

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-402EC

IN THE MATTER OF PROPOSED RULES GOVERNING THE OPERATIONS OF MOTOR VEHICLE CARRIERS EXEMPT FROM REGULATION AS PUBLIC UTILITIES, 4 CODE OF COLORADO REGULATIONS 723-33.

NOTICE OF PROPOSED RULEMAKING

Mailed Date: September 18, 2003

Adopted Date: September 17, 2003

I. BY THE COMMISSION

A. Statement

1. The Colorado Public Utilities Commission hereby gives notice of proposed rulemaking to enact rules to regulate motor vehicle carriers exempt from regulation as public utilities as defined in § 40-16-101(4). The proposed rules set forth commission registration and filing requirements for exempt carriers, insurance requirements for exempt carriers, and set forth operational regulations for luxury limousines, and the luxury features they must offer. The rules also provide for civil penalties for violations of the rules. Increases in civil penalties are the most significant changes to regulations that were in place prior to the current set of emergency rules. The proposed rules do not include the regulations governing property carriers that were previously located in this section. Rules governing property carriers are covered in proposed rules concerning carriers of household goods.

2. A copy of the proposed rules is attached to this notice of proposed rulemaking. The statutory authority for the proposed rules is found at §§ 40-2-108(1) and 40-16-101 through 40-16-110, 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 scheduled in this matter. In the event interested persons wish to file comments before 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 October 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:

TIME: November 10, 2003
DATE: 9:00 a.m.
PLACE: Commission Hearing Room A
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 the Commission deems oral comments unnecessary.

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

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

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
SEPTEMBER 17, 2003.**

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

THE
PUBLIC UTILITIES COMMISSION
OF THE
STATE OF COLORADO

RULES REGULATING EXEMPT PASSENGER CARRIERS

4 CCR 723-33

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BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over persons providing transportation services by motor vehicle in or through the State of Colorado. These rules address a wide variety of subject areas including, but not limited to, civil penalties, insurance, and registration requirements. These rules

cover motor vehicle carriers exempt from regulation as public utilities (charter or scenic buses, children's activity buses, luxury limousines, and off-road scenic charters).

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108, 40-2-110.5(8), 40-7-113(2), and 40-16-101(3)(a)(IV)(E), C.R.S.

RULES REGULATING EXEMPT PASSENGER CARRIERS

6300. Applicability of Rules Regulating Exempt Passenger Carriers. Rules 6300 through 6399 apply to all exempt passenger carriers.

6301. Definitions. The following definitions apply throughout this Part 6, except where a specific rule or statute provides otherwise:

- (a) "C.F.R." means the Code of Federal Regulations.
- (b) "Commission" means the Public Utilities Commission of the State of Colorado.
- (c) "Driver" means any person driving a motor vehicle, including an independent contractor.
- (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 passenger carrier" means "motor vehicle carrier exempt from regulation as a public utility" as that term is defined in § 40-16-101(4), C.R.S., that transport passengers.
- (f) "Exempt passenger carrier registration" means the registration issued to an exempt passenger carrier pursuant to § 40-16-103, C.R.S.
- (g) "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.
- (h) "FMCSA" means the Federal Motor Carrier Safety Administration and includes predecessor or successor agencies performing similar duties.
- (i) "Form D-1" means a NARUC Uniform Identification Cab Card for motor vehicle or driveway operations conducted by an exempt interstate carrier.
- (j) "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.
- (k) "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.
- (l) "Form H" means a NARUC Form H Uniform Motor Carrier Cargo Certificate of Insurance, executed by a duly authorized agent of the insurer.

