

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 08R-478TR

IN THE MATTER OF THE PROPOSED RULES REGULATING TRANSPORTATION BY
MOTOR VEHICLE, 4 CODE OF COLORADO REGULATIONS 723-6.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
PAUL C. GOMEZ
ADOPTING RULES**

Mailed Date: February 19, 2009

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 A. The Commission Orders That:38

I. STATEMENT

1. The above-captioned rulemaking proceeding was commenced on October 30, 2008, when the Colorado Public Utilities Commission (Commission) issued its Notice of

Proposed Rulemaking (NOPR) in this matter. *See*, Decision No. C08-1130. A copy of the proposed rule was attached to the NOPR.

2. The NOPR was published in the November 10, 2008 edition of *The Colorado Register*.

3. The purpose of this proceeding is to amend certain Commission Rules Regulating Transportation by Motor Vehicle found at 4 *Code of Colorado Regulations* (CCR) 723-6 (Rules). More specifically, the basis and purpose of the proposed Rules is to implement House Bills (HB) 08-1216 and 08-1227; to make modifications to advertising rules; to consolidate the rules on revocation, suspension, alteration, or amendment of certain authorities, permits, and registrations; to clarify the applicability of the Unified Carrier Registration Agreement (UCR); to increase the flat rate for taxi service to and from Denver International Airport (DIA); to clarify the rules regarding luxury limousine exterior signs and graphics, and operational requirements; to increase the towing and storage rates and charges for non-consensual tows; and to add a consumer advisement and binding arbitration rule for household goods movers.

4. The statutory authority for the proposed Rules is found in §§ 40-2-108, 40-2-116, 40-3-102, 40-5-105, 40-7-113(2), 40-10-105(2)(c), 40-10-105.5(5), 40-10-111, 40-10.5-102(20)(c), 40-11-103(1), 40-11-105, 40-13-104(1), 40-13-107, 40-14-108(1), 40-14-110, 40-16-103.8, 40-16-104.5(5), and 40-16-105(1), C.R.S.

5. Written comments were filed in this proceeding by or on behalf of Colorado Cab Company, LLC, doing business as Denver Yellow Cab and/or Boulder Yellow Cab (Colorado Cab); Diamond Limousine, LLC; A Custom Coach Transportation; A Luxury Limo & Sedan Service, LLC; A Affordable Transportation, LLC; Denver Lincoln Limousine, Inc.; A Last

Minute Limousine; Mr. Brandon LaSalle, representing American Family Insurance Group; and Mr. Harvey V. Mabis.

6. A hearing was conducted in this matter on December 4, 2008. Representatives of the following entities entered appearances and provided oral comments at the hearing: Staff of the Commission (Staff); Mr. Richard Fanyo on behalf of Colorado Cab; Mr. George Connolly on behalf of The Towing and Recovery Professionals of Colorado; Mr. Brandon LaSalle of American Family Insurance Group; Mr. Greg Fulton of the Colorado Motor Carriers Association; Mr. Harvey Mabis; Mr. James Cookenboo and Ms. Barbara Curtis of the Limousine Association of Colorado; Mr. John Hafer on behalf of A Custom Coach Transportation; Mr. David Glassey; and Mr. Shawn Stickle on behalf of Presidential Limousine. Several other representatives of limousine companies offered oral comments at the hearing as well. The comments received at hearing are discussed in more detail below.

7. At the conclusion of the rulemaking hearing, the ALJ took the matter under advisement. Pursuant to § 40-6-109, C.R.S., the ALJ hereby transmits to the Commission the record of this proceeding, as well as a written recommended decision.

II. FINDINGS, DISCUSSION, AND CONCLUSIONS

A. General Provisions

8. The addition or amendment of several of the terms contained in the Definitions section of Rule 6001 were proposed in the NOPR. Proposed Rule 6001(a) established a definition of the terms “advertise” as used in proposed Rule 6016, which in addition to

household goods movers, established advertising requirements for common carriers, contract carriers, and exempt passenger carriers. Proposed Rule 6001(a) added the following definition:

“Advertise” means to advise, announce, give notice of, publish, or call attention to by use of any oral, written, or graphic statement made in a newspaper or other publication, on radio, television, or any electronic medium, or contained in any notice, handbill, sign (including signage on a vehicle), flyer, catalog, or letter, or printed on or contained in any tag or label attached to or accompanying any article of personal property.

According to Staff, this new language fits in with proposed Rule 6016. Additionally, as a result of this new language, Rule 6601(b) is proposed to be deleted, in order for the new rule to be applied on a broader scope than just household goods movers.

9. Only one comment regarding the addition of this definition was received during the hearing. Mr. Mabis commented that an adjunct should be placed at the end of the definition indicating the definition of “advertise” is applicable only to commercial offering services. He offered that the definition is not applicable to “private carriers” or “motor private carriers” because these carriers are exempt from Commission jurisdiction pursuant to federal statute 49 U.S.C. 14501(c).

10. The undersigned ALJ finds that the proposed language as indicated above is clear and unambiguous. Including language as proposed by Mr. Mabis does not add clarification, therefore, proposed Rule 6001(a) will be adopted without change, including the deletion of Rules 6601(b) and 6606.

11. Proposed Rules 6001(r) through 6001(w) merely delete the reference to “NARUC” since this reference is no longer applicable. Additionally, Rule 6001(uu) which defines the acronym NARUC is deleted. No comment was received regarding these proposed rule changes. These proposed changes will be adopted.

12. Proposed Rule 6001(ii) establishes the definition of “luxury limousine service” that is used throughout the Rules as follows:

“Luxury limousine service” means a specialized, luxurious transportation service provided on a prearranged, charter basis as defined in rule 6301(a). “Luxury limousine service” does not include taxicab service or any service provided between fixed points over regular routes at regular intervals.

Amendments are also made to Rule 6001(hh) to correspond to these proposed changes.

13. No comments were offered either in writing or at hearing regarding these rule changes. The proposed modifications to Rule 6001(ii) and Rule 6001(hh) will be adopted.

14. Proposed Rule 6001(qq) is deleted in its entirety and replaced with Rule 6001(ccc) which defines the “Unified Carrier Registration Agreement Rules.” No comments were provided regarding this change. The deletion of Rule 6001(qq) coupled with the addition of Rule 6001(ccc) will be adopted.

15. The proposed amendment to Rule 6006(b) removes the reference to the Colorado Department of Revenue as an agency from which a transportation carrier must provide supporting documentation regarding name changes such as trade names or trade name additions, because this reference is no longer applicable. This amendment to Rule 6006(b) will be adopted.

16. Proposed Rule 6008(a)(I)(B) establishes a criterion for cancellation of an insurance filing upon failure of the issuing insurance company to respond to an inquiry from the Commission requesting verification of the insurance coverage. The title of Rule 6008 is proposed to be amended from *Summary Suspensions and/or Revocations for Lack of Financial*

Responsibility to Revocation, Suspension, Alteration, or Amendment. Additionally, subsection

(a)(I)(B) is added to indicate that:

[f]or purposes of this paragraph, failure on the part of an insurance company to respond to a Commission inquiry for verification of insurance coverage within 60 days shall be treated as a cancellation of insurance.

17. According to Staff, this section was added due to problems encountered by Staff when insurance companies fail to respond to requests as to whether a carrier's insurance remains active. Staff represents that this addition provides it with the ability to act administratively to revoke an authority despite the insurance company's failure to update the carrier's information, or require a formal process to revoke an authority because current proof of insurance is not available at the Commission.

18. No other comments were received on this proposed rule addition. Administrative inefficiencies in this area are certainly a concern of Staff. Not being able to remove a carrier's authority merely because an insurance company fails to timely respond to Staff inquiries is frustrating and time consuming, especially when Staff is aware that a carrier has gone out of business. Therefore, the proposed rule will be adopted.

19. Proposed Rule 6008(c) consolidates into a single rule, the revocation, suspension, alteration, and amendment rules found in current Rules 6204, 6306, 6505, and 6604. With the adoption of proposed Rule 6008(c), it is proposed that Rules 6204, 6306, 6505, and 6604 be deleted. The proposed rule combines regulated intrastate carriers, exempt passenger carriers, towing carriers, household goods movers, or property carriers under a single rule regarding when the Commission may revoke, suspend, alter, or amend those entities' authorities, permits, or registrations.

20. Additionally, proposed Rules 6008(d), (e), and (f) address when various carriers may re-apply for authority when their existing authority or registration is revoked. At the hearing, Staff proposed further amending Rule 6008 by combining Rules 6008(d) and (e) into an amended paragraph (d) entitled *Period of Ineligibility*.

21. Subsection (I) of new Rule 6008(d) provides that exempt passenger carriers, household goods movers, property carriers, and towing carriers, whose operating rights are revoked, shall be ineligible to be issued another operating right for at least one year from the date of revocation. According to new subsection (d)(II), if a carrier as listed above has its operating right revoked more than twice, shall be ineligible to be issued another operating right for at least two years from the date of revocation. Subsection (d)(III) is added and provides that in the case of an entity other than an individual, the periods of ineligibility will also apply to all principals (including members of a limited liability company), officers, and directors of the entity, whether or not those persons apply individually or as a principal, officer, or director of the same or a different entity for an operating right during the period of ineligibility. Subsection (e), which replaces proposed subsection (f), provides that revocations solely the result of a failure to maintain financial responsibility required by Rule 6007, unless the failure was knowing, are not applicable to subparagraphs (d)(I) and (II).

22. According to Staff's comments at hearing, proposed Rules 6008(d) and (e) alleviate the "revolving door" effect under the current and proposed Rules whereby a person whose operating right is revoked for the first time may immediately obtain a new operating right. Staff asserts that subsection (d)(III) is consistent with the statutory language of §§ 40-13-107 and 40-16-103.6(3), C.R.S. Additionally, the proposed amendments are consistent with the statutory

language of §§ 40-13-107 and 40-13-109, C.R.S., regarding towing carriers. The new, proposed language for Rules 6008(d) and (e) is provided in the attached rules to this Order.

23. In comments at hearing, Mr. George Connolly, representing the Towing and Recovery Professionals of Colorado, expressed concerns regarding proposed Rule 6008(d)(III) that provides that the period of ineligibility to apply for operating rights is applicable to “principals (including members of a limited liability company), officers, and directors of the entity ...” Mr. Connolly stated that his concern centers around the inclusion of the terms “officers,” and “directors.” Mr. Connolly is of the opinion that the rule should be directed at principals of a corporation only, in order to avoid confusion.

24. The subsequent changes to proposed Rules 6008 (d), (e), and (f) proposed by Staff provide clarity to the rule. It also achieves the purpose of removing the “revolving door” aspect that allowed entities and individuals to immediately apply for an authority after revocation of a previous authority. No further changes are necessary to the language of Rule 6008(d)(III). The inclusion of the terms “officers” and “directors” ensures the rule is inclusive and unambiguous as to whom it applies. Therefore, the proposed amendments to Rules 6008(d), (e), and (f) which consolidate those rules into subsections (d) and (e) are adopted.

25. Proposed Rule 6009 Annual Motor Vehicle Identification Fees, includes several amendments. Rule 6009(a) is amended to include the language “[e]xcept as provided in paragraph (h) ...” Rule 6009(b) amends and establishes, on a permanent basis, the existing emergency rule for annual identification fees. The proposed language of subsection (b) is as follows:

Notice of the annual identification fee provided on the Commission’s website, at least 60 days prior to the effective date of such fee, transportation carrier

registration and application forms, and annual identification fee renewal notices, shall constitute sufficient public notice of the applicable annual identification fee.

26. Proposed Rule 6009(g) is amended to provide language on the proper placement of the vehicle identification stamp.

27. Proposed Rule 6009(h) replaces original proposed Rule 6009(i). New proposed subsection (h) addresses the concerns raised by several parties at hearing regarding confusion surrounding the meaning and applicability of proposed subsection (i) relating to a UCR Registrant. In response to those concerns, Staff proposed to delete subsection (i) and add subsection (h), which reads as follows:

(h) Exception for a UCR registrant.

(I) Except as provided in subparagraph (II), a transportation carrier that is also a UCR registrant for the same calendar year is exempt from paragraph (a) of this rule.

(II) A transportation carrier that is also a UCR registrant is subject to the annual identification fee for any motor vehicle used only in intrastate commerce if:

(A) the motor vehicle was not included in the calculation of fees paid under the UCR Agreement, and

(B) the motor vehicle is used to provide:

(i) transportation of waste or recyclable materials;

(ii) transportation of household goods;

(iii) non-consensual tows; or

(iv) passenger transportation that is not subject to the preemption provisions of 49 U.S.C. section 14501(a).

28. The proposed language for new Rule 6009(h) alleviates the concerns of the ALJ and the parties offering comment on the rule. The new rule clearly identifies when UCR registrants are, and are not exempt from the requirement to pay an annual identification fee.

Therefore, proposed Rule 6009(h) is adopted as indicated in ¶ 27 above. As a result, existing Rule 6401(c) is deleted.

29. Several parties at hearing also expressed concerns regarding the amount of the fees and the methodology for their determination. The basis for the rule change emanates from HB08-1227, the Commission's Sunset Bill. Under the provisions of that Bill, the language of § 40-2-110.5(1), C.R.S., was amended, effective July 1, 2008. That statutory section now provides in relevant part that "every motor vehicle carrier exempt from regulation as a public utility shall pay an annual identification fee, set administratively by the commission, for each motor vehicle such carrier owns, controls, operates, or manages." *See*, § 40-2-110.5(1), C.R.S. That section goes on to state that "[f]ees shall be set based upon the appropriation made for the purposes specified in section 40-2-110(2)(a)(I), subject to the approval of the executive director of the department of regulatory agencies, such that the revenue generated from all motor vehicle carrier fees approximates the direct and indirect costs of the commission in the supervision and regulation of motor carriers." *Id.*

30. In turn, § 40-2-110(2)(a)(I), C.R.S., provides that:

At each regular session, the general assembly shall determine the amounts to be expended by the public utilities commission for its administrative expenses in the supervision and regulation of motor carriers as provided by law and shall appropriate such amounts from the public utilities commission motor carrier fund established in section 40-2-110.5 as are necessary to be expended by the commission to accomplish said purposes.

While some parties expressed frustration at the amount of the fee and the method in which it is calculated, the language of the above cited statutes makes clear that the fee amount is a function of the general assembly, which the Commission must then pass along to the affected motor carriers. While the undersigned ALJ understands the concerns of the parties, it is also clear that the relief they seek lies within the legislature and not at the Commission. The Commission must

abide by the terms of the statute and set fees based upon the appropriation made for the purposes specified in § 40-2-110(2)(a)(I), C.R.S., subject to the approval of the executive director of the department of regulatory agencies. As such, the fee setting responsibility is now a component of the general assembly's appropriation from the motor carrier fund, rather than a Commission determination of what the fee amount should be.

31. The undersigned ALJ finds the proposed rule language comports with the statutory requirements of §§ 40-2-110(2)(a)(I) and 40-2-110.5(1), C.R.S. Therefore, deletion of subsection (i) and new, proposed Rules 6009(a), (b), (g) and (h) are adopted as proposed by Staff.

32. Proposed Rule 6011(a), *Designation of Agent*, amends the applicability for filing a designation of agent. The proposed language exempts sole proprietorships and partnerships from the requirement to file a designation of agent for service of process. No comments were offered regarding this rule change. Therefore, the language of proposed Rule 6011(a) will be adopted.

33. Proposed Rule 6015 *Fingerprint-Based Criminal History Background Checks* amends the existing emergency rule for fingerprint-based criminal history background checks. Amendments to the rule were also made due to new statutory provisions amended by HB08-1227 in §§ 40-10-105.5 and 40-16-104.5, C.R.S.

34. Initially, Rule 6015(a)(IV) exempts fire crew transport from the definition of "passenger carrier." Recent legislation struck fire crew transports from having to go through the fingerprint process. The proposed amendment will be adopted.

35. Rule 6015(f) Disqualification amends the existing rule that defines a felony or misdemeanor involving moral turpitude. Staff's experience with the rule revealed that the definition did not give the Commission any discretion. Rather, it merely provided stringent parameters that provided little direction to Staff. Amendments to Rule 6015(f) now define a

felony or misdemeanor that constitutes moral turpitude specifically for the purpose of Staff's initial qualification determination. Under this process Staff will make an initial qualification, depending on the information Staff receives regarding the crime from the fingerprint check information received from the Colorado Bureau of Investigation. The driver may then appeal Staff's decision within 60 days of the determination under the provisions of the Colorado Administrative Procedures Act. Unlike the current process, this method would provide the Commission with the opportunity to consider mitigating factors such as rehabilitation.

36. Proposed Rule 6015(f)(II) amends the disqualifying offenses pursuant to the changes in HB08-1227. Prior to the enactment of HB08-1227, disqualifying offenses included crimes of violence, driving under the influence, and driving while ability impaired. Under HB08-1227, the Commission now has some discretion to set the disqualifying offenses. Pursuant to §40-10-105.5(4)(a), C.R.S., disqualification occurs under the following circumstances:

4) An individual whose criminal history record is checked pursuant to this section shall be disqualified and prohibited from driving a taxicab for a holder of a certificate of public convenience and necessity that contains authority to operate as a taxicab if the criminal history record check reflects that:

(a) The individual is not of good moral character, as determined by the commission based on the results of the criminal history record check required by this section;

(b) (I) The individual has been convicted of a felony or misdemeanor involving moral turpitude.

(II) As used in this paragraph (b), "moral turpitude" shall include any unlawful sexual offense against a child, as defined in section [18-3-411](#), C.R.S., or a comparable offense in any other state or in the United States.

(c) Within the two years preceding the date the criminal history record check is (I) Convicted in this state of driving under the influence, as defined in section [42-4-1301](#) (1) (f), C.R.S.; driving with excessive alcoholic content, as described in section [42-4-1301](#) (2) (a), C.R.S.; driving while ability impaired, as defined in section [42-4-1301](#) (1) (g), C.R.S.; or driving while an habitual user of a controlled

substance, as described in section [42-4-1301](#) (1) (c), C.R.S.; or completed, the individual was:

(II) Convicted of a comparable offense in any other state or in the United States.

Similar language can be found at §§ 40-16-104.5(4)(a) through (c)(II), C.R.S.

37. Utilizing the requirements of § 40-10-105.5, C.R.S., and Commission discretion, Staff proposes that the following crimes that constitute “not of good moral character” or crimes involving “moral turpitude” be included in Staff’s initial determination of disqualification: Rule 6015(f)(II)(A) a conviction at any time of a class 1 or 2 felony under Title 18, C.R.S.; (f)(II)(B) a conviction in the State of Colorado at any time of any unlawful sexual offense against a child as defined in § 18-3-411, C.R.S.; (f)(II)(C) a conviction in the State of Colorado, within the ten years preceding the date the criminal history record check is completed, of a crime of violence, as defined in § 18-1.3-406(2), C.R.S.; and (f)(II)(D) a conviction in the State of Colorado within the eight years preceding the date the criminal history record check is completed, of any class 3 felony under Title 18, C.R.S. Staff notes that this excludes computer crimes; a conviction in the State of Colorado, within the four years preceding the date the criminal history record check is completed, of any class 4 felony under Articles 2, 3, 3.5, 4, 5, 6, 6.5, 8, 9, 12, or 15 of Title 18, C.R.S.

38. Proposed Rule 6015(f)(IV) provides that a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.

39. Finally, proposed Rule 6015(m) provides that at any time, Staff shall disqualify a previously qualified driver whose subsequent conviction meets the criteria of subparagraph (f)(II). Additionally, the provisions of paragraph (j) are to apply as if the subsequent qualification determination was an initial qualification determination.

40. It is apparent that §§ 40-10-105.5 and 40-16-104.5, C.R.S., provide the Commission with certain discretion in determining when an individual is not of “good moral character.” In addition, subsection (4.5) requires the Commission to “consider the information resulting from the criminal history record check in its determination as whether the individual has met the standards set forth in section 24-5-101(2), C.R.S.”

41. Section 24-5-101(2), C.R.S., provides that when a state agency is required to find that an applicant for a license, certificate, permit, or registration is a person of good moral character as a condition to its issuance, the fact that the applicant has been convicted of a felony or other offense involving moral turpitude, as well as pertinent circumstances surrounding the conviction, are to be given consideration in determining whether the applicant is of good moral character at the time of the application. Most importantly, the legislative intent is unambiguously stated. “The intent of this section is to expand employment opportunities for persons who, notwithstanding that fact of conviction of an offense, have been rehabilitated and are ready to accept the responsibilities of a law-abiding and productive member of society.” *Id.*

42. Consequently, as long as an agency’s rules are designed to carry forward that legislative intent, they should be considered reasonable and within the statutory requirements of the agency. Here, the undersigned ALJ finds that the amendments to the Fingerprint-Based Criminal History Background Check Rules are consistent with the statutory changes brought about by HB08-1227 and with the legislative intent expressed in § 24-5-101(2), C.R.S. Therefore, the language amending Rule 6015 as proposed by Staff will be adopted.

43. Proposed Rule 6016, *Advertising*, sets out the requirements for regulated intrastate carriers, exempt passenger carriers, towing carriers, and household goods movers regarding advertising. The rule generally provides that such carriers are not to advertise a transportation

service in a name other than the name under which the carrier's or mover's authority or operating right is held. However, subsection (a)(I) provides that a trade name may be used if the authority or operating right is held under that trade name, and the name of the parent company is not required in the advertisement. Under subsection (a)(II), if multiple authorities are held under multiple trade names, the carrier or mover is not required to advertise under all the trade names.

44. Colorado Cab expressed concern at the hearing regarding proposed subsection (c) that the proposed language seemed to prohibit roof lights with the exception of roof lights that identify a taxicab operated by a common carrier under authority to provide taxicab service. Colorado Cab's concern is that the proposed language seems to preclude illuminated advertising signs on top of taxicabs. In response, Staff indicated that it was not the intent to preclude a taxicab company from being able to make a legitimate income from advertising that occurs through illuminated roof signs.

45. As a result, Colorado Cab and Staff propose new language regarding Rule 6016(c)(III)(B) to preclude taxicabs from the advertising restriction as follows:

B) a roof light to identify a taxicab operated by a common carrier under an authority to provide taxicab service, or any advertising on the roof of a taxicab operated by a common carrier under an authority to provide taxicab service.

The remaining proposed language of Rule 6016 remains as provided in the NOPR.

46. With the changes to subsection 6016(c)(III)(B) as indicated above, the proposed language of Rule 6016 *Advertising* will be adopted.

47. Proposed Rule 6017(l) amends the civil penalty assessment notice (CPAN) rule to include the surcharge required by § 24-34-108(2), C.R.S., as enacted by HB08-1216. No comments were received by any party. Therefore, the language of proposed Rule 6017(l) will be adopted.

B. Safety Rules

48. Proposed Rule 6102(a) updates the provisions of federal regulations at 49 *Code of Federal Regulations* (CFR) that are incorporated by reference into the Commission rules at 4 CCR 723-6. No comments were received regarding these changes. Therefore, the amendments that add the federal regulations at 49 C.F.R. that are incorporated by reference into the Commission rules will be adopted.

C. Common and Contract Carrier Rules

49. Proposed Rules 6203(a)(III), (IV), and (V), *Applications to Operate as a Common Carrier or Contract Carrier*; Rules 6303(a)(IV), (V) and (XIII), *Registration* (exempt passenger carriers); and Rules 6603(a)(IV) and (V), *Registration* (household goods movers and property carriers), are amended to provide some uniformity in the type of information requested in the applications and registrations. The Rules generally provide for the name and address of the applicant's Colorado agent for service of process, if required by Rule 6011, as well as including limited liability companies as an entity in the description of the applicant's business structure.

50. No comments were received regarding the proposed rule changes. Therefore, the amendments to the proposed rules above in ¶ 37 will be adopted.

