 per mile.
- (g) Additional charges in mountain areas.

- (I) When a motor vehicle is towed between points in the mountain area, the towing carrier may add an additional amount not exceeding 12 percent of the towing charges.
 - (II) When a motor vehicle is towed into or out of the mountain area, the towing carrier may add an additional amount not exceeding 12 percent of the towing charges, provided that the mileage charge is prorated for mileage traveled within the mountain area.
- (h) Storage for non-consensual tows.
- (I) Generally.
 - (A) Storage charges shall not exceed the following rates based on a 24-hour period or any portion of a 24-hour period:
 - (i) \$22.00 for motor vehicles having a GVWR of less than 10,000 pounds;
 - (ii) \$28.00 for motor vehicles having a GVWR of 10,000 pounds or more; and
 - (iii) in lieu of subparagraphs (A)(i) and (ii) storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at \$1.10 per foot or portion thereof.
 - (B) For storage in the mountain area the tow carrier may add up to 12 percent for motor vehicles of any GVWR.
 - (C) Storage charges shall not be charged for those days in which garage keeper's liability insurance coverage is not kept in force.
 - (II) Private property tows. Storage charges shall not commence until after the first 24-hour period of storage is exceeded, as indicated by paragraph 6519(a).
 - (III) Other non-consensual tows. Storage charges for other non-consensual tows may commence immediately on placing the motor vehicle in storage.
 - (IV) Maximum accumulated charges for abandoned motor vehicles.
 - (A) Unless a hold order has been placed on the motor vehicle by a court, district attorney, or law enforcement agency, or extenuating circumstances have prevented a towing carrier from complying with the notice requirements of § 42-4-2103, C.R.S., storage charges after the tow and storage of an abandoned

motor vehicle shall not be accumulated beyond 60 days after the mailing date of the report required by § 42-4-2103(4), C.R.S.; except that, if such motor vehicle meets the definition of a collector's item as defined in § 42-12-101(2), C.R.S., storage charges shall not be accumulated beyond 120 days after such date.

- (B) Sale of such a motor vehicle to cover the outstanding towing and storage charges will be in accordance with those notice and procedural requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.

- (V) Consequences of failure to notify. Any towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort as set forth in §§ 42-4-1804(6)(b) and 42-4-2103(3)(c)(II), C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., or § 42-5-109, C.R.S., shall release the motor vehicle immediately to the registered owner, lien holder, or their agents without retaining the storage fees.

- (i) Exemption for off-road retrieval rates. When accompanied by appropriate documentation showing starting and ending times of the retrieval, which may include law enforcement incident reports and verification, a towing carrier may additionally charge for off road retrieval at those hourly rates on file at the offices of the Public Utilities Commission. Hourly rates shall be calculated from the time the towing carrier arrives at the scene and the law enforcement officer approves the retrieval to the time the towing carrier has completed the retrieval which may include time to load and secure retrieval equipment and cleanup of the scene. Retrieval time shall not include loading and securing the retrieved motor vehicle to, or onto, the towing vehicle. Cost of additional equipment used may be passed on to the motor vehicle owner at actual costs incurred plus an administrative fee of five percent of said costs; provided, however, that such actual costs shall be reasonable by industry standards.

- (j) Incidental costs of selling a motor vehicle. When a motor vehicle is sold, the documented costs of maintaining the motor vehicle while in storage until it is disposed of may be chargeable in accordance with § 38-20-109, C.R.S. The documented costs of maintaining those motor vehicles not falling under § 38-20-109, C.R.S., while in storage may be chargeable to a maximum of \$90.00. Cost of maintaining a motor vehicle means a documented cost incurred by the towing carrier that keeps a motor vehicle in safe or operable condition.

- (k) Exemption for municipality and county contracts. Notwithstanding any other provision of these rules, paragraphs (a) - (j) of this

rule shall not apply to any tow or storage of a towed vehicle performed under a contract with a municipality, county, state, or federal agency.