- (m) "Form J" means a NARUC Form J Uniform Motor Carrier Cargo Surety Bond, executed by a duly authorized agent of the surety.
- (n) "Form K" means a NARUC Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies.
- (o) "Form L" means a NARUC Form L Uniform Notice of Cancellation of Motor Carrier Surety Bonds.
- (p) "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.
- (q) "GVWR" means gross vehicle weight rating, the value specified by the manufacturer as the loaded weight of a single motor vehicle.
- (r) "Interstate carrier" means a "regulated interstate carrier" or an "exempt interstate carrier," as those terms are defined in this rule.
- (s) "Luxury limousine" means "luxury limousine" as that term is defined in § 40-16-101(3), C.R.S.
- (t) "Luxury limousine carrier" means an exempt passenger carrier providing transportation by luxury limousine.
- (u) "NARUC" means the National Association of Regulatory Utility Commissioners.
- (v) "Passenger," except as otherwise specifically defined or contextually required, means any person, other than a driver, occupying a motor vehicle.
- (w) "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 Interstate Commerce Commission or the FMCSA, as described in §§ 40-10-120(2) and 40-11-115(2), C.R.S.
- (x) "Rules Regulating Exempt Passenger Carriers" means rules 6300 through 6399, inclusive.
- (y) "Safety Rules" means the rules found in 4 CCR 723-15, inclusive.
- (z) "Seating capacity"
 - (I) Except as otherwise specifically defined or contextually required, and in the absence of the manufacturer-rated number of seating positions in a motor vehicle, including the driver, "seating capacity" means the greatest of the following:
 - (A) the total number of seat belts in a motor vehicle; or
 - (B) the number generated by adding:
 - (i) for each bench or split-bench seat, the seat's width in inches, divided by 17 inches, rounded to the nearest whole number; and

- (ii) the number of single-occupancy seats, including the driver's seat if it is not part of a split-bench seat.

(II) In all cases, any auxiliary seating positions such as folding jump seats shall be counted in determining seating capacity. For purposes of the definition of "seating capacity," "manufacturer" means the final person modifying the physical structure of a motor vehicle, such as when a motor vehicle's wheelbase is stretched in a luxury limousine.

(aa) "Transportation carrier" means an exempt passenger carrier.

6302. Applications. Transportation carriers may seek Commission action regarding any of the following matters through the filing of an appropriate application:

- (a) For a waiver or variance of any of these rules.
- (b) To qualify a motor vehicle as a luxury limousine after enforcement staff has determined that the motor vehicle does not meet relevant statutory or regulatory requirements, as provided in paragraph 6320(d).
- (c) For any other matter provided by statute or rule but not specifically described in this rule.

6303. [Reserved].

6304. Registrations. Transportation carriers may seek Commission action regarding any of the following matters through the filing of an appropriate registration:

- (a) For registration as an exempt passenger carrier, as provided in rule 6616.

6305. [Reserved].

6306. Reports, Name and Address Changes.

- (a) Within 48 hours of receipt of all supporting documentation required by this paragraph, each transportation carrier shall file a signed report with the Commission detailing any name change or address change. Such a filing shall indicate the affected registration numbers. Name change filings, including trade name changes or trade name additions, shall include supporting documentation from the Colorado Secretary of State or the Colorado Department of Revenue.
- (b) In the event of any name or address change, the transportation 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 transportation carrier's address on file with the Commission shall constitute prima facie evidence that the notice was sent to the carrier at its correct address.
- (d) No name change shall be effective until proper proof of financial responsibility in the carrier's new name has been filed with the Commission.

6307. Financial Responsibility.

- (a) The following financial responsibility is required.

- (I) Motor vehicle liability. Every transportation 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 or property damage.
- (b) Financial responsibility, minimum levels. The minimum levels of financial responsibility are prescribed as follows:
- (I) The minimum levels of financial responsibility are as follows:
- (A) Motor vehicle liability coverage shall be combined single limit liability.
- (B) Schedule of limits:

Type of Carrier	Vehicle Seating Capacity	Minimum Level
Exempt Passenger Carriers:		
Charter or Scenic Bus	33 or more	\$5,000,000
	15 or less	\$1,000,000
Luxury Limousine	16 through 32	\$1,500,000
	33 or more	\$5,000,000
Off-Road Scenic Charter	Any size	\$1,000,000
Children's Activity Bus	Any size	\$1,000,000

- (C) Transportation carriers may obtain a certificate of self-insurance issued pursuant to §§ 10-4-716 and 42-7-501, C.R.S.
- (c) Coverage criteria. The transportation 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 transportation carrier, or which may be under the control of the transportation carrier, 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 transportation 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 transportation carrier regardless of the level of funds in the retained risk pool; and
- (VI) does not permit a transportation 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 transportation carriers who have filed proof of self-insurance pursuant to §§ 10-4-716 or 42-7-501, C.R.S.