51. Proposed Rules 6203(a)(X), (XII), (XIII) and (XIV); as well as Rules 6205(c)(I), (II), (XIII), and (XIV) make permanent, the existing emergency rules pertaining to certificates of public convenience and necessity (CPCN) to provide taxicab service. These rule changes propose to make permanent, the existing emergency rules pertaining to CPCN applications to provide taxicab service. The emergency rules were implemented to comport with statutory changes regarding taxicab service in the Counties of Adams, Arapahoe, Boulder, Broomfield, Douglas, El Paso, and Jefferson. For example, §§ 40-10-105(2)(b)(II)(A) and (B), C.R.S., spells

out the process for a taxicab CPCN application in the above mentioned counties and the burdens of proof in determining whether to grant the authority. Additionally, § 40-10-105(2)(c), C.R.S., provides that the Commission has the duty and authority to “adopt rules which are in the public interest to regulate matters of safety, insurance and service quality for taxicab service in the state.”

52. No comments were received from any party regarding these proposed Rules. The language of proposed Rules 6203(a)(X), (XII), (XIII) and (XIV); as well as Rules 6205(c)(I), (II), (XIII), and (XIV), which make permanent, the existing emergency rules pertaining to CPCNs to provide taxicab service will be adopted.

53. Proposed Rule 6207(i)(III) relating to proposed tariff amendments which result in an increase in rates, fares, or charges, amends the rule in order that it applies to call-and-demand limousine, scheduled, special bus, or taxicab service, but not to sightseeing service.

54. No comments were received from any party regarding the proposed rule. The language of proposed Rule 6207(i)(III) will be adopted.

55. Proposed Rule 6210 amends the driver courtesy rule so that it applies not only to passengers, but to “other persons” as well. No comments were received from any party regarding the proposed rule. The language of proposed Rule 6210 will be adopted.

D. Rules Specifically Applicable to Taxicab Carriers

56. Proposed Rule 6252 amends the current rule to allow the placement of required notices either on the inside of the left window behind the driver’s window, or on the back of the front seat. No comments were received from any party regarding the proposed rule. The language of proposed Rule 6252 will be adopted.

57. Proposed Rule 6256(f) amends the current rule to increase the flat rate for taxi service to and from DIA and the three zone areas (Zone A – Downtown Denver; Zone B – Denver Tech Center; Zone C – Boulder), based on the lowest meter rate on file with the Commission. The flat rates were initially set at \$43 for Zone A, \$45 for Zone B, and \$70 for Zone C. The proposed rule change would increase the flat rates to \$47, \$54, and \$81 respectively. Staff indicates that this rate has not been changed since it was set in approximately 1999.

58. Colorado Cab filed written comments on the proposed rule change and offered comments at hearing as well. While it concurs that the flat rate should be increased, it argues that the rates should instead be increased by approximately 20 percent to \$51, \$57 and \$84 respectively. In determining these flat rates, Colorado Cab represents that utilizing MapQuest, it has determined that the mileages used to calculate the flat rates are incorrect. For example, it argues that the mileage between DIA and the specified point for Zone B is 27.7 and not 26.3 miles as specified in the current and proposed Rules. Therefore, the Zone B flat rate for 27.7 miles should have been \$48, not \$45. A 20 percent increase in the \$48 rate would be approximately \$57.

59. The proposed flat rates of \$51, \$57, and \$84 are based on the lowest tariff meter rates currently on file for the three taxi companies which are now subject to the rule, which are Freedom Cab's tariff rates of \$1.80 for the first 1/9 mile and \$1.80 per mile thereafter, according to Colorado Cab. Staff supports the 20 percent increase proposed by Colorado Cab.

60. While Staff was not entirely in agreement with Colorado Cab's mileage calculations regarding the distance to DIA from Zone B, Staff nonetheless supports Colorado

Cab's proposal to increase the flat rates. Given the length of time since the flat rates were increased (nearly ten years), it is reasonable to approve the rates proposed by Colorado Cab.

61. As a result, Rule 6256(f) is amended to increase the flat rate for taxi service to and from DIA as follows: Zone A - \$51; Zone B- \$57; and, Zone C - \$84 will be adopted.

E. Exempt Passenger Carrier Rules

62. Proposed Rules 6301(a) and (b) establish definitions for "charter basis" and "chartering party." These definitions are proposed only within the context of the Exempt Passenger Carrier Rules. Because the terms appear within the Rules, Staff felt it necessary to define them here.

63. No party offered comment regarding the proposed language. The proposed language to Rules 6301(a) and (b) will be adopted.

64. Proposed Rule 6303 amends the current rule regarding information required for registration for exempt passenger carriers. Subsection (a)(IV) amends the current rule to require only the name and address of the registrant's Colorado agent for service of process if required by Rule 6011. Subsection (a)(V) requires a statement describing the registrant's business structure. Subsection (a)(XIII) requires a statement that the registrant understands the filing of a registration does not constitute authority to operate.

65. The Limousine Association of Colorado, through Mr. Eugene Cookenboo offered comment on Rule 6303. The concern addressed dealt with the requirement to register the use of a trade name with the Commission. Mr. Cookenboo questioned how limousine carrier owners would register a trade name. Staff provided information to contact the Secretary of State in order to meet the rule requirements.

66. No other comments were provided concerning the amendments to Rule 6303. The proposed language to Rules 6303(a)(IV), (V), and (XIII) will be adopted.

67. Proposed Rule 6304(a) and the corresponding deletion of Rule 6304(c) clarify the limits on the use of exterior signs and graphics on luxury limousines. Rule 6304(c) is proposed to be deleted because some of the requirements there have been moved to Rule 6304(a). Additionally, the term “identified” in Rule 6304(c) should be deleted.

68. No party provided comment on the proposed rule change. The proposed language to Rule 6304(a) and the deletion of Rule 6304(c) will be adopted.

69. Proposed Rule 6305(a) *Luxury Limousine Features*, addresses features required in a luxury limousine. The proposed rule delineates the requirements regarding the appearance of a luxury limousine at all times. Most importantly, the requirement that a luxury limousine contain a television, telephone, and beverage service are eliminated from this rule.

70. No party offered comment regarding the amendments to Rule 6305. The proposed language to Rule 6305(a) will be adopted.

71. Proposed Rule 6308(a)(II) amends the current rule by including the Chevrolet Tahoe in the category of an executive car. No party offered comment regarding the addition to Rule 6308(a)(II). The proposed language will be adopted.

72. The Limousine Association of Colorado expressed concern regarding Rule 6308(a)(III)(B)(ii). Its concern centers around the requirement that an ice container be “securely positioned inside a console or cabinet located inside the passenger compartment ...” Rather, it was proposed that limousine operators be permitted to utilize an ice chest or cooler container that could be easily removed, cleaned, and sanitized at the end of each ride.

73. The concern raised about ice containers is well taken. However, it does not appear to the undersigned ALJ that an amendment to Rule 6308(a)(III)(B)(ii) is necessary. The intent of the rule is twofold. First, that an approved vehicle contains the amenities required of a luxury limousine under the Rules. Second, that beverage and beverage service amenities are secured to ensure the safety of passengers in the event of an accident or sudden stop.

74. The rule requires that beverages and amenities, including an ice container to be securely positioned inside a cabinet or console, which is securely attached to the vehicle in a professional manner. Giving the rule language its logical and plain meaning, it appears to the ALJ that the concerns of the limousine industry are met. While the cabinet or console in which an ice container is placed must be secured to the motor vehicle, the container itself need not be similarly secured. In other words, the ice container may be removable from the fixed cabinet or console to change ice and clean the container as indicated by Mr. Cookenboo. Consequently, given this interpretation, Rule 6308(a)(III)(B)(ii) will not be amended.

75. Proposed Rule 6309 amends the current rule to specify the date at which the rule became effective and to clarify the applicability of the qualification status. No party offered comment on the proposed amendment. The proposed language will be adopted.

76. Proposed Rule 6310(b) provides language that clarifies the type of service to be classified as luxury limousine service. Proposed Rule 6310(c) is amended to provide a period of time for stationing a luxury limousine. The proposed language provides for a “reasonable amount of time” for a luxury limousine to be stationed for a pickup as noted on the charter order.

77. No party offered comment on the proposed changes to Rules 6310(b) and (c). The proposed language will be adopted.

78. Several limousine carriers provided written comments regarding the proposed rule changes and offered comments during the hearing. Those comments regarded whether a rule should be adopted requiring every new luxury limousine company to have at least one stretch limousine in its fleet that has been modified by no less than 60 inches by a licensed manufacturer, as a condition of receiving a permit to operate. Those who favored such a rule also proposed that any luxury limousine permit holder as of the date the Rules go into effect would be exempt from such requirements.

79. After consideration of arguments on both sides of the proposed rule changes, the undersigned ALJ finds that the proposed language would not serve the purpose anticipated by the proponents of the rule change. While it is important to maintain the reputation and high standards of the luxury limousine industry, it is doubtful the proposed rule change would accomplish that purpose. Rather, it appears that the proposed language would merely create an artificial barrier to entry into the luxury limousine industry. The ALJ was persuaded by testimony from current permit holders that the use of stretch limousines is waning and those carriers that maintain stretch limousines in their fleets use them sparingly. The ALJ, however, also acknowledges the frustration of current luxury limousine permit holders regarding what they perceive as less than reputable. Those current owners may rest assured that Staff will endeavor to enforce current laws and regulations within the limited resources and means at its disposal. Therefore, the undersigned ALJ declines to adopt an amendment to the luxury limousine rules as recommended.

80. Additionally, Mr. Stickell recommended that the application fee for a luxury limousine registration should be increased to maintain the integrity of the industry. Staff opposes such a fee increase because no registration fee is provided for exempt motor vehicle carriers

under statute, nor do the statutes provide a mechanism for the Commission to establish such a fee. The ALJ finds that it is not necessary (and indeed is most likely not possible) at this time to increase the application fee for a luxury limousine permit. Therefore, no language will be added to Commission rules regarding that issue.

F. Towing Carrier Rules

81. Proposed Rule 6501(b) is amended to clarify that a towing carrier may be an authorized agent of the owner or lessee of a motor vehicle for the disposition of the motor vehicle. No party offered comment regarding the proposed changes. The proposed language will be adopted.

82. Rule 6501(k)(II) regarding the definition of “property owner,” provides a cross-reference to Rule 6508(a), which in turn, provides an exception to the terms of the definition contained in Rule 6501(k)(II). The proposed language in Rules 6501(k)(II) and 6508(a) will be adopted.

83. Regarding Rule 6507, *Storage Facilities* Mr. Mabis commented that the only disclosure notification requirement under this rule of the facility location for non-consensual tows of other than an abandoned motor vehicle, should be to the appropriate law enforcement agency as indicated in subsection (a)(III), and not to the vehicle owner or property owner. Mr. Mabis reasons that many law enforcement agencies require notification by local ordinance. Staff is aware of this issue and that it is applicable to most local jurisdictions. Consequently, Staff recommends the following language to Rule 6507(a):

(a) Disclosure of facility location. For non-consensual tows of other than an abandoned motor vehicle as provided for under paragraph (b) of this rule, within one hour of placing a motor vehicle in a storage facility, or such lesser time as may be required by law, a towing carrier shall disclose the location of the storage facility by notifying the responsible law enforcement agency having jurisdiction

over the place from which the motor vehicle was towed. However, if notification of the law enforcement agency is not possible, then by notifying either:

- (I) the owner, the authorized operator, or the authorized agent of the owner of the towed motor vehicle; or
- (II) the owner of the property from which the motor vehicle was towed

Compliance with this paragraph will be considered accomplished if the location of the storage facility was provided to the property owner or the law enforcement agency in conjunction with obtaining authorization for the tow.

Subsection (a)(III) is deleted. Subsections (b), (c), and (d) remain unchanged.

84. The proposed amendments to Rule 6507(a) better conform to the requirements of local jurisdictions regarding non-consensual tows. Therefore, the proposed language, as delineated above will be adopted.

85. Proposed Rule 6508(b)(II)(A) clarifies the time frame for obtaining authorization to remove a vehicle from private property. The proposed language provides that the property owner authorization is to be filled out in full, signed by the property owner, and given to the towing carrier **before** the motor vehicle is removed from the property.

86. Additionally, Mr. Connolly, representing the Towing and Recovery Professionals of Colorado recommended that the property owner authorization be further amended to permit the use of some sort of employee ID number or code name in lieu of the person's signature, in order to help ensure the property owner's safety. According to Mr. Connolly, in the past, some property owners' employees who had signed the authorizations had their own vehicles vandalized by irate vehicle owners whose vehicles had been towed. Rule 6508(b)(II)(C) requires the towing carrier to make the tow authorization available for inspection by the motor vehicle owner.

87. Staff supports such an amendment to Rule 6508(b)(II)(A) and is convinced it would work effectively with Staff proposed Rule 6509(a)(XIII), discussed below. Staff recommends the following sentence be added to the end of Rule 6508(b)(II)(A):

The authorization shall be filled out in full, signed by the property owner, and given to the towing carrier, *before* the motor vehicle is removed from the property. *The property owner may sign using a verifiable employee identification number or code name in lieu of the person's proper name.*

The recommendation by Mr. Connolly and Staff's amendment to Rule 6508(b)(II)(A) are prudent and help to protect property owners from retaliation from angry motor vehicle owners whose vehicles are towed. Therefore, the proposed amendments to the rule as indicated above will be adopted.

88. Proposed Rule 6508(c) clarifies that a motor vehicle that is held in storage and was towed without proper authorization is to be released without charge. No party offered comment on this amendment. The proposed language amending Rule 6508(c) will be adopted.

89. Proposed Rule 6509(a)(VII) amends the current rule so that the information required on the tow record/invoice form need not be duplicated if the same information is also provided in the authorization pursuant to Rule 6508(b)(II). No party offered comment regarding this amendment. The proposed language amending Rule 6508(c) will be adopted.

90. Proposed Rule 6509(a)(XIII) requires notice to be included on the tow record/invoice that provides as follows: "Report problems to the Public Utilities Commission at (303) 894-2070." Mr. Connolly commented that towing carriers were concerned about the cost of printing new invoices to include the notice. He suggests an 18-month grace period to allow the current supply of tow tickets to be exhausted. In follow up comments subsequent to the hearing, Mr. Mabis suggests that to reduce the financial impact on towing carriers, the rule

should allow for the notice to be stamped on the customer's copy of the invoice. The concerns of Mr. Connolly and Mr. Mabis are well taken. Therefore, the required notice may be applied to current invoices, as well as used as an alternative to pre-printed invoices, with stamp, as long as the lettering of the stamp with the notice language comports with the 10 point font requirement. Therefore, since towing carriers may apply the notice containing the PUC phone number to its existing invoices utilizing a stamp, the undersigned ALJ finds no need for a 6 or 18-month grace period. Consequently, Rule 6509(a)(XIII) will read as follows:

- i. within 30 days of the effective date of these rules and on at least the customer's copy, the following notice in a font size of at least 10: Report problems to the Public Utilities Commission at (303) 894-2070.

91. The undersigned ALJ agrees that it would not be cost effective to require towing carriers to immediately order new invoice forms to include the required notice when a viable alternative is available. Mr. Mabis' suggestion to allow the use of a stamp is certainly cost-effective and addresses a concern of the industry. The language above provides a reasonable alternative and takes into consideration the towing carriers' concerns. Therefore, within 30 days of the effective date of this Order, towing carriers must include the above notice on the customer copies of the invoice. A towing carrier may use a stamp to provide the required notice on the customer's copy of the invoice. Consequently, the proposed addition of subsection (XIII) to Rule 6509(a) as indicated above will be adopted.

92. Proposed Rules 6511(b)(I), (d), (e), (g), and (h) are amended to increase the rates and charges for towing carriers based on the Consumer Price Index (CPI). Mr. Connolly commented that the rate increases amounted to approximately a 9 to 11 percent increase, while towing operators' costs in the last four years have increased a minimum of 25 to 30 percent.

Mr. Connolly further noted that no increase was recommended for mileage charges under Rules 6511(f)(I) or (II).

93. Staff commented that it did not propose amending the mileage rate because the fuel surcharge in subparagraph (II) had driven the price up well above any increase resulting from the CPI. However, with the volatility of diesel fuel costs in a slumping economy, the surcharge was reduced to zero. Consequently, Staff recommended adjusting the mileage rate by the same CPI factor as was utilized in recommending increases of the other towing rates and charges as identified above.

94. The CPI factor (.912) would increase the mileage rate from \$3.45 per mile to \$3.78 per mile. Staff recommends this amount as indicated in new Rule 6511(f)(I) be rounded up to \$3.80 per mile.

95. The fuel surcharge in subsection (f)(II) of Rule 6511 is based on the price per gallon for diesel fuel of \$2.60, which was the price on April 1, 2006. The price on December 1, 2008 was \$2.58. Staff recommends adjusting the monthly surcharge and setting the base price in Rule 6511(f)(II) at \$2.60 per gallon.

96. Staff's recommendation to increase the maximum mileage charge that may be assessed for a non-consensual tow of a motor vehicle with a GVWR of less than 10,000 to \$3.80 per laden mile will be adopted. Staff's recommendation to set the fuel surcharge to \$2.60 will also be adopted. Staff's recommendation to amend Rules 6511(b)(I), (d), (e), (g), and (h) to increase the rates and charges for towing carriers based on the CPI will also be adopted. While Mr. Connolly commented that cost increases are in the area of 25 to 30 percent, there is no substantive evidence of those numbers on record in this rulemaking. Staff, in response to Mr. Connolly's concerns regarding no increase to mileage charges or fuel surcharges,

recommended an increase in those charges as well. The undersigned ALJ finds those recommendations by Staff to be reasonable and utilizing the CPI to be a fair indicator for setting those rates and charges.

97. Proposed Rule 6511(k) establishes a requirement that a towing carrier accept at least two forms of payment for the rates and charges related to non-consensual tows. An amendment is also made to Rule 6512(a) so that it conforms to the proposed language in Rule 6511(k).

98. Mr. Mabis and Mr. Connolly both objected to proposed Rule 6511(k) that requires towing carriers to accept a form of payment in addition to cash for payment of towing charges and drop charges. Mr. Connolly pointed out that cashier's checks are no longer issued by banks, and towing carriers are concerned that money orders and traveler's checks may be easily counterfeited with desktop publishing software. At the hearing, Staff proposed that Rule 6511(k) be struck in favor of proposed Rule 6512(a). Proposed Rule 6512(a) provides that the towing carrier may specify which credit card(s) it will accept. Staff represents that the proposed rule also accounts for the fact that many people carry a credit card rather than cash. In addition, while Mr. Connolly raised the issue that a credit card transaction may be cancelled, Staff points out that the towing carrier can refute the cancellation by providing evidence to the credit card company that a service was in fact provided.

99. Mr. Mabis also argued that in Decision No. C02-0948, the Commission already determined that a towing carrier may only require a cash payment, rather than accepting a check or credit card. In that decision, the Commission reasoned, "... because nonconsensual tows almost necessarily involve hard feelings, it is reasonable for a towing carrier to demand payment in cash for fear of having a check or credit card payment be rescinded. The ALJ therefore

recommended dismissal of Count 2 of CPAN No. 27558. We agree.” Mr. Mabis argues that because a Commission decision already exists regarding the form of payment a towing carrier may require, the Commission may not now create a rule that provides otherwise.

100. The undersigned ALJ would note that while the Commission decision did address the issue of the form of payment for nonconsensual tows, it was in the context of the CPAN proceeding and not in a general rulemaking. In addition, the decision there does not serve as binding precedent on all future Commission actions. Certainly, changes in circumstances, technology, and indeed the towing industry as a whole dictates that it is prudent and necessary for the Commission to promulgate rules that comport with the state of affairs at the time.

101. Staff proposed the following language to replace current Rule 6511(k):

- (k) A towing carrier that accepts a credit card as payment for its drop charge, or its towing and storage fees, may charge the customer a credit card transaction fee in an amount up to and including the credit card transaction fee that the towing carrier must pay the credit card company for the transaction.

This language amending the rule will be adopted.

102. Rule 6512(a) is then proposed to be amended to read as follows:

- (a) Except as provided in paragraph (c) of this rule, if payment of the drop charge is offered in either cash or a valid credit card (specified by the towing carrier), or if payment of the towing, storage, and release charges is offered in cash or another form of payment accepted by the towing carrier, the towing carrier shall immediately accept payment and release the motor vehicle to:

The proposed language amending Rule 6512(a), in concert with the language of proposed Rule 6511(k) as indicated above, appears to allay the concerns of Mr. Connolly and Mr. Mabis. Therefore, the language amending this rule will be adopted.

103. Proposed Rule 6512(c)(I) merely clarifies that “at the time the motor vehicle is to be released from storage,” if the towing carrier is reasonably certain the driver of the motor vehicle is not capable of safely driving due to the influence of drugs or alcohol, the towing carrier need not release the motor vehicle from storage. The numbering hierarchy has been amended as well. Amended Rule 6512(c)(I) replaces existing Rule 6512(b)(II). Subsections (II)(A) through (D) are now numbered as subsections (c)(I) through (IV). No party offered comment regarding the proposed amendments. The language amending this rule will be adopted.

104. Proposed Rule 6512(c)(IV) provides that a towing carrier may refuse to release a motor vehicle if it does not comply with the release procedures agreed to between the towing carrier and the applicable law enforcement agency. No party offered comment regarding the amendment to the rule. The proposed language for Rule 6512(c)(IV) will be adopted.

105. New Rule 6512(e) establishes that a towing carrier may require either written or oral notification from the owner or lienholder of a motor vehicle that the person to whom it is to be released is authorized to take possession of the motor vehicle. No party offered comment regarding that amendment. The proposed language for Rules 6512(e) will be adopted. The language of Rule 6512 with amendments will now read as follows:

- (a) Except as provided in paragraph (c) of this rule, if payment of the drop charge is offered in either cash or a valid credit card (specified by the towing carrier), or if payment of the towing, storage, and release charges is offered in cash or another form of payment accepted by the towing carrier, the towing carrier shall immediately accept payment and release the motor vehicle to:
 - (I) the motor vehicle owner, authorized operator, or authorized agent of the owner of the motor vehicle;
 - (II) the lienholder or agent of the lienholder of the motor vehicle; or

- (III) the insurance company or agent of the insurance company providing coverage on the motor vehicle, if released to the insurance company by the owner.
- (b) A towing carrier that accepts for storage a motor vehicle that has been towed as a non-consensual tow upon the authorization of the property owner shall be available within the first 24 hours of storage to provide access to or release of the motor vehicle as provided in paragraph (a) to the owner, authorized operator, or authorized agent of the owner of the motor vehicle either:
 - (I) With one hour's notice during all times other than normal business hours; or
 - (II) Upon demand during normal business hours.
- (c) The towing carrier, at its discretion, need not comply with paragraph (a) if:
 - (I) the towing carrier is reasonably certain that, at the time the motor vehicle is to be released from storage or upon payment of the drop charge, the driver of the motor vehicle is not capable of safely driving the motor vehicle due to the influence of drugs or alcohol;
 - (II) the towing carrier that is to remove the motor vehicle from storage does not have a valid towing carrier permit or proof of motor vehicle liability coverage;
 - (III) a hold order is in place on the motor vehicle by a court, district attorney, law enforcement agency, or law enforcement officer;
 - (IV) the release of the motor vehicle does not comply with the release procedures agreed to between the towing carrier and the applicable law enforcement agency;
 - (V) the towing carrier, upon notification for the release of or access to a motor vehicle at other than normal business hours, has immediately contacted an appropriate law enforcement agency and, in the interest of public order, has requested a law enforcement officer's presence during the release of the motor vehicle. This exception is applicable when the towing carrier has reason to believe that the motor vehicle's owner, authorized operator, or authorized agent of the owner of the motor vehicle may disrupt the public order.
- (d) Upon payment of the charges the towing carrier shall make the property owner's written authorization available for inspection by the owner of the towed motor vehicle or his or her authorized representative.
- (e) The towing carrier may require either written or oral notification from the owner or lienholder of a motor vehicle that the person to whom it is to be released is authorized to take possession of the motor vehicle.