6520. Inspection of Records, Facilities, and Towing Vehicles.

- (a) Books and records, equipment and storage facilities. A towing carrier shall make available for inspection its books and records concerning its towing and storage operations, proof of financial responsibility, and its equipment and storage facilities during normal business hours upon request by any enforcement official.
- (b) Upon demand by any enforcement official, the towing carrier shall make available for inspection its towing vehicles and any records required to be carried in the towing vehicle including, but not limited to, its towing carrier permit, Form D-1 or Form RS-3, and proof of financial responsibility.
- (c) Retention of records. Copies of towing record/invoices, storage bills, authorizations for tows, and other written records required by these rules shall be retained by the towing carrier for a minimum of three years pursuant to § 6-17-101, C.R.S.

6521. Violations, Civil Enforcement, and Enhancement of Civil Penalties.

- (a) A violation of § 40-13-103(1), C.R.S., may result in the assessment of a penalty of up to \$400.00.
- (b) Except as provided in paragraph (a) of this rule, a violation of any provisions of Title 40, C.R.S., pertaining to towing carriers may result in the assessment of a penalty of up to two hundred dollars \$200.00.
- (c) A violation of any of the following provisions may result in the assessment of a penalty of up to \$400.00:
 - (I) Subparagraphs (a)(I) or (b)(I) of rule 6507.
 - (II) Paragraph (c) or (d) of rule 6516.
 - (III) Paragraph (a), (b), (c), (d), (f), or (g) of rule 6519.
 - (IV) Subparagraph (I)(A) or (B) of paragraph 6519(h).
- (d) Except as provided for in paragraph (c) of this rule, every person who violates any provision of rules 6500 through 6520 may be assessed a civil penalty of up to \$200 for each violation.
- (e) Any owner or other person, whose driver operates a motor vehicle in violation of these rules may be assessed a civil penalty for such violation pursuant to § 40-7-114, C.R.S.

- (f) Notwithstanding any provision in these rules to the contrary, the Commission may assess double or triple penalty assessments against any person, as provided by statute and this rule.
- (g) The Commission may assess any person a civil penalty containing doubled penalties if:
 - (I) said person engaged in prior conduct resulting in the issuance of a prior civil penalty assessment notice;
 - (II) the conduct for which doubled penalties are sought is of the same or narrower character as the conduct that was cited in the prior civil penalty assessment notice;
 - (III) the conduct for which doubled penalties are sought occurred within one year after said person's prior conduct; and
 - (IV) the conduct for which doubled penalties are sought occurred after said person's receipt of the prior civil penalty assessment notice.
- (h) Except as provided in paragraph (g) of this rule, the Commission may assess any person a civil penalty containing tripled penalties if:
 - (I) said person engaged in two or more instances of prior conduct resulting in the issuance of two or more prior civil penalty assessment notices;
 - (II) the conduct for which tripled penalties are sought is of the same or narrower character as the conduct that was cited in the prior civil penalty assessment notices;
 - (III) the conduct for which tripled penalties are sought occurred within one year after two prior instances of the conduct by said person; and
 - (IV) the conduct for which tripled penalties are sought occurred after said person's receipt of the prior civil penalty assessment notices.
- (i) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the conduct for which triple penalties are sought. Nothing in this rule shall preclude the assessment of triple penalties when double and triple penalties are sought on the same civil penalty assessment notice.

6522. Waivers and Variances. A motor vehicle carrier that has obtained a waiver or variance of any rule in this Part 6 shall:

- (a) If the waiver or variance pertains to a motor vehicle: maintain a copy of the waiver or variance in the affected motor vehicle and in the carrier's motor vehicle maintenance files.
- (b) If the waiver or variance pertains to a driver: ensure that a copy of the waiver or variance is carried on the affected driver's person and is maintained in the affected driver's qualification file.
- (c) If the waiver or variance pertains to any matter not listed in paragraphs (a) or (b) of this rule: maintain a copy of the waiver or variance at the carrier's primary place of business.