- (e) Proof of financial responsibility and inspection. The transportation carrier shall maintain at its principal place of business each original insurance policy, surety policy, or certificate of self-insurance for required coverage; maintain proof of its motor vehicle liability coverage in each motor vehicle that it operates; and shall make such information available for inspection by any enforcement official.
- (f) Forms. The transportation 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 transportation carriers a Form E or Form G.
 - (B) For transportation 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.
- (g) The transportation carrier shall ensure that the policy and the forms noted in this rule contain the transportation carrier's exact name, trade name (if any), and address as shown in the records of the Commission; and
- (h) The transportation carrier shall ensure that any change of name, trade name (if any), address, or policy number is filed, using an appropriate endorsement or amendment, with the Commission.
- (i) The proof of minimum levels of financial responsibility required by this rule is public information. Upon written request from a member of the public, the Commission will release this information.
- (j) 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 provided the letter contains the same information as required by the prescribed form.
- (k) In lieu of paragraph 6307(j), the Commission, upon receipt of a new certificate of insurance or surety bond, may administratively cancel any earlier certificate of insurance or surety bond on the effective date of the new certificate of insurance or surety bond.

6308. Revocations for Lack of Financial Responsibility.

- (a) Whenever Commission records indicate that a transportation carrier's required insurance or surety coverage is or will be canceled, and the Commission has no proof on file indicating replacement coverage, the Commission shall:
 - (I) Prior to coverage cancellation, mail notice to said carrier indicating that its required coverage will be cancelled and that the carrier's registration to operate will be revoked on the date of coverage cancellation; and
 - (II) After coverage cancellation, immediately revoke the carrier's registration, and mail notice to said carrier indicating that its required coverage has been cancelled and that the carrier's registration to operate has been revoked.

6309. Annual Motor Vehicle Identification Fees.

- (a) Every transportation 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) A transportation carrier that obtains a registration during the calendar year shall pay the annual identification fees at the time of registering as a transportation carrier.
- (c) A transportation carrier that acquires one or more additional motor vehicles during the calendar year shall pay the annual identification fees prior to putting the additional vehicle(s) in-service.
- (d) Annual identification fees shall be valid only for the calendar year for which they are purchased.
- (e) 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 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) Transportation carriers that are also exempt interstate carriers shall carry a Form D-1 with the identification stamp 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) Transportation carriers that are also regulated 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.
- (f) Transportation carriers using a motor vehicle in both interstate and intrastate operations need only pay the fees associated with interstate operations for that motor vehicle.

6310. Registration Requirement and Limitation.

- (a) Registration required.
 - (I) No person shall operate as an exempt passenger carrier without a valid registration issued by the Commission.
- (b) Registrations do not authorize transportation services covered by Articles 10, 11, 13, 14, or 16 regarding property carrier transportation of Title 40, C.R.S.
- (c) Every transportation carrier shall maintain a copy of its proof of registration under this rule in each motor vehicle it owns, controls, operates, or manages under said registration.
- (d) Upon demand, the transportation carrier shall present the copy of its proof of registration and, if applicable, its Form D-1 or Form RS-3 to any enforcement official.

6311. [Reserved].

6312. Designation of Agent.

- (a) Each transportation 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 notice, order, process, or demand. The named person is the carrier's designated agent. A carrier shall not designate the Secretary of State of the State of Colorado. 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 designated agent's name or address changes, the transportation carrier shall notify the Commission by filing a new designation within 48 hours of receiving the information required to be filed.
- (c) Service upon a transportation carrier's named designated agent as filed with the Commission shall be deemed to be service upon the transportation carrier.

6313. [Reserved].

6314. [Reserved].