106. During the hearing, Mr. Mabis offered comments that brought to light that sections of Rule 6513 with regard to the inspection of records are duplicative of Rule 6005 and

should be deleted. This would put the production of records for towing carriers on par with all other carriers. Staff therefore recommends the following proposed amendments to Rule 6513 that deletes in subsection (a) the requirement to make available for inspection, a towing carrier's books and records concerning its towing and storage operations; and from subsection (b) the requirement to make available for inspection, any records required to be carried in the towing vehicle. These items are now addressed in Rule 6005. The proposed deletions to Rule 6513 will be adopted.

107. Staff proposes an amendment to Rule 6514(b) to correct an earlier oversight. The overcharge to which the penalty applies in this rule occurs in subsection (b)(1), and not in subsection (b) of Rule 6511. The proposed amendment to Rule 6514(b) will be adopted.

108. Mr. Mabis argues that federal statute 49 U.S.C. § 14501(c) preempts a great deal of the Commission's authority to promulgate towing carrier rules. Consequently, Mr. Mabis takes the position that many of the Commission's rules relating to towing carriers are preempted and not enforceable. To support his claim, Mr. Mabis cites to a report entitled *Report to Congress on the "Review of Federal and State Laws Regarding Vehicle Towing" (Vehicle Towing Report)*.¹

109. While Mr. Mabis makes a rather sweeping challenge to the Commission's towing carrier rules, relying on 49 U.S.C. § 14501 and the Vehicle Towing Report, those citations do not fully support his arguments that many of the towing carrier rules are preempted by federal law.

110. Section 49 U.S.C. § 14501 *Federal authority over intrastate transportation*, preempts States or their political subdivisions from enacting or enforcing laws and regulations

¹ *Report to Congress on the "Review of Federal and State Laws Regarding Vehicle Towing,"* prepared by John A. Volpe, National Transportation Systems Center, Motor Carrier Safety Assessment Division, DTS-47; prepared for Federal Motor Carrier Safety Administration, Vehicle and roadside Operations Division, May 2007.

relating to prices, routes, or services of motor carriers, including towing carriers. Notwithstanding those federal preemptions, 49 U.S.C. § 14501(c) provides several statutory exceptions to the law. For example, States may enact safety regulations with respect to motor carriers, as well as provisions relating to the price of nonconsensual transportation by a towing carrier, and may require that a towing operator have prior written authorization from a property owner and/or that the property owner be present at the time of a nonconsensual tow.

111. It is the extent to which State's may enact laws under those exceptions that is at issue. While federal courts have addressed the issue of federal preemption under 49 U.S.C. § 14501, the decisions are notable for the fact that to what extent States may enact laws and regulations under the exceptions contained in § 14501(c) remains unsettled.

112. In *City of Columbus v. Ours Garage and Wrecker Service, Inc.*, 536 U.S. 424 (2002), while the U.S. Supreme Court determined that both State and local governments have the ability to exercise, free from federal preemption, the "safety regulatory authority" provided in current law. Unfortunately, the Court failed to enumerate what specific types of regulation would fall under the rubric of safety regulatory authority. Therefore, it was left to the Circuit Courts to individually determine those parameters. As a result, the limits of State regulatory authority, especially over towing carriers, remain unsettled.

113. Some courts have determined that § 14501 is more preemptive of States' authorities over regulating towing carriers, *e.g.*, *R. Mayer of Atlanta v. City of Atlanta*, 158 F.3d 538 (11th Cir.1998), where the court held that ordinances that governed the provision of towing services in the City of Atlanta that made it unlawful to use or operate a wrecker, without a license and without registering the towing vehicles were preempted under 49 U.S.C. §§ 13102(12) and 14501. The court held that the plain language of those two statutes expressly preempted State

and municipal ordinances that regulate the prices, routes, or services provided by the towing companies. The court noted that if Congress had not intended for § 14501(c)(1) to preempt State and local regulation of towing services generally, then it would not have included an express exemption that applies solely to the prices charged for nonconsensual towing services. *See also, Tocher v. city of Santa Ana*, 219 F.3d 1040 (9th Cir.2000).

114. However, an equal number of courts have held that § 14501 is less preemptive of States' authorities over regulating towing carriers. For example, in *Independent Towers of Washington v. Washington*, 350 F.3d 925 (9th Cir.2003), the court held that if a statute was not related to the price a towing company may charge or the route it may take, and only had an "indirect, remote, or tenuous effect" on the services a towing company may provide, then such a State statute was not preempted under § 14501. The court further reasoned that even if a statute had the effect of regulating a tow truck operator's services, if it was enacted under a State's safety authority, as part of its police powers, the regulation met the exception requirement to preemption.

115. The scope of the safety exception found at § 14501(c)(2)(A) is one of the most contentious issues with which the federal courts struggle. However, it appears that most Circuits are reluctant to tread on a State's police powers. In *Ace Auto body & Towing v. City of New York*, 171 F.3d 765 (2nd Cir.1999) the Second Circuit construed that safety exception broadly enough to encompass regulations that required tow truck operators to be licensed and establishing qualifications for licensing. In addition, the regulations required a rotational towing program and a program granting exclusive towing privileges in certain areas of the city to eliminate the practice of towing carriers racing to be the first on the scene of accidents. In upholding those regulations, the court determined that the safety exception of § 14501(c)(2)(A) was not merely

limited to safety regulation of the mechanical components of motor vehicles. The court went on to find that requirements regarding licensing, display of information, reporting, recordkeeping, criminal history checks, insurance, and the posting of a bond by towing companies, as well as requiring tow operators to maintain their own storage and repair facilities, were well within the safety regulation and financial responsibility exemptions to preemption.

116. Further, in *Galactic Towing v. the City of Miami Beach*, 341 F.3d 1249 (11th Cir. 2003), the Eleventh Circuit found that a comprehensive regulatory scheme that required towing businesses that also stored vehicles parked on private property to obtain a permit, which required an application fee, proof of insurance, and a background investigation within the safety exemption of § 14501. The court held that Congress's intent behind § 14501 was to preempt States' economic authority over motor carriers of property, not to restrict traditional State police power over safety. *Id.* See also, *City of Columbus v. Ours Garage and Wrecker Service, supra*.

117. It is a long-held canon of preemption that the historic police powers held by the individual States are generally not to be superseded, unless such was the clear and manifest purpose of Congress. *Medtronic, Inc. v. Lohr*, 518 U.S. 470, 485 (1996) (citations omitted); see also, *Vehicle Towing Report*, at p. 36. Even when it is clear that Congress intended to preempt State regulations, the scope of preemption is determined by the statute and must be tempered by the presumption against preemption of a State's police powers. *Medtronic, Inc.* at 485; *City of Columbus*, 536 U.S. 424, 432; *Cipollone v. Liggett Group, Inc.*, 505 U.S. 504, 517 (1992); see also, *Vehicle Towing Report*.

118. An analysis of the Rules proposed to be promulgated here, as well as the remaining transportation rules pertaining to towing carriers reveals that no rule appears to be outside the scope of the Commission's authority. Further, there is nothing to indicate that the

authority to promulgate those Rules is preempted by 49 U.S.C. § 14501. Therefore, the undersigned ALJ finds that the proposed and existing towing carrier rules are within the Commission's jurisdiction and not subject to federal preemption.

G. Household Goods Mover and Property Carrier Rules

119. Proposed Rule 6603(d)(II) amends and establishes, on a permanent basis, the existing emergency rule regarding fingerprint-based criminal history record checks. No party commented on the proposed rule. Proposed Rule 6603(d)(II) will be adopted.

120. Proposed Rules 6608(a), (b)(X), (d), and (f) amend the various requirements for estimates and contracts. Existing Rule 6608(a) is proposed to be amended by requiring household goods movers to provide an estimate of the **total costs**, and **the basis for such costs** to be incurred by the shipper.

121. Proposed Rule 6608(b)(X) includes additional language as follows: An itemized breakdown and description of: (i) all costs and/or rates including, if applicable, an explanation of the hourly amounts charged and/or amounts charged based on the weight of the load, (ii) services for transportation, and (iii) accessorial services to be provided during a move or during the storage of household good; and ...

122. Proposed Rules 6608(b) and (d) clarify that a copy of the documents must be left with the shipper.

123. Proposed Rule 6608(f) establishes a requirement that the mover must provide the shipper with a completed, final bill, including any amendments, upon completion of the move. The proposed language is as follows: (f) Upon completion of the move, the mover shall leave with the shipper, a copy of the completed contract, including any amendments with a breakdown of all charges.

124. The amendments to Rule 6608 as delineated above improve the communications between the household goods mover and the shipper regarding the exchange of information necessary to understand the estimate and contract. No party provided comment to the proposed amendments. The language amending Rules 6608(a), (b)(X), (d), and (f) will be adopted.

125. Proposed Rule 6609(a) establishes a rule requiring a consumer advisement pursuant to § 40-14-108(4), C.R.S. Proposed Rule 6609(b) establishes a rule requiring a mover to offer binding arbitration pursuant to § 40-14-114, C.R.S. The language of the proposed Rules and advisement is as follows:

6609. Consumer Advisement and Binding Arbitration

(a) A mover shall provide the shipper with a consumer advisement at or before the commencement of the move or any accessorial services rendered. The consumer advisement shall be in substantially the following form and language:

CONSUMER ADVISEMENT

Intrastate movers in Colorado are regulated by the Colorado Public Utilities Commission (PUC). Each mover should have a PUC registration number. You are encouraged to contact the PUC to confirm that the mover you are using is indeed registered in Colorado.

A mover that is not registered may not withhold any of your property to enforce payment of money due under the contract ('carrier's lien').

A mover must include its PUC registration number, true name, and physical (street) address in all advertisements.

You should be aware that the total price of any household move can change, based on a number of factors that may include, but are not limited to:

Additional services you request at the time of the move;

Additional items to be moved that were not included in the mover's original estimate;

Changes to the location or accessibility of building entrances, at either end of the move, that were not included in the mover's original estimate; and

Changes to the previously agreed date of pickup or delivery.

You should also be aware that, in case of a dispute between you and the mover, Colorado has an arbitration process available to resolve the dispute without going to court.

If you have any questions, you are encouraged to call the PUC for guidance on your rights and obligations.

I acknowledge that I have been given a copy of this consumer advisement to keep for my records.

Signed _____ (shipper). Date _____

(b). In the event of a dispute between the shipper and the mover regarding the amount charged for services or concerning lost or damaged goods, the mover shall offer the shipper the opportunity to participate in binding arbitration per the requirements of §40-14-114, C.R.S.

In addition, Staff proposes the following language to appear in the Consumer Advisement: If you have any questions, you are encouraged to call the PUC at (303) 894-2070 for guidance on your rights and obligations. This information is to be provided to a shipper with the cost estimate.

126. The consumer advisement is required pursuant to § 40-14-108(4), C.R.S. The above language comports with that statutory requirement. The proposed language for Rules 6609(a) and (b) will be adopted.

127. In accordance with § 40-6-109, C.R.S., it is recommended that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. Commission Rules pursuant to 4 *Code of Colorado Regulations* 723-6-6000, *et seq.*, contained in Attachment A to this Order are adopted consistent with the discussion above.

2. This Recommended Decision shall be effective on the day it becomes the Decision of the Commission, if that is the case, and is entered as of the date above.

3. As provided by § 40-6-109, C.R.S., copies of this Recommended Decision shall be served upon the parties, who may file exceptions to it.

a) If no exceptions are filed within 20 days after service or within any extended period of time authorized, or unless the decision is stayed by the Commission upon its own motion, the recommended decision shall become the decision of the Commission and subject to the provisions of § 40-6-114, C.R.S.

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

4. If exceptions to this Decision are filed, they shall not exceed 30 pages in length, unless the Commission for good cause shown permits this limit to be exceeded.

(S E A L)



THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

PAUL C. GOMEZ

Administrative Law Judge

ATTEST: A TRUE COPY

A handwritten signature in cursive script that reads 'Doug Dean'.

Doug Dean,
Director

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-6

PART 6

RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

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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, safety; civil penalties; the issuance, extension, transfer, and revocation of authority to operate as a transportation carrier; insurance and registration requirements; tariff and time schedule requirements; the identification, condition, and leasing of motor vehicles; record keeping; and service standards. These rules cover an array of carriers, including motor vehicle carriers (common carriers), contract carriers by motor vehicle, hazardous materials carriers, towing carriers, household goods movers, and motor vehicle carriers exempt from regulation as public utilities (charter or scenic buses, children's activity buses, luxury limousines, off-road scenic charters, and property carriers by motor vehicle). In addition, these rules cover motor carriers, motor private carriers, freight forwarders, brokers, leasing companies, and other persons required to register under the Unified Carrier Registration Agreement, pursuant to 49 U.S.C. § 14504a.

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108, 40-2-110.5(8), 40-2-116, 40-3-101(1), 40-3-102, 40-3-103, 40-3-110, 40-4-101, 40-5-105, 40-7-113(2), 40-10-105(1), 40-10-105(2)(c), 40-10-105.5(5), 40-10-107, 40-10-110, 40-10-111, ~~40-10-120(4)~~, 40-10.5-102(2), 40-11-103(1), 40-11-105, 40-11-106, 40-11-109, ~~40-11-115(4)~~, 40-13-104(1), 40-13-105, 40-13-107, 40-13-110(1), 40-14-103(2)(c), 40-14-104(2), 40-14-106(2)(a)(I), 40-14-108(1), 40-14-110, 40-16-103.6(1), 40-16-103.8, 40-16-104, 40-16-104.5(5), 40-16-105(1), 42-4-1809(2)(a), 42-4-2108(2)(a), and 42-20-202(1)(a), C.R.S.

GENERAL PROVISIONS

6000. Scope and Applicability.

All rules in this Part 6, the "6000" series, shall apply to all Commission proceedings and operations concerning regulated entities providing transportation by motor vehicle, unless a specific statute or rule provides otherwise. Rules 6000 – 6099 apply to all common carriers, contract carriers, exempt intrastate carriers, towing carriers, household goods movers, and UCR registrants, as defined herein. Specific provisions regarding the applicability of this Part 6 can be found in rules 6100, 6200, 6250, 6300, 6400, 6500, and 6600.

Nothing in this Part 6, the "6000" series, shall be construed to apply to a secured creditor or assignee (principal), or reposessor (agent), or to the repossession of a motor vehicle by a secured creditor or assignee (principal), or reposessor (agent), when repossessing pursuant to § 4-9-629, C.R.S.

6001. Definitions.

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

- (a) "Advertise" means to advise, announce, give notice of, publish, or call attention to by use of any oral, written, or graphic statement made in a newspaper or other publication, on radio, television, or any electronic medium, or contained in any notice, handbill, sign (including signage on a vehicle), flyer, catalog, or letter, or printed on or contained in any tag or label attached to or accompanying any article of personal property.

- (ab) "Authority" means a common carrier certificate, a contract carrier permit, or an emergency temporary authority or a temporary authority issued by the Commission to a regulated intrastate carrier.
- (bc) "Common carrier certificate" means "certificate of public convenience and necessity" as that term is used in Article 10 of Title 40, C.R.S.
- (cd) "C.F.R." means the Code of Federal Regulations.
- (de) "Common carrier" means "motor vehicle carrier" as that term is defined in § 40-10-101(4), C.R.S.
- (ef) "Common and Contract Carrier Rules" means rules 6200 through 6299, inclusive.
- (fg) "Contract carrier" means "contract carrier by motor vehicle" as that term is defined in § 40-11-101(3), C.R.S.
- (gh) "Contract carrier permit" means a permit issued by the Commission pursuant to § 40-11-103, C.R.S.
- (hi) "Duplicating or overlapping authority" means transportation in the same type of service between the same points under two or more separate common or contract carrier authorities which are held by the same regulated intrastate carrier.
- (ij) "Driver" means any person driving a motor vehicle, including an independent contractor.
- (jk) "Encumbrance" means any transaction that creates a security interest, mortgage, deed of trust, lien, or other similar right or interest, by act or deed or by operation of law.
- (kl) "Enforcement official" means authorized personnel of the Commission, the Colorado Department of Revenue, the Colorado State Patrol, and any other law enforcement agency.
- ~~(l) [Reserved].~~
- (m) "Exempt intrastate 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.
- (n) "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., except property carriers by motor vehicle.
- (o) "Exempt passenger carrier registration" means the registration issued to an exempt passenger carrier pursuant to § 40-16-103, C.R.S.
- (p) "Exempt Passenger Carrier Rules" means rules 6300 through 6399, inclusive.
- (q) "FMCSA" means the Federal Motor Carrier Safety Administration and includes predecessor or successor agencies performing similar duties.
- ~~(r) (w) [Reserved].~~

- (~~xf~~) "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.
- (~~ys~~) "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.
- (~~zt~~) "Form H" means a ~~NARUC~~-Form H Uniform Motor Carrier Cargo Certificate of Insurance, executed by a duly authorized agent of the insurer.
- (~~aa~~u) "Form J" means a ~~NARUC~~-Form J Uniform Motor Carrier Cargo Surety Bond, executed by a duly authorized agent of the surety.
- (~~bb~~y) "Form K" means a ~~NARUC~~-Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies.
- (~~ee~~w) "Form L" means a ~~NARUC~~-Form L Uniform Notice of Cancellation of Motor Carrier Surety Bonds.
- (~~dd~~) - (~~ff~~) - [Reserved].
- (~~gg~~x) "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.
- (~~hh~~y) "GVWR" means gross vehicle weight rating, the value specified by the manufacturer as the loaded weight of a single motor vehicle. For purposes of the definition of "GVWR," "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.
- (~~ii~~z) "Hazardous materials carrier" a transportation carrier that transports hazardous materials as defined in § 42-20-103(3), C.R.S.
- (~~jj~~aa) "Holidays" means those days designated as legal holidays by the Colorado General Assembly.
- (~~kk~~bb) "Household goods" means "household goods" as that term is defined in § 40-14-102(7), C.R.S.
- (~~ll~~cc) "Household goods mover" means "mover" as that term is defined by § 40-14-102(9), C.R.S.
- (~~mm~~dd) "Household Goods Mover and Property Carrier Rules" means rules 6600 through 6699, inclusive.
- (~~nn~~ee) "Household goods mover registration" means the registration issued to a household goods mover pursuant to § 40-14-103, C.R.S.
- (~~oo~~ff) "Independent contractor" means "independent contractor" as that term is used in Article 11.5 of Title 40, C.R.S.
- (~~pp~~) - [Reserved].
- (~~qq~~) - "Interstate Carrier Rules" means rules 6400 through 6499, inclusive.

- (~~fgg~~) "Letter of authority" means a document issued by the Commission to a common or contract carrier, which specifies the authorized type of service, the authorized geography of service, and the restrictions applied against the authorized service. Common or contract carriers authorized by Commission Order to operate under a temporary or emergency temporary authority are not issued a letter of authority. Letters of authority are deemed to provide proof of Commission-granted common or contract carrier authority.
- (~~ssh~~) "Luxury limousine" means a motor vehicle, for hire ~~on a prearranged, charter basis~~ to transport passengers in luxury limousine service. ~~Luxury limousine does not include a taxicab.~~
- (ii) "Luxury limousine service" means a specialized, luxurious transportation service provided on a prearranged, charter basis as defined in rule 6301(a). "Luxury limousine service" does not include taxicab service or any service provided between fixed points over regular routes at regular intervals.
- (~~tji~~) "Multiple loading" means the sharing of a taxicab ride, or portion thereof, by individuals or parties who are not traveling together, who agree to share a cab to destinations in the same area or along the same route, and who depart from a common origin. When radio dispatched, multiple loading may be initiated from points other than those of common origin.
- (~~uu~~) ~~"NARUC" means the National Association of Regulatory Utility Commissioners.~~
- (~~vvk~~) "Nuclear materials carrier" means a transportation carrier that transports nuclear materials as defined in § 42-20-402(3), C.R.S.
- (~~wwl~~) "Office and specialty goods" means:
- (I) Furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and
 - (II) Articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.
- (~~xmm~~) "Operating right" means a towing carrier permit, a household goods registration, an exempt passenger carrier registration, or a property carrier registration.
- (~~yyn~~) "Passenger," except as otherwise specifically defined or contextually required, means any person, other than a driver, occupying a motor vehicle.
- (~~zz~~) ~~[Reserved]~~

~~(aaaoo)~~ "Property carrier" means "property carrier by motor vehicle," as that term is defined in § 40-16-101(6.5), C.R.S.

~~(bbbpp)~~ "Property carrier registration" means the registration issued to a property carrier pursuant to § 40-16-103, C.R.S.

~~(ccc)~~ ~~[Reserved].~~

~~(dddqq)~~ "Regulated intrastate carrier" means a common carrier and/or a contract carrier.

~~(eeerr)~~ "Safety Rules" means rules 6100 through 6199, inclusive.

~~(fffss)~~ "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, "seating capacity" means the greatest of the following:
 - (A) the total number of seat belts, including the driver's, 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;
 - (ii) the number of single-occupancy seats, including the driver's seat if it is not part of a split-bench seat; and
 - (iii) for each curved seat, the seat's width in inches measured along the inside arc of the curve, divided by 17 inches, rounded down to the nearest whole number.
- (II) In all cases, any auxiliary seating positions such as folding jump seats shall be counted in determining seating capacity.
- (III) 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.

~~(ggg)~~ ~~[Reserved].~~

~~(hhhtt)~~ "Taxicab Carrier Rules" means rules 6250 through 6259, inclusive.

~~(iiiuu)~~ "Taxicab" means a passenger-carrying motor vehicle for public hire, with a maximum seating capacity of eight, operating on a call-and-demand basis, the first passenger therein having exclusive use of the motor vehicle unless such passenger agrees to multiple loading.

~~(jjjvv)~~ "Towing carrier" means "towing carrier" as defined by § 40-13-101(3), C.R.S.

(~~kkkww~~) "Towing carrier permit" means the permit issued by the Commission to a towing carrier pursuant to § 40-13-103(1), C.R.S.

(~~lllxx~~) "Towing Carrier Rules" means rules 6500 through 6599, inclusive.

(~~mmmyy~~) "Transportation carrier" means common carrier, contract carrier, towing carrier, household goods mover, or exempt intrastate carrier.

(~~nnnzz~~) "Type of service" means any one of the following services: charter, limousine, sightseeing, taxicab, or scheduled, as those terms are defined by rule 6201.

(~~ooooaa~~) "UCR Agreement" means the Unified Carrier Registration Agreement authorized by section 4305 of the federal "Unified Carrier Registration Act of 2005," and found in 49 U.S.C. § 14504a.

(~~pppbbb~~) "UCR registrant" means a motor carrier, motor private carrier, freight forwarder, broker, leasing company, or other person required to register under the UCR Agreement.

(ccc) "Unified Carrier Registration Agreement Rules" means rules 6400 through 6499, inclusive.

(~~qqqddd~~) "Voluntary suspension" means a suspension sought by a transportation carrier.

6002. Applications.

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

- (a) For the grant or extension of authority to operate as a regulated intrastate carrier, as provided in rule 6203.
- (b) To abandon or voluntarily suspend an authority to operate as a regulated intrastate carrier, as provided in paragraph 6204(b).
- (c) To encumber or transfer any authority to operate as a regulated intrastate carrier, to acquire control of any regulated intrastate carrier, or to merge or consolidate a regulated intrastate carrier with any other entity, as provided in rule 6205.
- (d) To amend a tariff on less than statutory notice, as provided in paragraph 6207(j).
- (e) For a permit to operate as a towing carrier, as provided in rule 6503.
- (f) For any other matter provided by statute or rule but not specifically described in this rule.