6315. Regulations Incorporated by Reference.

- (a) The Commission incorporates by reference the regulations published in:
 - (I) 40 C.F.R. Part 600.315-82, revised on July 1, 2002.
 - (II) 49 C.F.R. Part 393.88, revised on October 1, 2002.
 - (III) The fuel economy guide published by the United States Environmental Protection Agency.
- (b) No later amendments to or editions of the C.F.R. are incorporated into these rules.
- (c) Persons interested in information concerning how the material incorporated by reference may be obtained or examined should contact:

Transportation Section Chief
Colorado Public Utilities Commission
Office Level 2
1580 Logan Street
Denver, Colorado 80203

Telephone: (303)894-2850

- (d) The material incorporated by reference may be examined at the offices of the Commission, Office Level 2, 1580 Logan Street, Denver, Colorado 80203, between the hours of 8:00 a.m. and 5:00 p.m., Monday through Friday, except when such days are state holidays. The material incorporated by reference may also be examined at any state publications library.

6316. Registration. Any person seeking to register as a transportation carrier shall provide the following information:

- (a) The name of the registrant and the trade name, if applicable, under which operations shall be conducted.
- (b) The registrant's telephone number, and complete physical and mailing addresses. A post office box is only acceptable if a physical address is also provided.
- (c) If a registrant is a corporation:
 - (I) The name of the state in which it is incorporated. If the state of incorporation is not Colorado, the registration shall also contain a certificate from the Colorado Secretary of State that qualifies the registrant to do business in Colorado.
 - (II) The location of its principal office, if any, in the State of Colorado.
 - (III) The names of its directors and officers.
 - (IV) A copy of its articles of incorporation or charter.
 - (V) A copy of its certificate of assumed trade name, if any.
- (d) If a registrant is a limited liability company:
 - (I) The name of the state in which it is organized. If the state of organization is not Colorado, the registration shall also contain a certificate from the Colorado Secretary of State that qualifies the registrant to do business in Colorado.
 - (II) The location of its principal office, if any, in the State of Colorado.
 - (III) The name, title, and business address of each member.
 - (IV) A copy of its certificate of assumed trade name, if any.
- (e) If a registrant is a partnership: the name, title, and business address of each partner.
- (f) A statement whether any of the motor vehicles to be used have a GVWR of 10,000 or more pounds.
- (g) A statement that the registrant is familiar with the Rules Regulating Exempt Passenger Carriers and all applicable safety rules, and will comply with them.
- (h) A statement that registrant understands that the filing of a registration does not constitute authority to operate.
- (i) A statement made under penalty of perjury and signed by an officer, a partner, an owner, or an employee of the applicant, as appropriate, who is authorized to act on behalf of the applicant and which states that the contents of the application are true, accurate, and correct. The application shall contain the complete address of the affiant.

- (j) In addition to the application, a person seeking a registration to operate as a transportation carrier shall cause to be filed both the required proof of financial responsibility and the required annual identification fees.
- (k) The Commission will not issue a registration to operate as a transportation carrier until the Commission has received a complete application, the required proof of financial responsibility, and the required annual identification fees.

6317. Exterior Signs or Graphics.

- (a) No person shall operate a luxury limousine that is identified by exterior signs or graphics.
- (b) Signs or graphics located inside the luxury limousine that are readily legible from the outside shall be deemed to be exterior signs and graphics.
- (c) For purposes of this rule and § 40-16-101(3)(a)(I), C.R.S., and except as specifically provided in paragraph (d) of this rule, "identified" is deemed to mean an identification of the name, address, Internet address, phone number, or any other contact information of the person offering luxury limousine service.
- (d) Nothing in this rule shall prohibit the following:
 - (I) markings, signs, or graphics otherwise required by law, including those required by any rule of the Commission, the Colorado Department of Public Safety, or the FMCSA;
 - (II) markings, signs, or graphics attached by any law enforcement agency; or
 - (III) signs or graphics attached by the motor vehicle manufacturer or dealership for the purpose of identifying the manufacturer, dealership, or the motor vehicle's make or model.

6318. Revocation of Registration. The Commission, on its own motion or as a result of a complaint or grievance by any person, after reasonable notice and a hearing, may revoke a luxury limousine carrier's registration pursuant to § 40-16-103.6, C.R.S.

6319. Discretionary Vehicle.

- (a) Discretionary vehicle, as used in § 40-16-101(3)(a)(IV)(E), C.R.S., means a motor vehicle that meets any one of the following categories:
 - (I) A motor vehicle whose wheelbase has been lengthened beyond the manufacturer's original specifications, whether at the manufacturer's factory or otherwise.
 - (II) A motor vehicle that has four doors, that meets or exceeds the interior volume index for "large cars" in 40 C.F.R. § 600.315-82, and that is classified as a luxury sedan or sport utility vehicle in the fuel economy guide published by the United States Environmental Protection Agency or any similar luxury sedan or sport utility vehicle that is so new as to not yet be listed in the fuel economy guide.
 - (III) A motor vehicle built on a cutaway chassis, a motor coach, or a motor vehicle that is classified as a van, not a mini van, in the fuel economy guide published by the United

States Environmental Protection Agency, whose interior seating has been enhanced from standard bench seats by the installation of captain's chairs, couch seats, or similar seating.

- (IV) A motor vehicle, which is a classic, antique, or specially built motor vehicle that, at the time of registration as a luxury limousine, has a retail value of fifty thousand dollars or more.
- (b) A registrant seeking to qualify a motor vehicle pursuant to rule 6318 (a) (IV) shall supply proof of the retail value of the vehicle in the form of either: reference to the most recent available edition of the NADA "blue book" or other publication establishing the retail value of the vehicle; or a sales receipt or affidavit confirming the actual price of the vehicle.

6320. Luxury Limousine Features, Qualification, and Applications for Qualification.

- (a) Features. Each luxury limousine carrier shall ensure that its motor vehicles, when in operation as luxury limousines or waiting to pickup a chartering party, are equipped with the following:
 - (I) A television. The television shall be securely attached to the motor vehicle in a professional manner. An electronic media system such as DVD or VHS may be used in lieu of a television receiver. The screen shall have a diagonal measurement of at least three inches, be visible to passengers seated to the rear of the driver, and be in compliance with 40 C.F.R., § 393.88.
 - (II) A telephone. The telephone shall at all times be accessible to the passengers and capable of making and receiving calls. An intercom system does not meet the requirements of this rule.
 - (III) Beverages and beverage service amenities, including at least an ice container and glasses or cups. The beverages and amenities shall be securely positioned inside a console or cabinet located inside the passenger compartment, to include any console and cup holder built into the motor vehicle by the manufacturer, and securely attached to the motor vehicle in a professional manner. The beverages are not required to be alcoholic in nature.
- (b) For purposes of paragraph (a) of this rule, attachment by a means of tape, Velcro straps, or similar means does not constitute a secure or a professional manner of attachment.
- (c) Qualification. No luxury limousine carrier shall operate any motor vehicle as a luxury limousine unless the luxury limousine carrier has first:
 - (I) contacted an enforcement official of the Commission;
 - (II) adequately described the motor vehicle to the enforcement official; and
 - (III) received verbal or written confirmation from the enforcement official that the subject motor vehicle meets relevant statutory and regulatory requirements for operation as a luxury limousine.
- (d) Applications for qualification. If the Commission's enforcement official determines that a motor vehicle does not meet relevant statutory and regulatory requirements for operation as a luxury limousine, and the luxury limousine carrier disagrees with the enforcement official's determination, such luxury limousine carrier may file an application to the Commission for a

hearing on the matter. In any such hearing, the luxury limousine carrier shall bear the burden of proving that the motor vehicle in question complies with relevant statutory and regulatory requirements.

6321. Luxury Limousine Operational Requirements.

- (a) No person shall provide luxury limousine service if such service has been arranged or reserved in person (not by mail, telephone, telefacsimile, or computer) with the chartering party at the point of departure.
- (b) For purposes of this rule a person shall be deemed to have provided luxury limousine service if such person:
 - (I) accepts payment for the transportation from the chartering party at the point of departure; or
 - (II) renders luxury limousine service by making the luxury limousine available to the chartering party at the point of departure; or
 - (III) loads the chartering party or its baggage into the luxury limousine; or
 - (IV) transports the chartering party in the luxury limousine.