6003. Petitions. [Reserved].

6004. 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 6303.
- (b) For registration in the UCR Agreement, as provided in rule 6405.
- (c) For registration as a property carrier or household goods mover, as provided in rule 6603.

6005. Records.

- (a) Unless a period of record retention is specified in a rule,
 - (I) transportation carriers shall maintain the records required by these rules for a period of three years; and
 - (II) a UCR registrant shall maintain the records upon which the annual registration in the UCR Agreement are based for a period of three years.
- (b) The records may be kept in either a written or electronic format.
- (c) Upon receipt of a records request by an enforcement official, except as otherwise required by these rules or an order of the Commission, the records must be made available to such enforcement official pursuant to the following timelines:
 - (I) Immediately for any records required to be maintained in a motor vehicle or with the driver, towing authorizations, household goods mover contracts for service, or any records related to insurance or safety;
 - (II) Within two days for any records related to a complaint investigation; or
 - (III) Within ten days for all other records.
- (d) When a request under paragraph (c) of this rule meets multiple standards under subparagraphs (c)(I) through (III), the strictest standard shall apply.

6006. Reports, Name Changes, Address Changes, and Address Additions.

- (a) Each common carrier and contract carrier shall submit its annual report, as prescribed by rule 6212.

- (b) Within two days of receipt of all supporting documentation required by this paragraph, each transportation carrier shall file a signed report with the Commission detailing, as applicable, any change of name, mailing address, physical address, telephone number, agent for service of process on file with the Commission. Such a filing shall indicate all the affected transportation carrier's common carrier certificate, contract carrier permit, towing carrier permit, or registration 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~~.
- (I) In the event of a name change or an address change, the transportation carrier shall comply with all other applicable Commission rules, including but not limited to, rules regarding financial responsibility filings.
- (II) No name change shall be effective until proper proof of financial responsibility in the transportation carrier's new name has been filed with the Commission.
- (c) If a towing carrier wishes to begin providing storage for towed motor vehicles at a new or additional storage facility, the towing carrier shall, prior to using the new or additional storage facility, file with the Commission the storage facility's address and, if one exists, telephone number.

6007. Financial Responsibility.

- (a) Financial responsibility requirements:
- (I) Motor vehicle liability coverage. Every transportation carrier shall obtain and keep in force at all times motor vehicle liability insurance coverage or a surety bond providing coverage that conforms with the requirements of this rule. Motor vehicle liability means liability for bodily injury and property damage.
- (II) Cargo liability coverage. Every household goods mover, property carrier, and towing carrier shall obtain and keep in force at all times cargo liability insurance coverage or a surety bond providing coverage that conforms with the requirements of this rule. 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 coverage. Towing carriers providing storage, directly or through an agent, shall obtain and keep in force at all times garage keeper's liability insurance coverage that conforms with the requirements of this rule.
- (IV) General liability coverage. Every household goods mover shall obtain and keep in force at all times general liability insurance coverage or a surety bond providing coverage that conforms with the requirements of this rule. For purposes of this subparagraph, "general liability" means liability for bodily injury and property damage.
- (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 Seating Capacity or GVWR	Minimum Level
Common and Contract Carriers	8 or less	\$ 500,000
	9 through 15	\$1,000,000
	16 through 32	\$1,500,000
	33 or more	\$5,000,000
Exempt Passenger Carriers:	15 or less	\$1,000,000
	16 through 32	\$1,500,000
	33 or more	\$5,000,000 or, for public entities, the maximum amount per § 24-10-114(1) C.R.S.
Property Carrier or Household Goods Mover	10,000 pounds or more GVWR	\$ 750,000
	Less than 10,000 pounds GVWR	\$ 300,000
Towing Carriers	Any GVWR	\$ 750,000

- (C) Transportation carriers may obtain a certificate of self-insurance issued pursuant to §§ 10-4-624 and 42-7-501, C.R.S., or Part 387 of 49 C.F.R.
- (II) Cargo liability coverage.
 - (A) For towing carriers the 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.
 - (B) Except as provided in subparagraphs (II)(B)(i) or (ii), for property carriers, the minimum level of cargo liability coverage shall be \$10,000.00 for loss of or damage to property carried on any one motor vehicle, or an amount adequate to cover the value of the property being transported, whichever is less, unless the shipper and the property carrier otherwise agree by written contract to a lesser amount.
 - (i) A property carrier transporting commodities other than office and specialty goods is exempt from subparagraph (II)(B) if the property carrier submits to the Commission a signed statement reading as follows:

I swear that the only commodities transported by [name of company] either:

- have an aggregate value of \$500.00 or less, or
- are not subject to appreciable loss or damage due to their physical characteristics.

(ii) For a property carrier transporting office and specialty goods the minimum level of cargo liability coverage shall be \$10,000.00 for loss of or damage to office or specialty goods carried on any one motor vehicle, or sixty cents (\$.60) per pound per article, whichever is greater. By way of example, "article" means a desk, but not each individual drawer of the desk.

(C) For household goods carriers, the minimum level of cargo liability coverage shall be \$10,000.00 for loss of or damage to household goods carried on any one motor vehicle, or sixty cents (\$.60) per pound per article, whichever is greater. By way of example, "article" means a desk, but not each individual drawer of the desk.

(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.

(IV) For household goods movers, the minimum general liability coverage shall be \$500,000.00.

(c) Except as provided in paragraph (d), 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; or, for self-insurance, is provided in accordance with §§ 10-4-624 and 42-7-501, C.R.S.;

(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, regardless of whether such motor vehicles are specifically described in the policy or amendments or endorsements thereto;

(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 insurance or surety benefits directly to a party damaged by said transportation carrier; except that nothing in this subparagraph

shall preclude a damaged party from settling a claim for loss or damage prior to making a claim against the transportation carrier's insurance or surety policy.

- (d) The provisions of subparagraphs (IV) through (VI) of paragraph (c) shall not apply to transportation carriers with regard to proof of self-insurance pursuant to 49 C.F.R. Part 387, if applicable, and §§ 10-4-624 and 42-7-501, C.R.S.
- (e) The transportation carrier shall retain each original insurance or surety policy for required coverage, make such policies available for inspection by authorized personnel of the Commission, and keep a copy of its proof of motor vehicle liability coverage in each motor vehicle that it operates.
- (f) 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 coverage.
 - (A) For all common carriers, contract carriers, exempt intrastate carriers, household goods movers, and towing carriers, a Form E or G.
 - (B) For common carriers, contract carriers, exempt intrastate carriers, household goods movers, and towing carriers obtaining a certificate of self-insurance under the provisions of §§ 10-4-624 and 42-7-501, C.R.S., or Part 387 of 49 C.F.R., a copy of said certificate of self-insurance. Upon renewal of the certificate of self-insurance, the common carrier, contract carrier, exempt intrastate carrier, household goods mover, or towing carrier shall file a copy of the most current version of such certificate of self-insurance.
 - (II) Cargo liability coverage. For all property carriers, household goods movers, or towing carriers, a Form H or J. For a towing carrier, a Colorado Form 12-INS may be used in lieu of the Form H.
 - (III) Garage keeper's liability coverage. For all towing carriers, a Colorado Form 14-INS.
 - (IV) General liability coverage. For all household goods movers, a Colorado Form GL.
- (g) The transportation carrier's failure to file proof of liability coverage, as required by this rule, shall constitute a rebuttable presumption that the carrier is not properly covered under the requirements of this rule.
- (h) All forms referred to in this rule are available from the Commission.
- (i) 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
- (j) Any subsequent changes of name, address, or policy number shall be reflected by the filing of an appropriate endorsement or amendment with the Commission.

- (k) The proof of minimum levels of financial responsibility required by this rule is public information and may be obtained from the Commission.
- (l) Except as provided in paragraph (m) of this rule, each certificate of insurance and/or surety bond required by and filed with the Commission shall be kept in full force and effect unless and until canceled or not renewed upon 30-days advance written notice, on Form K, Form L, Form BMC 35, or Form BMC 36, as applicable, from the insurer or surety to the Commission. The 30-day cancellation or non-renewal notice period shall commence on the date the notice is received by the Commission. In lieu of the prescribed form, the insurer or surety may cancel or not renew a certificate of insurance and/or surety bond by letter to the Commission containing the same information as required by such form.
- (m) Administrative cancellation of certificates of insurance and/or surety bond.
 - (I) When a new certificate of insurance and/or surety bond is received by the Commission, all certificates of insurance and/or surety bond for the same type and category of coverage with an older effective date shall be administratively cancelled. For purposes of this paragraph, type of coverage means those listed in paragraph (f) of this rule, and category of coverage means primary coverage or excess coverage.
 - (II) When the Commission receives notice from a transportation carrier to cancel all of its authorities and operating rights, all certificates of insurance and/or surety bond for the transportation carrier shall be administratively cancelled.
- (n) Common and contract carriers operating under a waiver or variance of the insurance limits shall:
 - (I) Post the following notice in each of its passenger motor vehicles affected by the waiver or variance, disclosing the appropriate amounts in the blanks of said notice:

NOTICE

The Public Utilities Commission's rules generally require \$_____ amount of insurance on a motor vehicle of this size. However, the Commission has authorized this company to operate with \$_____ of combined single limit liability insurance. This limit may not cover the total amount of a claim in the event of a serious accident.

- (II) Print such notice in letters of not less than 14-point size and posted in a manner that makes it readily visible to each passenger.

6008. Summary Suspensions and/or Revocations for Lack of Financial Responsibility Revocation, Suspension, Alteration, or Amendment.

- (a) Summary suspension and/or revocation for lack of financial responsibility of Common carriers, contract carriers, household goods movers, exempt intrastate carriers, hazardous materials carriers, nuclear materials carriers, or towing carriers.
 - (I) Summary suspension.

- (A) Whenever Commission records indicate that a common carrier's, contract carrier's, household goods mover's, exempt intrastate carrier's, hazardous materials carrier's, nuclear materials carrier's, or 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, pursuant to § 24-4-104(3) and (4), C.R.S., summarily suspend such common carrier, contract carrier, household goods mover, exempt intrastate carrier, or towing carrier's authority or operating right, or hazardous materials carrier or nuclear materials carrier's permit.
- (B) For purposes of this paragraph, failure on the part of an insurance company to respond to a Commission inquiry for verification of insurance coverage within 60 days shall be treated as a cancellation of insurance.
- (C) The summary suspension shall be effective on the date of coverage cancellation.
- (II) The Commission shall advise the common carrier, contract carrier, household goods mover, exempt intrastate carrier, hazardous materials carrier, nuclear materials carrier, or towing carrier:
- (A) that the Commission is in receipt of insurance or surety cancellation, and the effective date of such cancellation;
- (B) that its authority or operating right is summarily suspended as of the coverage cancellation date;
- (C) that it shall not conduct operations under any of its authorities, operating rights or permits after the coverage cancellation date;
- (D) that the Commission has initiated complaint proceedings to revoke its authorities, operating rights, or permits;
- (E) that it may submit, at a hearing convened to determine whether its authorities, operating rights, or permits should be revoked, written data, views, and arguments showing why such authorities, operating rights, or permits should not be revoked; and
- (F) the date, time, and place set for such hearing.
- (III) Until proper proof of insurance or surety coverage is filed with the Commission, a common carrier, contract carrier, household goods mover, exempt intrastate carrier, hazardous materials carrier, nuclear materials carrier, or towing carrier receiving notice of summary suspension shall not, under any of its authorities, operating rights, or permits, conduct operations after the effective date of such summary suspension.
- (IV) If the Commission receives proper proof of coverage prior to the hearing, the summary suspension and complaint will be dismissed without further order of the Commission, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to civil penalty assessments.

- (V) If the Commission receives proper proof of coverage prior to revocation, the Commission shall dismiss the summary suspension and complaint, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to civil penalty assessments.
- (b) If, due to an administrative error or omission of the Commission staff, an authority or operating right is suspended or revoked for lack of financial responsibility coverage, such authority or operating right shall, without a hearing, be retroactively reinstated as of the effective date of the proof of coverage. Staff shall document in its files the correction of such administrative error or omission.
- (c) After a hearing upon at least ten days' notice to the regulated intrastate carrier, exempt passenger carrier, towing carrier, household goods mover, or property carrier affected, the Commission may:
- (I) revoke, suspend, alter, or amend said regulated intrastate carrier's authority(ies) or towing carrier's permit(s) for any of the following reasons:
- (A) Violation of, or failure to comply with, any statute or regulation concerning regulated intrastate carriers or towing carriers;
- (B) Violation of, or failure to comply with, any statute or regulation concerning the towing, storage, or disposal of towed motor vehicles by a towing carrier. This subparagraph includes, but is not limited to, a violation of part 18 and part 21 of article 4 of title 42, C.R.S.;
- (C) Violation of, or failure to comply with, the terms and conditions of, or exceeding the authority granted in, the regulated intrastate carrier's common carrier certificate or contract carrier permit, or the towing carrier's towing carrier permit; or
- (D) Violation of, or failure to comply with, any order, rule, or regulation of the Commission.
- (II) revoke the registration of said exempt passenger carrier, household goods mover, or property carrier for any of the following reasons:
- (A) Violation of, or failure to comply with, any statute or regulation concerning exempt passenger carriers, household goods movers, or property carriers;
- (B) Violation of, or failure to comply with, the terms and conditions of, or exceeding the authority granted in, the exempt passenger carrier's, household goods mover's, or property carrier's registration; or
- (C) Violation of, or failure to comply with, any order, rule, or regulation of the Commission.
- (d) Period of ineligibility.

- ~~(I) Except as provided in paragraph (e), an exempt passenger carrier, household goods mover, or property carrier, or towing carrier whose exempt passenger carrier, household goods mover, or property carrier operating right(s) registration(s) is revoked for a third time shall not be ineligible to be issued another exempt passenger carrier, household goods mover, or property carrier registration operating right for at least one year from the date of such revocation or for such additional period of time as the Commission may in its discretion determine to be appropriate. for two years from the date of the third such registration revocation.~~
- ~~(II) Except as provided in paragraph (e), an exempt passenger carrier, household goods mover, property carrier, or towing carrier whose operating right(s) is revoked more than twice shall be ineligible to be issued another operating right for at least two years from the date of such revocation or for such additional period of time as the Commission may in its discretion determine to be appropriate.~~
- ~~(III) In the case of an entity other than an individual, such period of ineligibility shall also apply to all principals (including members of a limited liability company), officers, and directors of the entity, whether or not such principal, officer, or director applies individually or as a principal, officer, or director of the same or a different entity for an operating right during the period of ineligibility.~~
- ~~(e) A towing carrier whose towing carrier permit(s) is revoked for a third time shall not be issued another towing carrier permit for one year from the date of the third such permit revocation. Subparagraphs (d)(I) and (II) shall not apply to revocations that are solely the result of failure to maintain the financial responsibility required by rule 6007, unless the transportation carrier knowingly operated without the required financial responsibility.~~
- ~~(f) In determining whether an exempt passenger carrier, household goods mover, property carrier, or towing carrier has had its exempt passenger carrier, household goods mover, or property carrier registration(s) or towing carrier permit(s) revoked three times, a revocation for failure to maintain the financial responsibility required by rule 6007 shall not be counted as one of the three revocations unless the exempt passenger carrier, household goods mover, property carrier, or towing carrier knowingly operated without the required financial responsibility.~~

6009. Annual Motor Vehicle Identification Fees.

- (a) ~~Except as provided in paragraph (h), E~~very transportation carrier shall pay to the Commission an annual identification fee before the first day of January of each calendar year, for each motor vehicle that such transportation carrier owns, controls, operates, or manages within the State of Colorado as set forth in § 40-2-110.5, C.R.S.
- (b) ~~The annual identification fee shall be set administratively by the Commission and approved by the Executive Director of the Department of Regulatory Agencies, pursuant to § 40-2-110.5(1), C.R.S.~~ Notice of the annual identification fee provided on the Commission's website at least 60 days prior to the effective date of such fee, transportation carrier registration and application forms, and annual identification fee renewal notices, shall constitute sufficient public notice of the applicable annual identification fee.

- (c) A transportation carrier that obtains an authority or operating right during the calendar year shall, unless the Commission orders otherwise, pay the annual identification fees at the time of obtaining the authority or operating right.
- (d) A transportation carrier that acquires one or more additional motor vehicles during the calendar year shall pay the annual identification fees prior to placing the additional vehicle(s) into service.
- (e) Annual identification fees shall be valid only for the calendar year for which they are purchased.
- (f) Proof of payment of each annual identification fee shall be in the form of a vehicle identification stamp issued by the Commission.
- (g) ~~Except as provided in paragraph (h) of this rule, a~~ transportation 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. In the alternative, the vehicle identification stamp may be affixed to the right front side window of the motor vehicle so long as the stamp does not interfere with the driver's use of the right-hand outside mirror.
- (h) ~~For~~ ~~Except as provided in paragraph (i), and notwithstanding anything in this rule to the contrary, a~~ transportation carrier that is also a UCR registrant for the same calendar year, any motor vehicle that was included in the calculation of fees paid under the UCR Agreement is exempt from this rule. Exception for a UCR registrant.
 - (I) Except as provided in subparagraph (II), a transportation carrier that is also a UCR registrant for the same calendar year is exempt from paragraph (a) of this rule.
 - (II) A transportation carrier that is also a UCR registrant is subject to the annual identification fee for any motor vehicle used only in intrastate commerce if:
 - (A) the motor vehicle was not included in the calculation of fees paid under the UCR Agreement, and
 - (B) the motor vehicle is used to provide:
 - (i) transportation of waste or recyclable materials;
 - (ii) transportation of household goods;
 - (iii) non-consensual tows; or
 - (iv) passenger transportation that is not subject to the preemption provisions of 49 U.S.C. section 14501(a).
- ~~(i) A transportation carrier is subject to the annual identification fee for any motor vehicle used only in intrastate commerce that has not been included in the calculation of fees paid under the UCR Agreement if the motor vehicle is used to provide:~~

~~(I) — transportation of waste or recyclable materials, or household goods;~~

~~(II) — non-consensual tows; or~~

~~(III) — passenger transportation that is not subject to the preemption provisions of 49 U.S.C. section 14501(c)(2).~~

6010. Letter of Authority, Permit, and Registration.

- (a) Every transportation carrier shall maintain a copy of the following in each motor vehicle it owns, controls, operates, or manages under an authority or operating right:
 - (I) For every common and contract carrier a copy of its current letter of authority or a copy of the letter from the Commission advising service may be initiated under an emergency temporary authority or a temporary authority;
 - (II) For every exempt intrastate carrier a copy of its letter of registration;
 - (III) For every towing carrier a copy of its towing carrier permit;
 - (IV) For every household goods mover a copy of its letter of registration;
- (b) The transportation carrier shall, upon request, present the copy of its letter of authority, letter of registration, or towing carrier permit to any enforcement official.

6011. Designation of Agent.

- (a) ~~Except for a sole proprietorship or partnership.~~ 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 lawful notice, order, process, or demand. The named person is the transportation carrier's designated agent. A transportation 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. The transportation carrier shall provide a signed statement by the designated agent indicating that person has approved the designation.
- (b) Each transportation carrier shall notify the Commission of any changes in the designated agent's identity, name, or address by filing a new designation within two days of receiving the information related to such change.
- (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.

6012. Leasing of Motor Vehicles.

- (a) For purposes of this rule, "lessee" means a common carrier, contract carrier, or towing carrier, and "lessor" means the motor vehicle owner.

- (b) Subject to the requirements of this rule, a lessee may lease one or more motor vehicles for use in the lessee's fleet. Nothing in this rule shall be construed to:
 - (I) make an independent contractor an employee of the lessee; or
 - (II) prohibit the leasing or re-leasing of motor vehicles pursuant to Article 11.5 of Title 40, C.R.S.
- (c) The lessee shall ensure that leases are in writing on a form supplied by the Commission. The lease shall contain: the name and signature of the lessor; the name and signature of the lessee; the date of the agreement; for each motor vehicle subject to the lease, 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 precludes 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 each leased motor vehicle during the time that the lease is effective.
- (e) The lessee shall ensure that a copy of the lease is kept in the lessee's files during the time that the lease is effective and for six months after the date on which the last motor vehicle covered by the lease leaves the lessee's control.
- (f) During the existence of the lease, the lessee shall have full discretion and complete control of the leased motor vehicle and shall be fully responsible for its operation in accordance with applicable 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.
- (g) Unless the type of notice is specified in the lease, either the lessee or the lessor may cancel the lease at any time by giving either written or oral notice to the other party to the lease.

6013. Notice.

Notice sent by any person to the transportation carrier's address on file with the Commission shall constitute prima facie evidence that the transportation carrier received the notice.

6014. Waivers.

A transportation carrier that has obtained a waiver of any rule in this Part 6 shall:

- (a) If the waiver pertains to a motor vehicle: maintain a copy of the waiver in (1) the affected motor vehicle, and (2) the transportation carrier's motor vehicle maintenance files.
- (b) If the waiver pertains to a driver: ensure that a copy of the waiver is (1) carried on the affected driver's person whenever the driver is operating a motor vehicle over which the Commission has jurisdiction, and (2) maintained in the affected driver's qualification file.
- (c) If the waiver pertains to any matter not listed in paragraphs (a) or (b) of this rule: maintain a copy of the waiver at the transportation carrier's primary place of business.