6322. Waivers and Variances.

- (a) Variance or waiver - general.
 - (I) As used in this rule, "variance" means authorization to use a different method or means to comply with a rule.
 - (II) As used in this rule, "waiver" means authorization not to comply with a rule.
 - (III) The Commission may permit a variance of a rule, or may waive a rule, if it concludes that, under the circumstances presented, strict compliance with the rule is impossible, impracticable, or unreasonable. The Commission may grant a variance or a waiver subject to such terms and conditions as it deems appropriate. The Commission will not grant a variance or a waiver if the variance or waiver would be contrary to law.
 - (IV) A transportation carrier must comply with the rules until and unless the Commission grants that carrier a variance or a waiver of one or more rules.
- (b) Procedure for seeking variance or waiver.
 - (I) A request for a variance or a waiver made in an existing docket shall be made by motion.
 - (II) A request for a variance or a waiver made outside a docketed proceeding shall be made by petition.
 - (III) A request for a variance or a waiver, whether made by motion or by petition, shall include at least the following information:

- (A) Citation to the specific provision of the rule which is sought to be varied or waived;
 - (B) A clear and concise statement of the variance or waiver requested;
 - (C) A statement of the facts and circumstances relied upon to demonstrate why the Commission should grant the variance or waiver;
 - (D) A statement regarding the duration of the requested variance or waiver, including a statement of specific date or event which will terminate the variance or waiver, if granted;
 - (E) A statement whether the variance or waiver, if granted, would be full or partial; and
 - (F) An acknowledgment that the transportation carrier requesting the variance or waiver understands that the variance or waiver is not effective until approved by the Commission.
- (c) Record keeping requirements. A transportation carrier that has obtained a variance or a waiver of any rule in this Part shall:
- (I) If the variance or waiver pertains to a motor vehicle: maintain a copy of the variance or waiver both in the affected motor vehicle and in the carrier's motor vehicle maintenance files.
 - (II) If the variance or waiver pertains to a driver: ensure that a copy of the waiver or variance is carried on the affected driver's person whenever the driver is operating a motor vehicle as a transportation carrier and also is maintained in the affected driver's qualification file.
 - (III) If the variance or waiver pertains to any matter not listed in subparagraphs (c)(I) or (II) of this rule: maintain a copy of the variance or waiver at the carrier's primary place of business.

6323. Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates any of the following provisions regarding motor vehicle liability insurance requirements may be assessed a civil penalty of up to \$11,000 for each violation: § 40-16-104(1)(a), (b), (c), or (d), C.R.S.; or subparagraph (a)(I) or (b)(I) of rule 6307.
- (b) A person who violates any of the following provisions may be assessed a civil penalty of up to \$1,100 for each violation:
 - (I) Luxury limousine operational requirements: § 40-16-102.5, C.R.S.; or paragraph 6321(a).
 - (II) Registration requirements: § 40-16-103, C.R.S.; or subparagraph 6310(a)(I).
- (c) Except as provided for in paragraphs (a) and (b) of this rule, a person who violates any provision of Title 40, C.R.S., or rules 6300 through 6323 pertaining to exempt passenger carriers may be assessed a civil penalty of up to \$550 for each violation.

- (d) Pursuant to § 40-7-114, C.R.S., any owner or other person who employs a driver who operates a motor vehicle in violation of the statute or these rules may be assessed a civil penalty for such violation.
- (e) 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.
- (f) The Commission may assess any person a civil penalty containing doubled penalties if:
 - (I) the person engaged in prior conduct which resulted 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 the conduct which resulted in the issuance of a civil penalty assessment notice; and
 - (IV) the conduct for which doubled penalties are sought occurred after the person's receipt of the prior civil penalty assessment notice.
- (g) The Commission may assess any person a civil penalty containing tripled penalties if:
 - (I) the person engaged in two or more instances of prior conduct which resulted 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 the most recent conduct which resulted in the issuance of the prior civil penalty assessment notices; and
 - (IV) the conduct for which tripled penalties are sought occurred after the person's receipt of two or more prior civil penalty assessment notices.
- (h) 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.
- (i) 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.