6015. Fingerprint-Based Criminal History Background Checks.

- (a) For purposes of this rule only:
- (I) [Reserved].
 - (II) "CBI" means the Colorado Bureau of Investigation.
 - (III) "Driver" means a person who drives or wishes to drive a taxicab for a taxicab carrier or who drives or wishes to drive for an exempt passenger carrier, regardless of whether such person drives or wishes to drive as an employee or independent contractor.
 - (IV) "Passenger carrier" means an exempt passenger carrier, except for fire crew transport, and a taxicab carrier, but only to the extent the taxicab carrier uses or wishes to use drivers to drive taxicabs.
 - (V) "Record check" means a state and national fingerprint-based criminal history record check.
- (b) This rule applies to passenger carriers and drivers.
- (c) Within ten days of contracting or being employed to drive for passenger carrier, a driver shall submit to the Commission a set of the driver's fingerprints and payment of the actual cost to conduct a record check.
- (d) A driver shall re-submit to the Commission a set of the driver's fingerprints and payment of the actual cost to conduct a record check within two years after the Commission provides him/her with the qualification notice required by subparagraph (j)(III) of this rule.
- (e) The driver may obtain information regarding the actual cost of the record check from the Commission or its website. The driver shall submit his or her fingerprints on an official form (FD-258). The Commission will only accept official forms completed in accordance with the instructions available from the Commission or its website.
- (f) Disqualification.
- (I) A driver is not of good moral character, and shall be disqualified and prohibited from driving, if the driver has been convicted of a felony or misdemeanor involving moral turpitude. ~~For purposes of this rule, a felony or misdemeanor involving moral turpitude means:~~
 - (II) For purposes of Commission Staff's initial qualification determination under paragraph (j) of this rule, a felony or misdemeanor involving moral turpitude means:
 - (A) a conviction in the State of Colorado at any time of any class 1 or 2 felony under Title 18, C.R.S.;
 - (B) a conviction in the State of Colorado at any time of any unlawful sexual offense against a child, as defined in § 18-3-411, C.R.S.;

- (~~AC~~) a conviction in the State of Colorado, within the ten years preceding the date the criminal history record check is completed, of a crime of violence, as defined in § 18-1.3-406(2), C.R.S.;
 - (~~D~~) a conviction in the State of Colorado, within the eight years preceding the date the criminal history record check is completed, of any class 3 felony under Title 18, C.R.S.;
 - (~~BE~~) a conviction in the State of Colorado, within the four years preceding the date the criminal history record check is completed, of any class ~~1, 2, 3, or 4~~ felony under Articles ~~2, 3, 3.5, 4, 5, 6, 6.5, 8, 9, 12, or 15~~ of Title 18, C.R.S., ~~other than an unlawful sexual offense against a child as defined in § 18-3-411, C.R.S.;~~ or
 - (~~C~~) ~~a conviction in the State of Colorado at any time of any unlawful sexual offense against a child, as defined in § 18-3-411, C.R.S.;~~
 - (~~DE~~) an offense in any other state or in the United States that is comparable to any ~~offence~~ offense listed in subparagraphs (II)(A) through (~~GE~~).
- (III) A driver shall be disqualified and prohibited from driving if, within the two years preceding the date the criminal history record check is completed, the driver was:
- (A) convicted in this state of driving under the influence, as defined in § 42-4-1301 (1) (f), C.R.S.; driving with excessive alcoholic content, as described in § 42-4-1301 (2) (a), C.R.S.; driving while ability impaired, as defined in § 42-4-1301 (1) (g), C.R.S.; or driving while an habitual user of a controlled substance, as described in § 42-4-1301 (1) (c), C.R.S.; or
 - (B) convicted of a comparable offense in any other state or in the United States.
- (IV) For purposes of this rule, a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.
- (g) A passenger carrier shall not permit a driver to drive for the passenger carrier if:
- (I) the driver has not complied with this rule and § 40-16-104.5 or § 40-10-105.5, C.R.S., as applicable; or
 - (II) the driver is disqualified and prohibited from driving under paragraph (j) of this rule; ~~or;~~
 - (~~III~~) ~~the passenger carrier becomes aware that the driver has been convicted of any disqualifying offenses under paragraph (f) of this rule.~~
- (h) Passenger carriers are authorized to contact the Commission regarding whether a particular driver has been disqualified and prohibited from driving.
- (i) A passenger carrier shall, as a condition of continued contract or employment, require a driver to submit his or her fingerprints to the Commission for a record check:

- (I) at least once every ~~two~~five years; and/or
 - (II) within ten days of becoming aware that the driver has been convicted of the offenses listed in paragraph (f) of this rule.
- (j) Driver qualification determinations.
- (I) Upon the Commission's receipt of a completed record check, Staff of the Commission (Staff) shall make the initial qualification determination regarding the driver's qualification status under paragraph (f) of this rule.
 - (II) In making its initial qualification determination, Staff is authorized to request from the driver, and the driver shall provide, additional information that will assist Staff in making the initial determination regarding the driver's qualification status. If, within 15 days of Staff's request, a driver does not provide such additional information or a reason explaining why it is unavailable, Staff may disqualify the driver.
 - (III) Staff shall give to the driver written notice of its initial qualification determination. If Staff initially determines that the driver is disqualified and prohibited from driving, the driver may, within 60 days of Staff's written disqualification notice, petition the Commission for an order reversing Staff's initial determination.
 - (IV) Upon the filing of a petition to reverse Staff's initial determination:
 - (A) Staff shall be an indispensable party and shall bear the burden of going forward to demonstrate the reasons for its initial determination;
 - (B) the driver shall bear the burden of proving that Staff's initial determination is not supported by fact or law; and
 - (C) the Commission will consider the petition using the standards set forth in § 24-5-101(2), C.R.S.
 - (V) Staff's initial qualification determination may be relied upon by all persons, unless and until the Commission reverses Staff's initial qualification determination.
- (k) The Commission and its Staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks. The Commission may require a name-based criminal history record check of a driver who has twice submitted to a fingerprint-based criminal history record check and whose fingerprints are unreadable or unclassifiable.
- (l) Nothing in this rule shall be construed to make an independent contractor driver an employee driver of a passenger carrier.
- (m) At any time, Staff shall disqualify a previously qualified driver whose subsequent conviction meets the criteria of subparagraph (f)(II) of this rule. The provisions of paragraph (j) shall apply as if the subsequent qualification determination were an initial qualification determination.

6016. Advertising.

- (a) No regulated intrastate carrier, exempt passenger carrier, towing carrier, and household goods mover, or any officer, agent, employee, or representative of said carrier or mover, shall advertise a transportation service in a name other than that in which said carrier's or mover's authority or operating right is held.
- (I) If a regulated intrastate carrier, exempt passenger carrier, or household goods mover holds an authority or operating right under a trade name, nothing in this paragraph shall be construed to require advertising under the name of said carrier's or mover's parent company.
- (II) If a regulated intrastate carrier, exempt passenger carrier, or household goods mover holds an authority or operating right under more than one trade name, nothing in this paragraph shall be construed to require said carrier or mover to advertise under all the trade names.
- (b) Each advertisement of a household goods mover shall include the phrase "CO PUC Mover Reg. No. [HHG registration number]" and the physical address of the household goods mover.
- (c) Roof lights.
- (I) For purposes of this section, roof light means equipment attached to the roof of a vehicle, or extending above the roofline of a vehicle, for the purpose of displaying any information.
- (II) Except as provided in subparagraph (III), a regulated intrastate carrier or exempt passenger carrier shall not have a roof light, whether or not it displays any information, located on any motor vehicle operated under the regulated intrastate carrier's authority or exempt passenger carrier's registration.
- (III) Nothing in subparagraph (II) shall prohibit the following:
- (A) any light otherwise required by law; or
- (B) a roof light to identify a taxicab operated by a common carrier under an authority to provide taxicab service, or any advertising on the roof of a taxicab operated by a common carrier under an authority to provide taxicab service.

60166017. Violations, Civil Enforcement, and Enhancement of Civil Penalties.

- (a) A violation of subparagraph (a)(I) or (b)(I)(B) of rule 6007 may result in the assessment of a civil penalty of up to \$11,000.00 for each violation.
- (b) Any person subject to § 40-2-110.5, C.R.S., who operates a motor vehicle without having paid the annual identification fee, or who violates any provision of rule 6009, may be assessed a civil penalty of up to \$400.00 for each violation.
- (c) Except as provided for in paragraph (a) or (b) of this rule, a person who violates any provision of rules 6000 through ~~6015~~6016 may be assessed a civil penalty of up to \$275.00 for each violation.

- (d) Pursuant to § 40-7-114, C.R.S., a person, whose driver operates a motor vehicle in violation of applicable statutes or these Rules Regulating Transportation by Motor Vehicle, 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 civil penalties 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 two most recent prior instances of conduct cited in 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.
- (j) The Commission shall not issue a decision on double or triple penalties until after the effective date of the Commission decision upon which the double or triple penalties are based.
- (k) If the respondent pays the double or triple penalties prior to the effective date of the Commission decision upon which the double or triple penalties are based, and such Commission decision finds the respondent not liable for the violation(s), on its own motion the Commission shall refund the appropriate amount of any over payment. By way of example, if the respondent pays a

double penalty and is later found not liable for the first violation upon which the double penalty is based, the Commission shall retain one half of the double penalty amount and refund the other half to the respondent. Likewise, for payment of the reduced amount provided in paragraph (I) of this rule, the Commission shall make an appropriate proportional refund.

- (I) The civil penalty assessment notice shall contain the maximum penalty amount provided by rule for each individual violation noted, the amount of the penalty surcharge pursuant to § 24-34-108(2), with a separate provision for a reduced penalty of 50% of the maximum penalty amount if paid within ten days of receipt of the civil penalty assessment notice.

~~60176018~~. – 6099. [Reserved].

SAFETY RULES

6100. Applicability of Safety Rules.

- (a) Except as set forth in paragraphs (b) and (c) of this rule, Rules 6100 through 6199 apply to:
- (I) common carriers, contract carriers, and exempt passenger carriers;
 - (II) household goods movers and property carriers operating motor vehicles with a GVWR of less than 26,001 pounds; and
 - (III) the employees and commercial motor vehicles of the transportation carriers listed in (a)(I) and (II) above.
- (b) In addition to the other applicability provisions of this rule, paragraph (a) of rule 6103 shall also apply to towing carriers.
- (c) Unless otherwise specifically provided, these Safety Rules do not apply to transportation performed by the federal government, a state, or an agency established under a compact between states that has been approved by the Congress of the United States.
- (d) Certain transportation carriers may be subject to the rules of the Colorado Department of Public Safety. Said rules may be applicable either in addition to or in lieu of the Commission's Safety Rules. In order to determine the applicability of the rules of the Colorado Department of Public Safety, please consult 8 CCR 1507-1.

6101. Definitions.

In addition to the generally applicable definitions in rule 6001, and those incorporated from federal law in rule 6102, the following definitions apply only in the context of these Safety Rules:

- (a) "Commission" means the Public Utilities Commission of the State of Colorado. Any reference to the United States Department of Transportation, the FMCSA, or any other federal agency in any provision of the Code of Federal Regulations adopted by reference in these Safety Rules shall be construed to refer to the Commission.

- (b) "Commercial motor vehicle", for purposes of those rules incorporated by reference, means a motor vehicle operated by a transportation carrier. Notwithstanding the foregoing, for purposes of the incorporated rules found in 49 C.F.R. Part 382 (concerning drug and alcohol testing), the definition of commercial motor vehicle shall be as found in 49 C.F.R. § 382.107; and for purposes of the incorporated rules found in 49 C.F.R. Part 383 (concerning commercial driver's licenses) the definition of commercial motor vehicle shall be as found in 49 C.F.R. § 383.5.
- (c) "Employer", in addition to the definition found in 49 C.F.R. § 390.5, means a transportation carrier.
- (d) "Motor vehicle" is synonymous with the term "commercial motor vehicle" as defined in this rule.
- (e) "Motorcycle" means "motorcycle" as that term is defined in § 42-1-102(55), C.R.S.
- (f) "Motor-driven cycle" means "motor-driven cycle" as that term is defined in § 42-1-102(56), C.R.S.

6102. Regulations Incorporated by Reference.

- (a) Except as provided in rule 6103 or paragraph (c) of this rule, the Commission incorporates by reference the regulations published in:
 - (I) 49 C.F.R. Parts 40, 382, 383, 390, 391, 392, 393, 395, 396, and 399, as revised on October 1, 2005⁷.
 - (II) 49 C.F.R. Appendix G to Subchapter B of Chapter III, as revised on October 1, 2005⁷.
- (b) No later amendments to or editions of the C.F.R. are incorporated into these rules.
- (c) The following provisions of 49 C.F.R. are not incorporated by reference:
 - (I) §§ 382.507, 383.53, 390.3(a), 390.3(c), 390.3(f)(2), 390.21(a), 390.21(b), 390.21(e), 390.21(f), 390.37, 391.47, 391.49, 391.67, 391.68, 391.69, 395.1(h), 395.1(i), 395.8(e), and 396.9; and
 - (II) The definition of "commercial motor vehicle" in § 390.5.
- (d) 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
1560 Broadway, Suite 250,
Denver, Colorado 80202

Telephone: (303) 894-2850
- (e) The material incorporated by reference may be examined at the offices of the Commission, 1560 Broadway, Suite 250, Denver, Colorado 80202, 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.

6103. Modification of Regulations Incorporated by Reference.

(a) With regard to the external markings of motor vehicles:

- (I) All markings shall be in accordance with 49 C.F.R. § 390.21(c) and (d) as it pertains to size, shape, location, color, construction, and durability.
- (II) The markings shall contain all of the following information, as applicable:
 - (A) The name or a trade name as set forth in the common carrier certificate(s), the contract carrier permit(s), the towing carrier permit(s), and the household goods mover registration(s), as applicable.
 - (B) The letter and/or number designation of the common carrier certificate(s), the contract carrier permit(s), the exempt passenger carrier registration(s), the towing carrier permit(s), and the household goods mover registration(s), as applicable, preceded by the letters "CO PUC" or "PUC."
 - (C) The letter and number designation of the property carrier registration, except that the property carrier may meet this requirement by marking its USDOT number in compliance with 49 C.F.R. 390.21(b).
- (III) Motor vehicles operated by a regulated intrastate carrier or an exempt passenger carrier having a seating capacity of fifteen or less may meet all of the requirements of subparagraphs (I) and (II) of this paragraph if the ~~such~~-carrier affixes the marking required by subparagraph (II)(B) so as to be readily visible to both the front and rear of the motor vehicle.
- (IV) A transportation carrier shall remove all markings required by this rule from a motor vehicle that the transportation carrier is permanently withdrawing from service.
- (V) The words "operated by" shall precede the markings required by subparagraph (II) of this paragraph if the name of any transportation carrier other than the transportation carrier operating the motor vehicle appears on the motor vehicle.
- (VI) In addition to the provisions of this paragraph, persons operating a luxury limousine must comply with rule 6304.

(b) With regard to qualification and examination of drivers:

- (I) 49 C.F.R. Part 391 shall not apply to household goods movers or property carriers, or to their drivers; but this exclusion applies only to the extent that the motor vehicles used:
 - (A) do not transport passengers,
 - (B) have a GVWR or GCWR of less than 10,001 pounds, and

- (C) do not require a commercial driver's license to operate.
- (II) Subpart E of 49 C.F.R. Part 391, relating to physical qualifications and examinations, shall not apply to household goods movers or property carriers, or to their drivers; but this exclusion applies only to the extent that the motor vehicles used:
 - (A) do not transport passengers,
 - (B) have a GVWR or GCWR of less than 26,001 pounds, and
 - (C) do not require a commercial driver's license to operate.
- (III) 49 C.F.R. § 391.11(b)(1), relating to age of drivers, shall not apply to drivers operating solely in intrastate commerce; such drivers shall be at least eighteen years of age. This subparagraph (III) shall not apply to drivers operating motor vehicles used in transporting hazardous materials of a type and quantity that would require the motor vehicle to be marked or placarded under 49 C.F.R. § 177.823.
- (IV) In addition to the requirements found in 49 C.F.R. §391.45, any person whose medical examiner's certificate has expired must be medically examined and certified as being physically qualified to operate a commercial motor vehicle.
- (c) With regard to motor vehicle parts and accessories necessary for safe operation:
 - (I) The provisions of 49 C.F.R. § 393.55 shall only apply to a bus with a seating capacity of 16 or more and to a truck, and truck tractor as those terms are defined in 390.5.
 - (II) The provisions of 49 C.F.R. § 393.83(c) and (d) shall not apply to any bus with a seating capacity of 15 or less and having a GVWR of less than 10,001 pounds, which is manufactured with a side discharge exhaust.
 - (III) The provisions of 49 C.F.R. § 393.89, relating to driveshaft protection, and 393.95, relating to emergency equipment, shall not apply to any bus with a seating capacity of 15 or less and having a GVWR of less than 10,001 pounds.
 - (IV) The following provisions of 49 C.F.R. Part 393 shall not apply to motorcycles or to motor-driven cycles:
 - (A) Sections 393.11 and 393.24(a) requiring at least two headlamps. Motorcycles and motor-driven cycles shall have at least one headlamp.
 - (B) Section 393.41 requiring parking brakes. Motorcycles and motor-driven cycles shall carry sufficient chocking blocks to prevent movement when parked.
 - (C) Section 393.51 requiring service brake system warning devices and gauges.
 - (D) That part of § 393.65(d) prohibiting gravity feed to supply fuel to the carburetor or injector.

- (d) With regard to hours of service of drivers:
- (I) 49 C.F.R. Part 395 shall not apply to household goods movers or property carriers, or to their drivers; but this exclusion applies only to the extent that the motor vehicles used:
 - (A) do not transport passengers,
 - (B) have a GVWR or GCWR of less than 10,001 pounds, and
 - (C) do not require a commercial driver's license to operate.
 - (II) A driver for a transportation carrier of passengers is exempt from the requirements of 49 C.F.R. §§ 395.5(a)(2) and 395.8 if all of the following conditions are met:
 - (A) The driver operates a motor vehicle having a GVWR or GCWR of less than 10,001 pounds and has a seating capacity of 15 or less;
 - (B) The driver operates within a 100 air-mile radius of the normal work reporting location;
 - (C) The driver, except a driver salesperson, returns to the work reporting location and is released from duty within 16 consecutive hours;
 - (D) At least eight consecutive hours off duty separate each 16-hour period referenced in subparagraph (II)(C) of this paragraph;
 - (E) The driver does not exceed 10 hours maximum driving time following eight consecutive hours off duty; and
 - (F) The transportation carrier that employs or retains the driver maintains and retains accurate and true time records, and all supporting documents verifying such time records, for a period of six months showing:
 - (i) The time(s) the driver reports for duty each day;
 - (ii) The time(s) the driver is released from duty each day;
 - (iii) The total number of hours the driver is on duty each day;
 - (iv) For a driver who is off duty for an entire day, an indication to that effect; and
 - (v) The total time for the preceding seven days in accordance with 49 C.F.R. § 395.8(j)(2) for drivers used for the first time or intermittently. For purposes of this subparagraph (v), first time or intermittently means a driver who has not been on duty for the transportation carrier during the immediately preceding seven days.

- (III) With regard to subparagraph (II) of this paragraph, drivers may go off duty for any period of time during the 16-hour period, but the 16-hour period shall only be restarted after eight consecutive hours off duty.
- (IV) Maximum driving time.
 - (A) In lieu of 49 C.F.R. § 395.5(b), a transportation carrier of passengers may apply subparagraph (IV)(B) to drivers who, in any eight consecutive days, operate only motor vehicles having:
 - (i) a GVWR or GCWR of less than 10,001 pounds; and
 - (ii) a seating capacity of 15 or less.
 - (B) A transportation carrier shall neither permit nor require a driver to drive, nor shall any such driver drive, regardless of the number of motor carriers or transportation carriers using the driver's services, for any period after:
 - (i) Having been on duty 70 hours in any seven consecutive days if the employing transportation carrier does not operate motor vehicles every day of the week; or
 - (ii) Having been on duty 80 hours in any eight consecutive days if the employing transportation carrier operates motor vehicles every day of the week.
- (e) With regard to inspection of drivers and/or motor vehicles:
 - (I) Commission investigators shall record the results of driver and/or motor vehicle inspections on a form titled "Driver/Vehicle Compliance Report" ("DVCR"). The investigator shall provide the driver and/or the transportation carrier with a copy of the completed DVCR.
 - (II) The driver receiving a DVCR shall deliver the DVCR to the transportation carrier operating the motor vehicle upon the driver's next arrival at any of the transportation carrier's terminals or facilities. If the driver is not scheduled to arrive at a terminal or facility within 24 hours, the driver shall immediately mail the report to the transportation carrier operating the motor vehicle.
 - (III) Transportation carriers shall examine the DVCR and correct all violations or defects noted thereon. Within 15 days following the date of the inspection, the transportation carrier shall:
 - (A) by completing the "Carrier Official's Signature, Title, and Date" portions of the DVCR, certify that all violations noted on the DVCR have been corrected;
 - (B) return the completed DVCR to the Commission at the address shown on the DVCR; and

- (C) retain a copy of the DVCR for 12 months from the date of the inspection at the transportation carrier's principal place of business or where the motor vehicle is housed.
- (IV) Enforcement officials shall declare and order out-of-service any motor vehicle that, by reason of its mechanical condition or loading, would likely cause an accident or a breakdown. Enforcement officials shall declare and order out-of-service any driver who by reason of the driver's lack of qualification, sickness or fatigue, violation of hours of service provisions, or violation of drug or alcohol provisions, would likely cause an accident. In determining whether a specific condition constitutes an out-of-service condition, enforcement officials shall use as guidance the current out-of-service criteria set forth by the Commercial Vehicle Safety Alliance. A DVCR declaring a motor vehicle and/or a motor vehicle driver out-of-service shall constitute an out-of-service order giving notice to the driver and the transportation carrier regarding the out-of-service condition.
- (V) No transportation carrier shall require or permit any person to operate, nor shall any person operate, any motor vehicle declared and ordered out-of-service until all repairs required by the out-of-service order have been satisfactorily completed. No transportation carrier shall require or permit any person declared and ordered out-of-service to operate, nor shall any person operate, any motor vehicle until the person's out-of-service condition has been corrected. The term "operate" as used in this rule shall include towing the motor vehicle, except that motor vehicles declared and ordered out-of-service may be towed away by means of a motor vehicle using a crane, hoist, or rollback. A motor vehicle combination consisting of an emergency towing vehicle and an out-of-service motor vehicle shall not be operated unless such combination meets the performance requirements of these Safety Rules except for those conditions noted on the DVCR.
- (f) The provisions for periodic inspections, inspector qualifications, periodic inspection record keeping, and equivalent to periodic inspections contained in 49 C.F.R. §§ 396.17, 396.19, 396.21, and 396.23 shall apply only to motor vehicles that:
 - (I) have a GVWR or GCWR of 10,001 pounds or more and are operated by a household goods mover or property carrier;
 - (II) are designed to transport passengers; or
 - (III) are used in the transportation of hazardous materials in a quantity requiring placarding under regulations issued under the Hazardous Material Transportation Act, 49 U.S.C. § 5101 et seq.
- (g) Transportation carriers filing reports required by 49 C.F.R. Parts 40, 382, 383, 390, 391, 392, 393, 395, 396, or 399 shall file such reports with the Commission at its business address: 1560 Broadway, Suite 250, Denver, Colorado 80202.
- (h) Transportation carriers and drivers shall, upon request by an enforcement official, make available for inspection all records required to be made by these Safety Rules and all motor vehicles subject to these Safety Rules.

6104. Motor Vehicle Weight.

An enforcement official may require a transportation carrier to have a motor vehicle weighed, if such motor vehicle's structural components, suspension components, wheels, tires, or loading may, in the enforcement official's judgment, create potentially unsafe operations.

6105. Safety Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates the following provisions may be assessed a civil penalty of up to \$10,000.00 for each violation:

Citation	Violation Description
49 C.F.R. § 392.4(b)	Requiring or permitting a driver to drive while under the influence of, or in possession of, a narcotic drug, amphetamine, or any other substance capable of rendering the driver incapable of safely operating a motor vehicle, per §392.4(a).
49 C.F.R. § 392.5(b)(1)	Requiring or permitting a driver to operate a commercial motor vehicle within 4 hours of using, while under the influence of, or having in his/her possession, alcohol, per §392.5(a).
49 C.F.R. § 392.5(b)(2)	Requiring or permitting a driver to operate a commercial motor vehicle who shows evidence of, or the general appearance and conduct of, having consumed alcohol within the preceding 4 hours.
49 C.F.R. § 396.11(c)	Failing to correct out-of-service defects listed by the driver in a driver vehicle inspection report before the vehicle is operated again.
Rule 6103(e)(V)	Requiring or permitting a driver to operate a motor vehicle during the period the driver was placed out of service.
Rule 6103(e)(V)	Requiring or permitting the operation of a motor vehicle placed out of service before the required repairs are made but after the transportation carrier has received notice of the defect.

- (b) A person who violates the following provisions may be assessed a civil penalty of up to \$2,500.00 for each violation:

Citation	Violation Description
49 C.F.R. § 390.35	Making, or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records if such action misrepresents a fact that constitutes a violation other than a reporting or recordkeeping violation.
49 C.F.R. § 391.11(a)	Requiring or permitting a driver who is not qualified to drive [§ 391.11(b)(4), (5), and (7)].
49 C.F.R. § 391.15(a)	Using a disqualified driver.
49 C.F.R. § 392.2	Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.
49 C.F.R. § 392.9(a)(1)	Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured.
49 C.F.R. § 395.3(a)(1)	Requiring or permitting a driver to drive 11 cumulative hours.
49 C.F.R. § 395.3(a)(2)	Requiring or permitting a driver to drive after having been on duty 14 hours.
49 C.F.R. §§ 395.3(b)(1) or 395.5(b)(1)	Requiring or permitting a driver to drive after having been on duty 60 hours in 7 consecutive days.
49 C.F.R. §§ 395.3(b)(2) or 395.5(b)(2)	Requiring or permitting a driver to drive after having been on duty 70 hours in 8 consecutive days.
49 C.F.R. § 395.5(a)(1)	Requiring or permitting a driver to drive more than 10 hours.
49 C.F.R. § 395.5(a)(2)	Requiring or permitting a driver to drive after having been on duty 15 hours.
Rule 6103(d)(IV)(B)(i)	Requiring or permitting a driver to drive after having been on duty 70 hours in 7 consecutive days.
Rule 6103(d)(IV)(B)(ii)	Requiring or permitting a driver to drive after having been on duty 80 hours in 8 consecutive days.
49 C.F.R. § 396.17(g)	Failing to promptly repair parts and accessories not meeting minimum periodic inspection standards.

- (c) A person who violates the following provisions may be assessed a civil penalty of up to \$1,100.00 for each violation:

Citation	Violation Description
49 C.F.R. § 382.115(a)	Failing to implement an alcohol and/or controlled substances testing program.
49 C.F.R. § 382.201	Using a driver known to have an alcohol concentration of 0.04 or greater.
49 C.F.R. § 382.211	Using a driver who has refused to submit to an alcohol or controlled substances test required under Part 382.
49 C.F.R. § 382.213(b)	Using a driver known to have used a controlled substance.
49 C.F.R. § 382.215	Using a driver known to have tested positive for a controlled substance.
49 C.F.R. § 382.301(a)	Using a driver before the motor carrier has received a negative pre-employment controlled substance test result.
49 C.F.R. § 382.303(a)	Failing to conduct post accident testing on driver for alcohol and/or controlled substances.
49 C.F.R. § 382.305	Failing to implement a random controlled substances and/or an alcohol testing program.
49 C.F.R. § 382.305(b)(1)	Failing to conduct random alcohol testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.
49 C.F.R. § 382.305(b)(2)	Failing to conduct random controlled substances testing at an annual rate of not less than the applicable annual rate of the average number of driver positions.
49 C.F.R. § 382.309(a)	Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.
49 C.F.R. § 382.309(b)	Using a driver who has not undergone a return-to-duty controlled substances test with a result indicating a verified negative result for controlled substances.
49 C.F.R. § 382.503	Allowing a driver to perform safety sensitive function, after engaging in conduct prohibited by subpart B, without being evaluated by substance abuse professional, as required by § 382.605.
49 C.F.R. § 382.505(a)	Using a driver within 24 hours after being found to have an alcohol concentration of 0.02 or greater but less than 0.04.

Citation	Violation Description
49 C.F.R. § 382.605(c)(1)	Using a driver who has not undergone a return-to-duty alcohol test with a result indicating an alcohol concentration of less than .02 or with verified negative test result, after engaging in conduct prohibited by part 382 subpart B.
49 C.F.R. § 382.605(c)(2)(ii)	Failing to subject a driver who has been identified as needing assistance to at least six unannounced follow-up alcohol and/or controlled substance tests in the first 12 months following the driver's return to duty.
49 C.F.R. § 391.45(a)	Allowing a driver to drive who has not been medically examined and certified.
49 C.F.R. § 391.45(b)(1)	Allowing a driver to drive who has not been medically examined and certified every 24 months.
Rule 6103(b)(4)	Allowing a driver to drive who has not been medically examined and certified upon expiration of the medical examiner's certificate.
49 C.F.R. § 396.17(a)	Using a commercial motor vehicle not periodically inspected.

- (d) A driver placed out of service for 24 hours for violating the alcohol prohibitions of 49 C.F.R. § 392.5(a) or (b) who drives during that period may be assessed a civil penalty of up to \$2,750.00 for each violation.
- (e) A driver who violates the following provisions may be assessed a civil penalty of up to \$1,100.00 for each violation:

Citation	Violation Description
Rule 6103(e)(V)	Operating a motor vehicle during a period the driver was placed out of service.
Rule 6103(e)(V)	Operating a motor vehicle after the vehicle was placed out of service and before the required repairs are made.

- (f) A person who violates the following recordkeeping provisions may be assessed a civil penalty of up to \$500.00 for each violation up to a cumulative maximum of \$5,000.00:

Citation	Violation Description
49 C.F.R. § 392.6	Scheduling a run that would necessitate the vehicle being operated at speeds in excess of those prescribed.
Rule 6103(e)(III)	Failing to return the written certification of correction as required by the out-of-service order.
49 C.F.R. § 395.8(a)	Failing to require driver to make a record of duty status.
49 C.F.R. § 395.8(i)	Failing to require driver to forward within 13 days of completion, the original of the record of duty status.
49 C.F.R. § 395.8(k)(1)	Failing to preserve driver's record of duty status and supporting documents for 6 months.
49 C.F.R. § 396.3(b)	Failing to keep minimum records of inspection and vehicle maintenance.
49 C.F.R. § 396.11(a)	Failing to require driver to prepare driver vehicle inspection report.

- (g) A person who violates 49 C.F.R. Part 383, Subparts B, C, E, F, G, or H may be assessed a civil penalty of \$2,750.00 for each violation.
- (h) Except as provided in paragraphs (a) through (g) of this rule, a person who violates any other rule may be assessed a civil penalty of up to \$250.00 for each violation up to a cumulative maximum of \$5,000.00 for each type of recordkeeping violation.
- (i) The provisions relating to the doubling and tripling of civil penalty assessments, found in § 40-7-113(3) and (4), and in paragraphs (f) through (k) of rule 6016, shall not apply to the assessment of civil penalties for safety rule violations.

6106. – 6199. [Reserved].

COMMON AND CONTRACT CARRIER RULES

Rules Generally Applicable to Common and Contract Carriers

6200. Applicability of Common and Contract Carrier Rules.

Rules 6200 through 6299 apply to all common carriers and all contract carriers. Rules 6250 through 6259 are specifically applicable only to taxicab carriers. Nothing in these Common and Contract Carrier Rules shall alter, amend, modify, suspend, or otherwise affect specific provisions, limitations, or requirements in any authority issued to any regulated intrastate carrier prior to the adoption of these rules.

6201. Definitions.

In addition to the generally applicable definitions in rule 6001, the following definitions apply only in the context of these Common and Contract Carrier Rules:

- (a) "Auto livery" or "auto livery service" means the transportation of passengers by common carrier, including the transportation of passengers in scheduled and/or call-and-demand service.
- (b) "Capable," as used in § 40-6-120(1), C.R.S., means ready, willing, and able to provide services under the terms of the common carrier's authority. Capability may be evidenced by, among other things, ongoing transportation operations or good faith efforts to conduct such operations under such authority.
- (c) "Call-and-demand," "on call-and-demand," or "call-and-demand service" means the transportation of passengers not on schedule. Call-and-demand service includes charter service, limousine service, sightseeing service, and taxicab service.
- (d) "Charter party" means a person or group of persons who are traveling together pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, having acquired the exclusive use of the motor vehicle.
- (e) "Charter service" means transportation of a charter party.
- (f) "Dual-use vehicle" means a specific motor vehicle used to provide luxury limousine service, on the one hand, and either common carrier service, contract carrier service, or both, on the other hand.
- (g) "Flag stop" means a point of service designated by a scheduled common carrier on its filed schedule, which point is located between two scheduled points on the scheduled route. Typically, the common carrier does not designate a specific time for service to the flag stop; if the common carrier does designate a specific time for service, the time is considered to be an approximation.
- (h) "Limousine service" means the transportation of passengers charged at a per person rate, and the use of the motor vehicle is not exclusive to any individual or group. The term "limousine service" is distinguished from the term "luxury limousine service" as used in Article 16 of Title 40, C.R.S.
- (i) "Outstanding authority" means an existing authority, or any portion thereof, which is not under suspension.
- (j) "Schedule," "on schedule," or "scheduled service" means the transportation of passengers between fixed points and over designated routes at established times as specified in the common carrier's time schedule as filed with and approved by the Commission.
- (k) "Sightseeing service" means the transportation of passengers for the sole purpose of viewing or visiting places of natural, historic, or scenic interest, such that the transportation originates and terminates at the same point.

- (l) "Special bus," "special bus transportation," or "special bus service" means the transportation of passengers by common carrier:
 - (I) not including ordinary and continuous scheduled service;
 - (II) rendered generally on weekends, holidays, or other special occasions;
 - (III) with a fixed termination date; and
 - (IV) to a number of passengers whom the carrier on its own initiative has assembled into a travel group, through its own promotion and sale of individual tickets, for a trip or tour planned by the carrier.
- (m) "Tacking" means the joinder of two or more separate authorities or two or more separate parts thereof at a common service point for the purpose of providing a through service.
- (n) "Taxicab service" means passenger transportation by taxicab.

6202. Prohibitions.

- (a) Without specific approval by the Commission, no regulated intrastate carrier shall:
 - (I) combine or tack two or more separate authorities or two or more separate parts of an authority in order to render a transportation service not authorized by any individual authority or part thereof;
 - (II) extend, enlarge, diminish, change, alter, or vary the territory, route, or service authorized by its authority;
 - (III) serve any point not included in its authority;
 - (IV) abandon or suspend operations under its authority; or
 - (V) file a tariff or time schedule whose applicability or scope violates this rule.
- (b) Except as specifically provided by Commission Order, rule 6012, rule 6205, or Article 11.5 of Title 40, C.R.S., no regulated intrastate carrier shall by any means, directly or indirectly, sell, lease, merge, consolidate, assign, license, encumber, or otherwise transfer any right or interest in any portion of said regulated intrastate carrier's authorities. Every such transaction, unless excepted, shall be void. This prohibition applies, without limitation, to a regulated intrastate carrier permitting a person to operate under said regulated intrastate carrier's contract carrier permit or common carrier certificate pursuant to a motor vehicle lease.
- (c) Except as approved by the Commission, no transfer of any authority by means of foreclosure of an encumbrance or by means of an execution in satisfaction of any judgment or claim shall be effective. The fact that the Commission has approved an encumbrance is not an indication that a transfer has been authorized.

6203. Applications to Operate as a Common or Contract Carrier.

- (a) Any person seeking permanent authority to operate as a common or contract carrier, or permanent authority to extend a common carrier certificate or contract carrier permit, shall file an application with the Commission. The application shall contain the following information:
- (I) The name, including trade name if applicable, physical address, mailing address, and telephone number of the applicant.
 - (II) The name, mailing address, and telephone number of the applicant's representative to whom the Commission may direct inquiries regarding the application.
 - ~~(III)~~ The name and address of the applicant's Colorado agent for service of process, if required by rule 6011.
 - ~~(IIIIV)~~ A statement describing the applicant's business structure (corporation, limited liability company, partnership, sole proprietorship, etc.).
 - ~~(IVV)~~ If the applicant is a corporation: the name of the state in which it is incorporated; the location of its principal office, if any, in Colorado; the names of its directors and officers; ~~the name and address of its Colorado agent for service of process;~~ and a certified copy of its certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application.
 - ~~(VVI)~~ If the applicant is a limited liability company: the name of the state in which it is organized; the complete mailing address and physical address of its principal office; the name of its managers; and a certified copy of its certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application.
 - ~~(VIVII)~~ If the applicant is a partnership: the names, titles, and addresses of all general and limited partners; and a copy of the partnership agreement establishing the partnership and all subsequent amendments.
 - ~~(VIVIII)~~ A complete description of the authority sought, which shall indicate:
 - (A) whether the applicant proposes to operate as a common or contract carrier;
 - (B) the proposed type of service (*i.e.*, charter, limousine, sightseeing, taxicab, or scheduled, but not auto livery or special bus), if the applicant proposes to operate as a common carrier;
 - (C) the proposed geographic area of service or the proposed points or routes of service;
 - (D) any proposed restrictions to the authority sought; and
 - (E) a description of the make, model, and year of the motor vehicles proposed to be operated, or if unknown, then a summary of the number and types of motor vehicles proposed to be operated.

- (~~VIII~~X) A map or diagram showing the proposed geographic area of service, or the proposed points or routes of service, if and in the form requested by the Commission or Commission staff.

- (~~IX~~X) If the applicant seeks common carrier authority, the applicant shall attach (for an application to provide taxicab service within and between the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, the applicant may attach) signed letters of support indicating a public need for the proposed service. A letter from the applicant shall be considered a letter of public support. A letter of support:
 - (A) shall contain the author's name, address, and phone number;
 - (B) should explain the public need;
 - (C) should specifically support the applicant's particular request for authority;
 - (D) should describe whether and how existing service is inadequate; and
 - (E) shall contain a statement, signed by the author, stating that the letter contains only information that is true and correct to the best of the author's knowledge and belief.

- (~~XI~~XI) If the applicant seeks contract carrier authority, the applicant shall attach a letter signed by each proposed customer. Such a letter:
 - (A) shall contain the proposed customer's name, address, and phone number;
 - (B) should indicate the proposed customer's special or distinctive transportation needs and whether those needs can be met by existing service;
 - (C) should specifically support the applicant's particular request for authority;
 - (D) should describe whether and how existing service is inadequate; and
 - (E) shall contain a statement, signed by the proposed customer, stating that the letter contains only information that is true and correct to the best of the proposed customer's knowledge and belief.

- (~~XII~~XII) A statement of the facts upon which the applicant relies to establish that the application should be granted. Except for an application to provide taxicab service within and between the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, if the application seeks common carrier authority, the statement should establish how granting the application is in the public interest. If the application seeks contract carrier authority, the statement should establish the superior, special, or distinctive nature of the transportation service, or how the transportation service will be specifically tailored to meet the customer's needs.

~~(XIV)~~ Except as provided in subparagraph (a)~~(XIV)~~, a statement setting forth the qualifications of the applicant, including managerial, operational, and financial fitness, to conduct the proposed operations.

~~(XIV)~~ For an applicant applying to provide taxicab service within and between the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, a statement setting forth the qualifications of the applicant, including operational and financial fitness, to conduct the proposed operations.

~~(XIV)~~ A statement describing the extent to which the applicant, or any person affiliated with the applicant, holds or is applying for authority duplicating or overlapping in any respect the authority at issue in the application.

~~(XIV)~~ If applicable, current copies of any authority, issued by either a state or federal agency, authorizing the applicant to provide for-hire transportation of passengers in the State of Colorado.

~~(XIV)~~ If applicable, current copies of any authority, issued by either a state or federal agency, authorizing any affiliate of the applicant to provide for-hire transportation of passengers in the State of Colorado.

~~(XIV)~~ If applicable, a statement that the applicant understands the Commission will, in its discretion, cancel any duplicating or overlapping authorities created by granting the application.

~~(XIV)~~ A statement indicating the town or city where the applicant prefers any hearing to be held.

~~(XIV)~~ A statement, signed by the applicant, that the application contains only information that is true and correct to the best of the applicant's knowledge and belief.

(b) Any person seeking temporary authority to operate as a common or contract carrier, or temporary authority to extend a common carrier certificate or contract carrier permit, shall file an application with the Commission. The application shall contain the following information:

(I) All the information specified by paragraph (a) of this rule, except that:

(A) Any support letters shall contain the following additional information: an explanation of the immediate and urgent need for the proposed service; whether there is any other transportation service available; if such service is available, a detailed description of the author's efforts to use it and whether it is capable of meeting the author's needs; and the extent to which available transportation services have refused to provide service.

(B) The statements in subparagraph (a)~~(XIV)~~ are unnecessary.

(II) A statement indicating whether the Commission has previously granted to the applicant authority to render all or any part of the proposed service. If this statement is answered

in the affirmative, a copy of the decision granting the authority shall be attached to the application.

- (III) A statement of facts establishing an immediate and urgent need for the proposed service and further establishing that no existing regulated intrastate carrier is capable of providing the proposed service.
 - (IV) A statement of the period of time which applicant requests the temporary authority to cover, not to exceed 180 days.
- (c) Any person seeking emergency temporary authority to operate as a common or contract carrier, or emergency temporary authority to extend a common carrier certificate or contract carrier permit, shall file an application with the Commission. The application shall contain all the information required by paragraph (b) of this rule, except that the period of time identified in subparagraph (b)(IV) shall not exceed 30 days. The application shall include a statement of facts establishing the basis and nature of the emergency need for the proposed service. Support letters shall explain the basis and nature of the emergency.
- (d) The granting of emergency temporary authority creates no presumption that temporary or permanent authority will be granted. The granting of temporary authority creates no presumption that permanent authority will be granted.
- (e) Burden of proof for contract carrier applicants.
- (I) A contract carrier applicant shall bear the burden of proving that the service it proposes is specialized and tailored to the potential customer's distinct need.
 - (II) Such a showing is overcome by an intervenor's showing that the intervenor has the ability and willingness to meet the potential customer's distinct need.
 - (III) If the intervenor makes such a showing, the applicant shall bear the burden of proving that the applicant is better suited than the intervenor to meet the distinct needs of the potential customer.
 - (IV) The intervenor may overcome such a demonstration by establishing that the applicant's proposed operation will impair the efficient public service of any common carrier then adequately serving the same geographic area.
 - (V) Nothing in this paragraph shall be construed to direct the sequence of evidence presented by the parties.

6204. Abandonment, ~~Revocation, or Voluntary~~ Suspension, ~~Alteration, or Amendment~~ of Authorities.

- ~~(a) The Commission may, after at least ten days' notice to the regulated intrastate carrier affected, hold a hearing to revoke, suspend, alter, or amend said regulated intrastate carrier's authorities for any of the following reasons:~~
 - ~~(I) Failure to comply with any statutory requirement concerning regulated intrastate carriers;~~

~~(II) Failure to comply with the terms and conditions of, or exceeding the authority granted in, the regulated intrastate carrier's common carrier certificate or contract carrier permit; or~~

~~(III) Failure to comply with any lawful order, rule, or regulation of the Commission.~~

(ba) A regulated intrastate carrier wishing to abandon or voluntarily suspend its authority(ies), or any portion thereof, shall file an application to do so. The application shall contain information fully explaining why the abandonment or suspension is sought and how the abandonment or suspension will affect the public. The application must also contain a statement, signed by the applicant, that the application contains only information that is true and correct to the best of the applicant's knowledge and belief. The Commission, in its discretion, may either grant such an application without a hearing after ten day's notice or set it for hearing.

(eb) Except as specified in paragraph (ec) of this rule, a regulated intrastate carrier may not request and the Commission shall not grant a voluntary suspension persisting for longer than:

(I) twelve consecutive months;

(II) twelve months in any 24-month period; or

(III) two consecutive seasons, for a regulated intrastate carrier operating seasonally.

(ec) A regulated intrastate carrier requesting a voluntary suspension for a longer period than authorized by this rule shall be required to prove that the suspension is in the public interest and that alternative service will be available during the period of suspension.

6205. Encumbrances, Transfers, Mergers, Consolidations, and Acquisitions of Control.

(a) For purposes of this rule:

(I) "Encumbrancer" means a person seeking or holding an encumbrance (e.g., lien or mortgage) against the authority of a common or contract carrier.

(II) "Transfer" means, without limitation, any sale, lease, assignment, license, change in ownership, foreclosure of an encumbrance, execution in satisfaction of any judgment or claim, merger, consolidation, or similar transaction in which control of any authority or portion thereof changes from one entity to another, whether voluntarily, by court order, or otherwise.

(III) "Transferee" means any entity newly acquiring control of any authority from a transferor.

(IV) "Transferor" means any entity transferring control of any authority to a transferee.

(b) Except with regard to foreclosures of encumbrances, executions in satisfaction of a judgment or claim, or transfers pursuant to a court order, only the owners of an authority as shown in the official records of the Commission may transfer the authority.

(c) An application to encumber any authority, transfer any authority, acquire control of any regulated intrastate carrier, or permit a merger or consolidation of a regulated intrastate carrier with any

other entity, shall, if possible, take the form of a joint application submitted by all parties to the transaction. Such an application shall contain all the following information. If an applicant is unable to supply the required information, the applicant shall explain the reason for the lack of information.

- (I) All applicants shall provide the information required by subparagraphs 6203(a)(I), (II), and ~~(XVIII)~~(XIX).
- (II) Transferees and encumbrancers shall provide the information required by subparagraphs 6203(a)(III) - ~~(VI)~~(VII), and ~~(XIV)~~(XV) - ~~(XVI)~~(XVII).
- (III) If a transferee or encumbrancer is an executor, trustee, receiver, or other similar representative of the real party in interest: a copy of the court order evidencing the representative's appointment, or other evidence of authority if not under court order.
- (IV) If the transaction covers only portions of an authority: a statement fully explaining which portions are covered by the transaction and which are not.
- (V) A complete description of the type of transaction for which the applicants seek Commission approval, together with a statement describing each applicant's role in the transaction.
- (VI) If the transaction involves an acquisition of stock: a statement of the transferor's total number of outstanding capital stock shares, by class; and the number of shares of each class to be acquired by transferee.
- (VII) A copy of all agreements concerning the transaction, including a copy of all documents creating a security interest, if any, and a statement of the consideration paid in the transaction.
- (VIII) A statement explaining how the transferee proposes to meet the financial requirements of the transaction, including, if a loan is involved, the amount, maturity, interest rate, and other terms and conditions.
- (IX) A statement setting forth the nature, extent, and proposed disposition of any existing encumbrances against the affected authorities.
- (X) A current copy of each of the letters of authority encompassing the authorities at issue in the application.
- (XI) If the transaction involves the lease of an authority: a copy of the proposed lease and a statement of the lease's effective date and termination date.
- (XII) If a transferor or encumbrancer seeks foreclosure of an encumbrance or execution in satisfaction of any judgment or claim: the transferee's written consent to transfer, or in lieu thereof, a judicial order authorizing unilateral action by the transferor or encumbrancer.

- (XIII) Except in the case of an application involving only the creation of an encumbrance or as provided in subparagraph (c)(XIV), a statement setting forth the qualifications of the transferee, including managerial, operational, and financial fitness, to conduct the proposed operations.
 - (XIV) For an application involving only taxicab service within and between the counties of Adams, Arapahoe, Boulder, Broomfield, Denver, Douglas, El Paso, and Jefferson, a statement setting forth the qualifications of the transferee, including operational and financial fitness, to conduct the proposed operations.
 - (XV) A statement that the applicants understand the Commission will, in its discretion, cancel any duplicating or overlapping authority created by the transaction.
 - (XVI) A statement setting forth whether the transferor has been and is conducting active, bona fide operations under the authorities at issue in the transaction.
 - (XVII) A statement of the facts upon which the applicants rely to show that the application should be granted. In this regard, the applicants should consult paragraph (e) of this rule.
 - (XVIII) A statement, signed by the applicant, that the application contains only information that is true and correct to the best of the applicant's knowledge and belief.
- (d) An application filed under § 40-6-120(2) or (4), C.R.S., seeking temporary or emergency temporary approval to operate the regulated intrastate carrier or regulated intrastate carrier properties, shall be filed concurrently with the permanent application filed under paragraph (c) of this rule. A temporary and/or emergency temporary application shall contain a statement of the facts establishing that failure to grant temporary or emergency temporary approval may result in destruction of or injury to the utility's properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public. In the case of an emergency temporary application, the application shall contain a statement explaining the nature and extent of the emergency.
- (e) Applicants seeking temporary or emergency temporary approval to transfer control of any authority have the burden of proving the elements prescribed by § 40-6-120(2) or (4), C.R.S., as applicable. Applicants seeking approval to permanently transfer any authority have the burden of proving:
- (I) that the transferor has not abandoned the authority and has not allowed the authority to become dormant;
 - (II) that the transferor has been and is engaged in bona fide operations under its authority, or the extent to which bona fide operations have been excused because of a Commission-approved suspension;
 - (III) that the transfer is not contrary to the public interest;
 - (IV) that the transfer will not result in the common control or ownership of duplicating or overlapping authorities; and

- (V) except in transfers involving foreclosures of encumbrances, executions in satisfaction of a judgment or claim, or transfers pursuant to a court order, that the transferee will engage in bona fide regulated intrastate carrier operations and is fit to do so.
- (f) A transferor shall not cancel its insurance, surety bond, or tariffs until the Commission has approved the transfer, the transferee has filed all required documents in the transferee's own name, and the Commission has advised the transferee that it is authorized to begin operations. This paragraph (f) applies regardless of the type of transfer, whether permanent, temporary, or emergency temporary.
- (g) Upon approval of a transfer application (permanent, temporary, or emergency temporary) the transferee shall, in accordance with the timelines set forth by the Commission's order:
 - (I) file with the Commission an adoption notice, in a form available from the Commission, whereby the tariff and/or time schedule of the transferor shall become those of the transferee until changed in accordance with Commission rules;
 - (II) cause to be filed with the Commission certificates of insurance as required by Commission rules; and
 - (III) pay the issuance fee and annual motor vehicle identification fee.
- (h) Upon approval of a permanent transfer application, the transferor and transferee shall file an acceptance of transfer form, which form shall be provided by the Commission. The form shall be signed by both parties, indicating acceptance of the terms and conditions of the Order authorizing the transfer. The acceptance of transfer shall contain a statement indicating that the transferee has complied with all provisions of the agreement of sale, lease, or other transfer.
- (i) A transferee shall not begin operations until after the Commission has advised the transferee that it is in compliance with all requirements and is authorized to begin operations.
- (j) The granting of emergency temporary authority creates no presumption that temporary or permanent authority will be granted. The granting of temporary authority creates no presumption that permanent authority will be granted.

6206. Duplicating or Overlapping Authorities.

The Commission shall not grant, extend, or otherwise modify a common carrier certificate or contract carrier permit, if the regulated intrastate carrier would thereby obtain duplicating or overlapping authorities. Nothing in this rule shall be construed to prohibit Commission cancellation of duplicating or overlapping language that arises as a result of any such grant, extension, or other modification.

6207. Tariffs.

- (a) A regulated intrastate carrier shall keep on file with the Commission, at all times, approved tariffs clearly revealing the rates and charges to be assessed for all transportation and accessorial services and clearly revealing all rules and conditions relating to rates or service.
- (b) Tariff compliance.

- (I) No regulated intrastate carrier may operate its motor vehicles without having approved tariffs on file with the Commission.
 - (II) No regulated intrastate carrier shall disseminate to any person information contrary to the information contained in its approved tariff.
 - (III) No regulated intrastate carrier shall operate in conflict with its approved tariff.
- (c) A common carrier shall ensure that a copy of its approved tariff is available for public inspection, at all reasonable times, in each of the common carrier's offices or terminals transacting business with the public.
- (d) Every taxicab carrier shall publish, in its tariffs, reduced fares that are applicable to passengers riding under a multiple loading arrangement.
- (e) A contract carrier shall ensure that:
- (I) Its tariff complies with the requirements of rule 6209.
 - (II) It is paid in accordance with its approved tariff.
 - (A) The tariff shall provide for payment to the contract carrier only:
 - (i) by the Commission-approved entity with whom the contract carrier has directly contracted; or
 - (ii) by such entity's legal agent for distribution of payment.
 - (B) The tariff shall not provide for payment from an individual passenger, unless:
 - (i) such passenger is the Commission-approved entity specifically named in the contract carrier's permit; or
 - (ii) the Commission specifically so approves.
 - (III) It mails notice of its tariff filings to the affected entity with whom the contract carrier has contracted for transportation services.
 - (A) Such notice shall be mailed concurrently with the tariff filing.
 - (B) Such notice shall contain: a copy of the initial tariff, or the proposed changes thereto, as applicable; the effective date; a statement that the Commission may suspend the effective date and hold a hearing regarding the filing; a statement that a written objection to the filing may be filed with the Commission; the date for filing such an objection; a statement that the filing of an objection by itself will not allow a person to participate in the hearing, unless such person has also filed a written intervention and received leave of the Commission to intervene; and the Commission's address where objections or interventions may be filed.

- (C) The contract carrier shall file an affidavit of mailing with the Commission prior to the filing's effective date. A copy of the notice shall be attached to the affidavit.
- (f) Unless this rule specifies otherwise, the provisions of rule 1210 govern the tariffs and advice letters of regulated intrastate carriers. In addition to the requirements of rule 1210(b)(1)(A), the tariff's title page shall contain the regulated intrastate carrier's common carrier certificate or contract carrier permit numbers to which the tariff applies.
- (g) Except as otherwise ordered by the Commission, a regulated intrastate carrier filing a tariff for newly granted or extended authority shall do so on no less than:
 - (I) five days notice for emergency temporary authority;
 - (II) ten days notice for temporary authority; and
 - (III) fifteen days notice for permanent authority.
- (h) A regulated intrastate carrier proposing a tariff amendment shall file, upon the request of Commission Staff, a statement justifying the amendment. The justification shall include an explanation of the circumstances and data relied upon in requesting approval of the proposed amendment.
- (i) In addition to the notice required by § 40-3-104, C.R.S., and the notice requirements of the rules of practice and procedure, a common carrier proposing an amended tariff, other than an amended tariff applied for under paragraph (j) of this rule, shall give notice as follows:
 - (I) The common carrier shall, concurrently with the filing of the proposed amendment with the Commission, post in a prominent public place in each terminal facility and office of the common carrier and in the passenger compartment of each motor vehicle used in the transportation of passengers affected by the proposed amendment, for a duration equal to the objection or intervention period, whichever is longer, a printed notice of the proposed tariff amendment.
 - (II) The common carrier shall include in such notice: the proposed changes; the effective date; a statement that the Commission may suspend the effective date and hold a hearing regarding the proposed amendment; a statement that a written objection may be filed with the Commission; the date for filing such an objection; a statement that the filing of an objection by itself will not allow a person to participate in the hearing, unless the party has also filed a written intervention and received leave of the Commission to intervene; and the Commission's address where objections or interventions may be filed.
 - (III) If a proposed tariff amendment results in an increase in rates, fares, or charges for call-and-demand limousine, scheduled, special bus, or taxicab service, a common carrier shall also publish notice in one or more newspapers. The form of notice shall be available from the Commission. The common carrier shall ensure that the newspapers' circulations cover the localities or areas of the state where people affected by the proposed tariff reside. A common carrier having a choice under this rule between a local newspaper and a newspaper of general statewide circulation shall place the notice in the local newspaper and may place the notice in the newspaper of general statewide

circulation. The notice shall appear in the newspaper at least 20 days prior to the proposed tariff amendment's effective date. Notwithstanding rule 1206(h) of the Commission's Rules of Practice and Procedure, the common carrier shall file with the Commission, at least 7 days prior to the proposed tariff amendment's effective date, an affidavit of publication prepared by the newspaper or a copy of the publication itself.

- (j) An application to amend a tariff on less than 30 days notice shall only be granted for good cause. The application shall contain information fully explaining why the tariff amendment is sought, why it is sought on less than 30 days notice, and how the tariff change will affect the public if approved. If the Commission approves the application, it shall do so by written order. A common carrier proposing an amended tariff pursuant to this paragraph shall give notice as follows:
 - (I) The common carrier shall, concurrently with the filing of the proposed amendment with the Commission, post in a prominent public place in each terminal facility and office of the common carrier and in the passenger compartment of each motor vehicle used in the transportation of passengers affected by the proposed amendment a printed notice of the proposed tariff amendment. The notice shall remain posted until the Commission approves or rejects the application.
 - (II) The common carrier shall include in such notice: the proposed changes; the date the application was filed with the Commission; a statement that the Commission may grant or deny the application; a statement that a written objection may be filed with the Commission; the Commission's address where objections may be filed; and a statement that an objection may only be filed prior to the date that the Commission grants or denies the application
- (k) Any person affected by a tariff amendment proposed under this rule may submit a written objection to the proposed amendment. Unless otherwise ordered by the Commission, an objection shall not be considered unless it is filed with the Commission at least 10 days before the effective date of the proposed tariff.
- (l) If the Commission suspends and sets any tariff for hearing:
 - (I) Any entity desiring to participate as a party shall intervene in the proceeding.
 - (II) The Commission shall send the order suspending the tariff to the regulated intrastate carrier and any person who has filed an objection. The order shall specify when the matter is set for hearing, that an objection without an intervention is insufficient to participate as a party in the hearing, and the due date for interventions.
- (m) If the Commission suspends a proposed tariff amendment, the regulated intrastate carrier shall file with the Commission a suspension supplement. The suspension supplement shall be on a form deemed proper by the Commission or its staff.
- (n) If the Commission rejects a tariff or amendment, the tariff number contained in it shall not be used again. The tariff or amendment shall not be referred to afterwards as canceled, amended, or otherwise.

- (o) If the Commission issues a decision prescribing any tariff change, the affected regulated intrastate carrier shall file, within 10 days of the effective date of the Commission decision, a revised tariff or revised tariff sheets, as applicable, reflecting the prescribed change.

6208. Time Schedules.

- (a) No scheduled common carrier may operate its motor vehicles without having approved time schedules on file with the Commission. No such common carrier shall operate in conflict with its approved time schedules.
- (b) No scheduled common carrier shall disseminate to any person information contrary to the information contained in its approved time schedules.
- (c) A common carrier shall promptly report in writing to the Commission and shall communicate to the affected public any interruption of regular service for 24 continuous hours or more, explaining in detail the cause and anticipated length of the service interruption.
- (d) A scheduled common carrier shall designate its flag stops on its schedule. Such a common carrier shall drive by each flag stop in such close proximity and speed as to be able to reasonably assess whether passengers are waiting for service. Failure to stop for a waiting passenger constitutes prima facie evidence of a violation of subparagraph 6202(a)(II).
- (e) A scheduled common carrier shall ensure that a copy of its approved time schedule is available for public inspection, at all reasonable times, in each of the common carrier's offices or terminals transacting business with the public. The common carrier shall carry copies of its time schedules in its scheduled motor vehicles, and shall furnish them to passengers upon request.
- (f) Time schedules shall be filed with the Commission as part of the scheduled common carrier's tariff, in accordance with applicable provisions of rule 6207.
 - (I) At a minimum, time schedules shall contain the following:
 - (A) A statement of the scope of the time schedule, describing the route or points to which the time schedule applies.
 - (B) An explanation of the symbols, reference marks, and abbreviations used.
 - (C) One or more lists of all scheduled stops and all flag stops, in geographical order, designating the departure and/or arrival times for the scheduled stops, as appropriate.
 - (D) A statement whether service is daily or otherwise, and if otherwise a statement describing the other service.
 - (E) The address of each scheduled stop, if such address exists, otherwise a description sufficient to notify the Commission and the public regarding the location of the scheduled stop.

- (F) Any other appropriate information regarding the service the common carrier desires to perform.

6209. Contract Carrier Contracts.

- (a) Except as otherwise permitted by law, a contract carrier shall not enter into a contract for transportation with any person not named in the contract carrier's permit.
- (b) Except as otherwise permitted by law, a contract carrier shall not engage in any act of transportation for hire except in compliance with the contract between the contract carrier and the person named in the contract carrier's permit.
- (c) Contracts may be oral or written.
- (d) At a minimum, all contracts, whether oral or written, shall specify the following:
- (I) the names of the parties to the contract;
 - (II) the provisions regarding the scope and terms of transportation and accessorial services to be provided; and
 - (III) the date and term of the contract.
- (e) A contract carrier shall ensure that its contracts do not conflict with provisions in the contract carrier's permit or tariff.
- (f) A contract carrier shall include in its tariff the provisions required under paragraph (d) of this rule.
- (I) In lieu of including said provisions in its tariff, a contract carrier may incorporate its written contract into its tariff by attaching a copy of the contract to the tariff.
 - (II) A contract carrier amending a contract shall immediately file an amended tariff as prescribed by rule 6207.
- (g) The Commission is empowered, at any time, to investigate any contract and to require copies of written contracts from any contract carrier. The Commission is empowered to approve, or to disapprove for cause, any operations under any contract.

6210. Driver Courtesy.

Every regulated intrastate carrier shall ensure that its drivers provide its passengers with courteous service promoting the passengers' comfort and convenience. Drivers shall not behave discourteously. Discourteous service by a driver includes, but is not limited to, instances involving profanity, obscenity, assault, or the making of derogatory sexual or racial remarks towards passengers or other persons. Passenger or other person conduct, especially if it is unlawful, disorderly, or endangers others, is a factor to consider in determining whether a driver behaves discourteously.

6211. Use of Motor Vehicles Qualified as Luxury Limousines.

- (a) No regulated intrastate carrier may use a dual-use vehicle to provide luxury limousine service unless it has provided the Commission advance written notice of its intent to do so.
- (b) The notice shall not be effective until received by the Commission. Notice may be accomplished by U.S. Mail, hand delivery, facsimile transmission, or email. Notices transmitted by facsimile will be deemed received on the date and time imprinted on the notice by the sender's facsimile equipment. In the event the sender's facsimile equipment does not imprint a date and time on the notice, or if the date and time of receipt shown by the Commission's facsimile equipment is different than that shown on by the sender's facsimile equipment, the date and time of receipt shown by the Commission's facsimile equipment shall be conclusive. Notices transmitted by email will be deemed received on the date and time shown on the email received by the Commission.
- (c) Regulated intrastate carriers should use the form of notice available from the Commission. In lieu of such form, however, the regulated intrastate carrier shall give notice under this rule by identifying:
 - (I) the regulated intrastate carrier and the relevant common carrier certificate or contract carrier permit numbers;
 - (II) the luxury limousine registration number;
 - (III) the make, model, license number, and vehicle identification number of the dual-use vehicle;
 - (IV) the date(s) and time(s) of day the dual-use vehicle will be operated as a luxury limousine;
 - (V) the customer's name for each specified date and time;
 - (VI) the date prearrangement for the dual use vehicle was made;
 - (VII) the manner in which prearrangement was made; and
 - (VIII) the total number of passengers in the chartering party.
- (d) The regulated intrastate carrier shall keep a copy of the notice in the dual-use vehicle during the time such dual-use vehicle is operated as a luxury limousine.
- (e) The regulated intrastate carrier may file an amended notice if necessary, but only if such amendment is received by the Commission before the regulated intrastate carrier implements the changes listed in the amendment.
- (f) Dual-use vehicle transportation services conducted in the absence of or prior to Commission receipt of the notice required by this rule shall be deemed to be regulated intrastate carrier services. Dual-use vehicle transportation services conducted as specified in the notice required by this rule shall be deemed to be luxury limousine service. Any operation other than as designated in the notice shall be deemed to be regulated intrastate carrier services.

6212. Annual Reports.

Each regulated intrastate carrier shall file with the Commission an annual report on a Commission-supplied form on or before April 30 of each year. The regulated intrastate carrier shall complete all sections of the annual report applicable to said regulated intrastate carrier for the 12-month period ending on December 31 of the previous calendar year. When the Commission grants a permanent transfer of authority, the transferor shall complete a terminating annual report on a Commission-supplied form, which report shall cover the period from January 1 to the date the transfer is effective. The regulated intrastate carrier's owner, authorized partner, or authorized officer, as applicable, shall sign the certification of the annual report or terminating annual report. In all annual report filings, the regulated intrastate carrier shall comply with rule 1204(a)(IV).

6213. Regulated Intrastate Carrier Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates any of the following provisions may be assessed a civil penalty of up to \$1,100.00 for each violation:
 - (I) § 40-10-104(1), C.R.S.; or § 40 11-103(1), C.R.S.
 - (II) § 40-10-106, C.R.S.; § 40-11-104, C.R.S.; paragraph 6202(b); or paragraph 6205(f).
 - (III) subparagraph (I), (II), (III), or (IV) of paragraph 6202(a).
 - (IV) § 40-10-117, C.R.S.; subparagraph 6207(b)(I); or paragraph 6208(a).
- (b) A violation of subparagraph 6207(b)(II), paragraph 6209(a) or 6211(a), or rule 6212 regarding filing an annual report may result in the assessment of a civil penalty of up to \$550.00 for each violation.
- (c) A violation of subparagraph 6207(b)(III) may result in the assessment of a civil penalty as follows for each violation:
 - (I) Up to \$275.00 for an overcharge of \$25.00 or less.
 - (II) Up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$50.00.
 - (III) Up to \$1,100.00 for an overcharge greater than \$50.00.
- (d) Except as provided for in paragraphs (a), (b), and (c) of this rule, a person who violates any provision of Articles 10 or 11 of Title 40, C.R.S., or any provision of these Common and Contract Carrier Rules may be assessed a civil penalty of up to \$275.00 for each violation.

6214. – 6249. [Reserved].

Rules Specifically Applicable to Taxicab Carriers

6250. Applicability of Taxicab Carrier Rules.

Rules 6250 through 6257 apply to all common carriers providing taxicab service. Nothing in these Taxicab Carrier Rules shall alter, amend, modify, suspend, or otherwise affect specific provisions, limitations, or requirements in any authority issued to any common carrier prior to the adoption of these rules.

6251. Definitions.

In addition to the generally applicable definitions in rule 6001, and the definitions applicable to common and contract carriers in rule 6201, the following definitions apply only in the context of these Taxicab Carrier Rules:

- (a) "Base area" means any geographic area in which a taxicab carrier is authorized to provide point-to-point service.
- (b) "DIA" means Denver International Airport.
- (c) "Flat rate" means a fixed charge for the use of a taxicab traveling between DIA and one of the zones described in these taxicab carrier rules, regardless of the number of passengers being transported, and regardless of whether the passengers are traveling together.
- (d) "Live meter" means any taxicab meter that, without intervention from the driver, automatically calculates changes in rates due to waiting time, traffic delay, or changes in the taxicab's speed.
- (e) "Taxicab carrier" means a common carrier with common carrier certificate authorizing service by taxicab.

6252. Notices.

Each taxicab carrier shall post the following notices, as applicable, on the inside of the left window immediately behind the driver's window or on the back of the front seat of each taxicab it operates. Except as provided in subparagraph (f), the font size of such notice shall be at least 14 and the font size of the cab number shall be at least 24. The taxicab carrier shall complete all blanks in the notices.

- (a) The following notice shall be placed in all taxicabs:

NOTICE:

This is Cab No. _____

The driver of this taxicab shall not load other passengers without the permission of the first passenger. If the first passenger agrees to multiple loading, all passengers are entitled to a reduced fare.

Additional charges may apply for additional passengers, passenger drop offs, baggage and packages, waiting time, pets, and toll or gate charges.

Report any problems to the Public Utilities Commission at (303) 894-2001.

- (b) If the taxicab carrier uses meters only, the notice shall also state:

Fares are calculated by use of a meter. The meter fares are _____ for the first _____ mile plus _____ for each additional _____ mile.

- (c) If the taxicab carrier uses a live meter, the notice shall also state:

The meter will automatically change to a time charge of _____ per minute when the taxicab's speed is less than _____ miles per hour.

- (d) If the taxicab carrier uses odometers only, the notice shall, in lieu of paragraphs (b) and (c), state:

Fares are calculated by use of the odometer. The fares are _____ for the first _____ mile, plus _____ for each additional _____ mile.

- (e) If the taxicab carrier uses both meters and odometers, such notice shall contain the information specified by paragraphs (b), (c), and (d), as applicable.

- (f) If the taxicab carrier serves DIA subject to the flat rate provided for in rule 6256 the notice shall contain a zone map showing the zones and, except for airport gate fees and drop charges, the applicable flat rate in each zone. The font size may be less than 14, but shall be as large as practicable.

6253. Service: Multiple Loading; Routing; Refusals; Quality.

- (a) No taxicab carrier or taxicab driver shall engage in multiple loading unless the first passenger occupying the taxicab agrees to multiple loading.
- (b) A taxicab carrier shall ensure that passenger transportation shall be by the shortest possible route between the origin and destination; provided, however, that a passenger may agree to an alternate route or designate the route he or she wishes to travel, if the taxicab carrier has first advised the passenger regarding the extent of deviation from the shortest possible route.

- (c) No taxicab carrier or driver may refuse to transport any passenger unless: the passenger is acting in an unlawful, disorderly, or endangering manner; there is a previous commitment of the taxicab equipment; or the passenger is unable to care for himself or herself, if not in the charge of a responsible companion or attendant. Except where there is a previous commitment of the taxicab equipment, a taxicab driver shall immediately report to the dispatcher any refusal to transport a passenger.
- (d) When a customer calls a taxicab carrier for service, the taxicab carrier shall request a phone number from the passenger and give an estimated time of pickup. If a customer's pickup location is within a 10-mile radius of the taxicab carrier's terminal from which a call is or would be dispatched, the taxicab carrier shall arrive at the pickup location within 45 minutes from the time the customer first requested service. If a customer's pickup location is outside a 10-mile radius of the taxicab carrier's terminal from which a call is or would be dispatched, the taxicab carrier shall have 4 additional minutes under this rule for each additional mile outside the 10-mile radius. A delay under this rule of more than 10 minutes shall be excused if:
 - (I) the customer has left a telephone number with the taxicab carrier;
 - (II) the taxicab carrier notifies the customer regarding the delay; and
 - (III) such delay is caused by inclement weather, traffic congestion, or other circumstances beyond the control of the taxicab carrier.

6254. Additional Service Requirements for Taxicab Carriers Operating Within and Between Counties with a Population of Sixty Thousand or Greater.

Taxicab carriers operating within and between counties with a population of sixty thousand or greater based on the federal census conducted in 1990 shall be subject to the additional requirements of this rule.

- (a) **Communications and Dispatch.** Taxicab carriers subject to this rule shall obtain and advertise a central telephone number by which the public may call and request service. Taxicab carriers shall employ a communications system capable of contacting each of its taxicabs in service. The communications system shall have the ability to "broadcast" to all motor vehicles in the fleet at the same time. For good cause shown, taxicab carriers shall have 12 months from the time the Commission issues the taxicab carrier's common carrier certificate to comply with this paragraph (a). To qualify for the 12-month delay, the taxicab carrier shall file with the Commission a Plan for Compliance within 30 days after the common carrier certificate has been issued. Said plan shall include time frames and the details explaining how the taxicab carrier intends to comply with the requirements of this paragraph (a).
- (b) **Hours of Operation.** Taxicab carriers subject to this rule shall be available to provide service 24 hours per day, every day of the year.
- (c) **Age of Motor Vehicles.** Taxicab carriers subject to this rule shall not use taxicabs older than ten model years as of July 1st of each year. For purposes of this rule, the counting of model years shall begin with the present calendar year. By way of example, between July 1, 2004, and June 30, 2005, counting backwards, 2004 is the first model year, 2003 is the second model year, and so forth.

- (d) A taxicab subject to this rule that is equipped with ramps, lifts, or other special devices to facilitate the loading, unloading, or transportation of individuals with disabilities is exempt from the requirements of paragraph (c) of this rule.
- (e) A taxicab subject to this rule shall be in good physical condition, excluding consideration of defects covered by the Commission's safety rules. The Commission's enforcement officials shall use the following general guidelines in determining if a taxicab is in good physical condition:
 - (I) The body of the taxicab has a good, unfaded paint job; is devoid of major dents and rust, broken trim, and cracked windows other than the windshield; and
 - (II) Except for problems caused by current weather conditions, the interior of the taxicab is clean, free of offensive odors, and has no major tears, cracks, or stains upon the upholstery, headliner, and carpeting.
- (f) **Size of Fleet.** Taxicab carriers subject to this rule that are also authorized to serve a base area with a population of at least 250,000 shall, at all times, employ a fleet of motor vehicles large enough to ensure the taxicab carrier's ability, at any given time, to deploy at least 15 taxicabs providing service to the public.

6255. Record Keeping.

- (a) A taxicab carrier shall maintain in its files, for a minimum of one year from the date a customer requested service, the following data for each trip:
 - (I) the taxicab number;
 - (II) the driver's name;
 - (III) the date and time of the customer's request for service;
 - (IV) the address, date, and time of the customer's pickup; and
 - (V) the address of the customer's destination.
- (b) If multiple loading is applicable for a given trip, then the data shall reflect the requirements of this rule for each party involved in the multiple loading trip.

6256. Flat Rates to and from Denver International Airport.

Taxicab carriers authorized to provide service to or from any portion of the zones listed in this rule shall be subject to all the provisions of this rule.

- (a) Flat rate service shall be the only authorized taxicab service between points in the zones described by this rule, on the one hand, and DIA, on the other hand. The flat rates established under this rule shall be the flat rates in effect for every taxicab carrier subject to this rule.
- (b) Flat rate charges.

- (I) To the extent a taxicab carrier is subject to this rule, such taxicab carrier shall not charge meter rates for service between DIA and the zones listed in this rule, but shall instead charge the flat rates permitted under this rule.
 - (II) Taxicab drivers shall inform passengers of the total charge prior to commencing the trip.
 - (III) Except as specifically authorized by this rule, taxicab carriers providing service between DIA and the zones listed in this rule shall not additionally charge for waiting time, traffic delay, or airport fees.
 - (IV) Provided that the taxicab carrier so specifies in its approved tariff, the flat rate from DIA may be increased by \$5.00 for each additional drop within a zone.
- (c) Taxicab fares for service from DIA in which two or more parties have agreed to share a taxicab to their respective destinations shall comply with the following requirements. The taxicab driver shall inform the parties of the total charge prior to departing from DIA and advise the parties they must determine how much of the total fare each party is obligated to pay. The total charge may be approximated for taxicab service provided under subparagraphs (II), (III), or (IV) of this paragraph. Taxicab service provided under this paragraph is subject, without limitation, to the multiple loading provisions of paragraphs 6253(a) and 6255(b), and to the tariff provisions in paragraph 6207(d).
- (I) If the first party is dropped at a point in Zone A, B, or C and the second party is dropped at a different point in the same zone, the total fare shall be the appropriate flat rate fare for the zone plus a \$5.00 charge for each additional drop within the zone.
 - (II) If the first party is dropped at a point in Zone A, B, or C and the second party is dropped at a point in a different zone, the fare for the first party shall be the appropriate flat rate fare for that zone. The fare for the second party shall be the lesser of the meter fare from the drop point in the first zone to the drop point in the second zone or the appropriate flat rate fare from DIA to the zone.
 - (III) If the first party is dropped at a point in Zone A, B, or C and the second party is dropped at a point not in Zone A, B, or C, the fare for the first party shall be the appropriate flat rate fare for that zone. The fare for the second party shall be the meter fare from the drop point in Zone A, B, or C to the drop point that is not in Zone A, B, or C.
 - (IV) If the first party is dropped at point that is not in Zone A, B, or C and the second party is dropped at a point that is in Zone A, B, or C, the fare for the first party shall be the meter fare from DIA to the drop point that is not in Zone A, B, or C. The fare for the second party shall be the appropriate flat rate for that zone.
- (d) The zones established in this rule include the following:
- (I) Zone A (Downtown Denver): Beginning at the intersection of Clarkson Street and Park Avenue West, then northwest on Park Avenue West to Interstate 25, then south on Interstate 25 to 13th Avenue, then east on 13th Avenue to Clarkson Street, then north on Clarkson Street to the point of beginning.

- (II) Zone B (Denver Technological Center): Beginning at the intersection of Dayton Street and Arapahoe Road, then north on Dayton Street to Belleview Avenue, then west on Belleview Avenue to Yosemite Street, then north on Yosemite Street to Quincy Avenue, then west on Quincy Avenue to Monaco Street, then south on Monaco Street to Belleview Avenue, then east on Belleview Avenue to Quebec Street, then south on Quebec Street to Arapahoe Road, then east on Arapahoe Road to the point of beginning.
 - (III) Zone C (Boulder): The area within the city limits of the City of Boulder, Colorado, as such city limits exist on the day these Transportation by Motor Vehicle Rules become effective.
- (e) The distances between DIA and the zones shall be measured by the Commission along the following routes:
- (I) Zone A: Beginning at the taxi loading zone on the west side of level 5 at DIA, then exiting DIA by proceeding west and then south on Pena Boulevard to its intersection with Interstate 70, then west on Interstate 70 to its intersection with Brighton Boulevard, then southwest on Brighton Boulevard to its intersection with Broadway, then south on Broadway to its intersection with Tremont Street, then right on Tremont Street to the Brown Palace Hotel for a total distance of 24.2 miles.
 - (II) Zone B: Beginning at the taxi loading zone on the west side of level 5 at DIA, then exiting DIA by proceeding west and then south on Pena Boulevard to its intersection with Interstate 70, then west on Interstate 70 to its intersection with Interstate 225, then south on Interstate 225 to its intersection with Yosemite Street, then south on Yosemite Street to its intersection with Orchard Road for a total distance of 26.3 miles.
 - (III) Zone C: Beginning at the taxi loading zone on the west side of level 5 at DIA, then exiting DIA by proceeding west and then south on Pena Boulevard to its intersection with Interstate 70, then west on Interstate 70 to its intersection with Interstate 270, then northwest on Interstate 270 to its intersection with U. S. Highway 36, then northwest on U. S. Highway 36 to its intersection with Arapahoe Avenue in Boulder for a total distance of 44 miles.
- (f) The flat rates shall be as set forth in the following provisions:
- (I) Zone A: The flat rate between DIA and any point in Zone A shall be ~~\$43.00~~47.0051.00, plus any applicable airport gate fee divided evenly among the parties, plus any applicable per drop charge of \$5.00.
 - (II) Zone B: The flat rate between DIA and any point in Zone B shall be ~~\$45.00~~54.0057.00, plus any applicable airport gate fee divided evenly among the parties, plus any applicable per drop charge of \$5.00.
 - (III) Zone C: The flat rate between DIA and any point in Zone C shall be ~~\$70.00~~81.0084.00, plus any applicable airport gate fee divided evenly among the parties, plus any applicable per drop charge of \$5.00.
- (g) Two or more taxicab carriers subject to this rule may file a joint application proposing new flat rates. Such a joint application shall include the following information:

- (I) The cost of fuel for a trip between DIA and Zone A, B, or C, as applicable.
 - (II) The average number of trips per day between DIA and Zone A, B, or C, as applicable.
 - (III) The difference between the existing mileage fare and the existing flat rate fare between DIA and Zone A, B, or C, as applicable.
 - (IV) The difference in lease rates referenced in § 40-3-103, C.R.S., between drivers who only provide transportation to and from DIA and drivers who accept dispatched calls.
 - (V) Any other pertinent information.
- (h) The Commission may, on its own motion, open a docket to change existing flat rates. New flat rates approved by the Commission shall apply to any other taxicab carrier affected by this rule. Any such taxicab carrier shall file an amended tariff reflecting the new flat rates within 10 days of the mailed date of the Commission decision approving the new flat rates.

6257. Taxicab Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates subparagraph (b)(I) of rule 6256 may be assessed a civil penalty as follows for each violation:
- (I) Up to \$275.00 for an overcharge of \$25.00 or less.
 - (II) Up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$50.00.
 - (III) Up to \$1,100.00 for an overcharge greater than \$50.00.
- (b) A violation of paragraph (b) or (c) of rule 6253 may result in the assessment of a civil penalty of up to \$550.00 for each violation.
- (c) A violation of paragraphs (c) and (e) of rule 6254 may result in the assessment of a civil penalty of up to \$100.00 for each violation.
- (d) Except as provided for in paragraphs (a), (b), and (c) of this rule, a person who violates any provision of these Taxicab Carrier Rules may be assessed a civil penalty of up to \$275.00 for each violation.

6258. - 6299. [Reserved].

EXEMPT PASSENGER CARRIER RULES

6300. Applicability of Exempt Passenger Carrier Rules.

Rules 6300 through 6399 apply to all exempt passenger carriers.

6301. Definitions. ~~[Reserved].~~

In addition to the generally applicable definitions in rule 6001, the following definitions apply only in the context of these Exempt Passenger Carrier Rules:

(a) "Charter basis" means on the basis of a contract for transportation whereby a person agrees to provide exclusive use of a motor vehicle to a single chartering party for a specific period of time during which the chartering party shall have the exclusive right to direct the operation of the vehicle, including, but not limited to, selection of the origin, destination, route, and intermediate stops.

(b) "Chartering party" means a person or group of persons who share a personal or professional relationship whereby all such persons are members of the same affiliated group, including, without limitation, a family, business, religious group, social organization or professional organization. "Chartering party" does not include groups of unrelated persons brought together by a carrier, transportation broker, or other third party.

6302. Registration Requirement.

No person shall offer services as an exempt passenger carrier without a valid registration issued by the Commission.

6303. Registration.

- (a) Any person seeking to register as an exempt passenger carrier shall provide the following information, as applicable:
- (I) The name of the registrant and the trade name under which operations will be conducted.
 - (II) A copy of the registrant's certificate of assumed trade name or trade name registration.
 - (III) The registrant's telephone number, complete physical address, and complete mailing address. A post office box is only acceptable if a physical address is also provided.
 - (IV) ~~A statement describing the registrant's business structure (corporation, limited liability company, partnership, or sole proprietorship).~~ The name and address of the registrant's Colorado agent for service of process, if required by rule 6011.
 - (V) ~~The name and address of the registrant's Colorado agent for service of process, as required by rule 6011.~~ A statement describing the registrant's business structure (corporation, limited liability company, partnership, or sole proprietorship).
 - (VI) If a registrant is a corporation:
 - (A) The name of the state in which the registrant is incorporated.
 - (B) The location of the registrant's principal office, if any, in Colorado.
 - (C) The name and title of each director and officer.

- (D) A certified copy of the registrant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the registration.
- (VII) If the registrant is a limited liability company:
 - (A) The state in which the company is organized.
 - (B) The location of the registrant's principal office, if any, in Colorado.
 - (C) The name and title of each member.
 - (D) A certified copy of the registrant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the registration.
- (VIII) If the registrant is a partnership:
 - (A) The name and business address of all general and limited partners.
 - (B) The location of the registrant's principal office, if any, in Colorado.
- (IX) If the registrant is a sole proprietorship:
 - (A) The name and business address of the sole proprietor.
 - (B) The location of the sole proprietor's principal office, if any, in Colorado.
- (X) A statement setting out the seating capacity of the vehicle with the largest seating capacity in the fleet of vehicles to be used by the registrant under its registration.
- (XI) Copies of any authority, issued by either a state or a federal agency, under which the registrant contends that it may provide for-hire transportation of passengers in the State of Colorado.
- (XII) A statement that the registrant is familiar with the Exempt Passenger Carrier Rules and all applicable safety rules and that the registrant will comply with them.
- (XIII) A statement that the registrant understands that the filing of a registration does not constitute authority to operate.
- ~~(XIII)~~ (XIV) A verification made under penalty of perjury and signed by an authorized officer, partner, owner, employee, or manager of the registrant, as appropriate, verifying that the contents of the registration form and all attachments are true, accurate, and correct. The registration form shall contain the complete address of the affiant.
- (b) In addition to the information required by paragraph (a), a person registering as an exempt passenger carrier under this rule shall cause to be filed both the required proof of financial responsibility and the required annual identification fees.

- (c) The Commission will not register any person as an exempt passenger carrier until the Commission has received all information and documentation required by paragraphs (a) and (b) of this rule.

6304. Exterior Signs or Graphics.

- (a) Except as otherwise provided in these rules, no person shall place, or permit to be placed, on a luxury limousine any exterior signs or graphics ~~on a luxury limousine that provide:-~~
- (I) an identification of the name, address, internet address, phone number, or any other contact information of the person offering luxury limousine service; or
 - (II) any identification of a type of passenger transportation service including, but not limited to, bus, limousine, shuttle, or taxi.
- (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 except as specifically provided in paragraph (d) of this rule, "identified" is deemed to mean:~~
- ~~(I) an identification of the name, address, Internet address, phone number, or any other contact information of the person offering luxury limousine service; or~~
 - ~~(II) any identification of a type of passenger transportation service including, but not limited to, limousine, shuttle, or taxi.~~
- ~~(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, the FMCSA, or an airport authority;
 - (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.

6305. Luxury Limousine Features.

- (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 in good physical condition, excluding consideration of defects covered by the Commission's safety rules. The Commission shall use the following general guidelines in determining if a vehicle is in good physical condition:
- (I) The body of the luxury limousine has a good, unfaded paint job; is devoid of major dents and rust, broken trim, and cracked windows other than the windshield; and

- (II) Except for problems caused by current weather conditions, the interior of the luxury limousine is clean, free of offensive odors, and has no major tears, cracks, or stains upon the upholstery, headliner, and carpeting.
- (b) Age of Motor Vehicles. Except for luxury limousines covered under rule 6308(a)(IV) and/or vehicles covered by rule 6309, luxury limousine carriers shall not use vehicles older than ten model years as of July 1st of each year. For purposes of this rule, the counting of model years shall begin with the present calendar year. By way of example, between July 1, 2004, and June 30, 2005, counting backwards, 2004 is the first model year, 2003 is the second model year, and so forth.

6306. ~~Revocation~~[Reserved].

- ~~(a) After a hearing upon at least ten days' notice to the exempt passenger carrier affected, the Commission may revoke an exempt passenger carrier registration for any of the following reasons:
 - ~~(I) Violation of, or failure to comply with, any statute or regulation concerning exempt passenger carriers.~~
 - ~~(II) Violation of, or failure to comply with, the terms and conditions of the exempt passenger carrier registration.~~
 - ~~(III) Exceeding the authority granted in the exempt passenger carrier registration.~~
 - ~~(IV) Violation of, or failure to observe and comply with, any Commission order, rule, or regulation.~~~~
- ~~(b) An exempt passenger carrier whose exempt passenger carrier registration(s) is revoked for a third time shall not be issued another exempt passenger carrier registration for two years from the date of the third such exempt passenger carrier registration revocation. In determining whether an exempt passenger carrier has had its exempt passenger carrier registration(s) revoked three times, a revocation for failure to maintain the financial responsibility required by rule 6007 shall not be counted as one of the three revocations unless the exempt passenger carrier knowingly operated without the required financial responsibility.~~

6307. Regulations Incorporated by Reference. [Reserved].

6308. Luxury Limousine Categories.

- (a) A luxury limousine shall fit one or more of the following categories:
 - (I) Stretched limousine, which is a motor vehicle whose wheelbase has been lengthened beyond the manufacturer's original specifications whether at the manufacturer's factory or otherwise.
 - (II) Executive car, which is a motor vehicle that has four doors and is:

- (A) a sedan including Acura RL, Audi A8 Series, Audi A6 Series, Audi S8 Series, Bentley Continental Flying Spur, Bentley Arnage, BMW 7 Series, BMW 5 Series, BMW Alpina, BMW M5, Cadillac DTS, Chrysler 300, Ferrari 612, Infiniti M Series, Jaguar S-Type, Jaguar Vdp Lwb, Jaguar XJ Series, Jaguar X-Type Series, Jaguar Super, Lexus LS Series, Lexus G Series, Lexus E Series, Lincoln Town Car, Maserati Quattroporte, Maybach 57 Series, Maybach 62 Series, Mercedes-Benz S Class Series, Mercedes-Benz E Class Series, or Rolls Royce Phantom; or
 - (B) a sport utility vehicle including Audi Q7, Cadillac Escalade, Chevrolet Suburban, Chevrolet Tahoe, Ford Excursion, Ford Expedition, GMC Yukon, Hummer (all models, excluding sport utility truck version), Infiniti QX, Lexus LX, Lincoln Navigator, Mercedes-Benz M Class Series, Mercedes-Benz G Class Series, or Mercury Mariner Hybrid with livery package.
- (III) Executive van, which is a motor vehicle built on a cutaway chassis, a motor coach, or a van (but not a mini van as classified by the manufacturer) whose interior has been enhanced by the installation of either:
- (A) Captain's chairs, couch seats, or similar seating in place of standard bench seating; or
 - (B) Both of the following:
 - (i) An electronic video media system such as television, DVD, or VHS that is securely attached to the motor vehicle in a professional manner. The screen shall have a diagonal measurement of at least three inches, be viewable by passengers seated to the rear of the driver, and be in compliance with 49 C.F.R., § 393.88.
 - (ii) 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 containment system, 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.
- (IV) Other limousine, which is a classic, antique, or specially built motor vehicle that, at the time of registration as a luxury limousine, has or had a retail value of fifty thousand dollars or more.
- (b) A luxury limousine carrier operating a motor vehicle pursuant to subparagraph (a)(IV) of this rule shall, upon request by an enforcement official, produce evidence that the motor vehicle meets the requirements of subparagraph (a)(IV) of this rule.

6309. Luxury Limousines – Previously Qualified Vehicles.

Notwithstanding anything in rules 6305(b) and 6308 to the contrary, any vehicle qualified as a luxury limousine on or before ~~the effective date of this rule July 30, 2008,~~ shall maintain its qualification status and that so long as it is operated under the exempt passenger carrier registration under which it was so qualified, ~~shall maintain its qualification status.~~

6310. Luxury Limousines – Operational Requirements, Prearrangement Required.

- (a) No person shall provide luxury limousine service except on a prearranged basis. For purposes of this rule, “prearranged basis” means that the luxury limousine service has been arranged or reserved before the luxury limousine service, or ancillary service thereto, is provided. No person shall provide luxury limousine service, or a service ancillary to luxury limousine service, if that person arranges provision of the service with the chartering party at or near the point of departure.
- (b) A luxury limousine carrier shall, at all times when providing luxury limousine service, carry in each vehicle a charter order containing the name, telephone number, pickup time, and pickup address of the chartering party who has arranged for use of the vehicle.
- (c) A luxury limousine carrier shall not station a luxury limousine in front of or across the street from a hotel or motel, or within one hundred feet of a recognized taxicab stand or a designated passenger pickup point at an airport without the completed charter order in the vehicle. The stationing of the luxury limousine shall be within a reasonable period of ~~time of the pickup time~~ noted on the charter order.
- (ed) A luxury limousine carrier shall provide the charter order immediately upon request by any enforcement official or airport authority.

6311. Luxury Limousine Service – Presumptions.

- (a) A person shall be presumed to have provided luxury limousine service in violation of rule 6310(a) if, without prearrangement, such person:
 - (I) accepts payment for the transportation from the chartering party at the point of departure;
 - (II) makes the luxury limousine available to the chartering party at the point of departure;
 - (III) negotiates the immediate availability of, or the price for immediate use of, the luxury limousine at or near the point of departure;
 - (IV) loads the chartering party or its baggage into the luxury limousine; or
 - (V) transports the chartering party in the luxury limousine.
- (b) A luxury limousine carrier that charges or offers to charge for transportation services on a per person basis shall be presumed to be providing or offering to provide services as a common carrier.

- (c) A luxury limousine carrier may rebut the presumptions created in this rule by competent evidence.

6312. Exempt Passenger Carrier Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates § 40-16-103, C.R.S., with regard to offering service without being registered, or rule 6302, may be assessed a civil penalty of up to \$1,100.00 for each violation:
- (b) A person who violates rule 6310 may be assessed a civil penalty of up to \$500.00 for each violation.
- (c) Except as provided in paragraphs (a) and (b) of this rule, a person who violates any provision of Article 16 of Title 40, C.R.S., or any provision of these Exempt Passenger Carrier Rules may be assessed a civil penalty of up to \$275.00 for each violation.

6313. – 6399. Reserved].

UNIFIED CARRIER REGISTRATION AGREEMENT RULES

6400. Applicability of Unified Carrier Registration Agreement Rules.

Rules 6400 through 6499 apply to all motor carriers, motor private carriers, freight forwarders, brokers, leasing companies, or other persons required to register under the UCR Agreement.

6401. Unified Carrier Registration Agreement.

- (a) A UCR registrant that designates or that is required to designate the State of Colorado as its base state under the UCR Agreement, shall register with the Commission. No UCR registrant may operate without registering for the applicable registration year. Each calendar year is a different registration year.
- (b) A UCR registrant shall register using the on-line registration system available at a website designated by the Commission. In lieu of registering on-line, a UCR registrant may register by submitting to the Commission a fully completed UCR Agreement registration form, the required fees, and any other required documents.

~~(c) A UCR registrant using a motor vehicle in both interstate and intrastate commerce is exempt from the fees required under § 40-2-110.5(1), C.R.S., for that motor vehicle.~~

~~(d)~~ A UCR registrant must register in the proper category pursuant to the rules established under 49 U.S.C. § 14504a.

~~(e)~~ Information regarding the federally set fees is available from the Commission or its website.

6402. Interstate Carrier Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates § 40-10.5-102(1)(a), C.R.S., or rule 6401(a) with regard to operating without a registration, may be assessed a civil penalty of up to \$1,100.00 for each violation.

- (b) Except as provided in paragraph (a) of this rule, a person who violates any provision of § 40-10.5-102, C.R.S., or any provision of the Unified Carrier Registration Agreement Rules may be assessed a civil penalty of up to \$275.00 for each violation.

6403. - 6499. [Reserved].

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 county or municipality, to the extent permitted by law, from adopting and enforcing additional or more stringent requirements relating to towing carrier operations.

6501. Definitions.

In addition to the generally applicable definitions in rule 6001, 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, including a towing carrier, 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) "Law enforcement officer" means any sheriff, police officer, Colorado state patrol officer, municipal code enforcement officer, or other such person acting in his or her official capacity for enforcement of motor vehicle laws.
- (e) "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.
- (f) "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.
- (g) "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.
- (h) "Non-consensual tow" means:

- ~~(I)~~ a tow authorized or directed by a person other than the owner, authorized operator, or authorized agent of the owner; ~~except that a non-consensual tow does not include the repossession of a motor vehicle pursuant to § 4-9-629, C.R.S. A non-consensual tow includes:~~
 - ~~(II)~~ any tow performed contrary to the specific direction of the owner, authorized operator, or authorized agent of the owner;
 - ~~(III)~~ except for a tow authorized by the property owner or a tow ordered by a law enforcement officer, any tow performed without disclosure of the rates and charges to be assessed as set forth in rule 6510;
 - ~~(IV)~~ a tow directed or authorized by a law enforcement officer, either orally 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; or
 - ~~(V)~~ any other tow performed without prior consent or authorization of the owner, authorized operator, or authorized agent of the owner of the motor vehicle.
- (i) "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.
 - (j) "Private property" means any real property that is not public property.
 - (k) "Property owner" means:

 - (I) the owner or lessee of the private property or public property;
 - (II) a person who has been authorized in writing to act as agent for the owner or lessee of the private property or public property (see rule 6508(a)); or
 - (III) a federal, state, county, municipal, or other government entity that is the owner or lessee of the private property or public property, or such entity's employees responsible for such property.
 - (l) "Public property" means any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, or other governmental entity of this state.
 - (m) "Towing vehicle" means "towing vehicle" as defined by § 40-13-101(4), C.R.S.

6502. Permit Requirement.

Unless exempted by § 40-13-103(2), C.R.S., no person shall operate as a towing carrier without a valid towing carrier permit issued by the Commission.

6503. Permit Application.

- (a) Any person seeking a permit to operate as a towing carrier shall submit an application for a towing carrier permit to the Commission and shall cause to be filed the information identified in paragraph (c) of this rule.
- (b) The application shall contain the following, as applicable:
- (I) The name of the applicant and the trade name under which operations will be conducted.
 - (II) A copy of ~~the applicant's~~ certificate of assumed trade name or trade name registration.
 - (III) The applicant's telephone number, complete physical address, and complete mailing address. A post office box is only acceptable if a physical address is also provided.
 - (IV) The name and address of the applicant's Colorado agent for service of process, if required by rule 6011.
 - (V) A statement describing the applicant's business structure (corporation, limited liability company, partnership, or sole proprietorship).
 - (~~VI~~) If the applicant is a corporation:
 - (A) The name of the state in which it is incorporated.
 - (B) The location of its principal office in the State of Colorado.
 - (C) The names of its directors and officers.
 - (D) A certified copy of the applicant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application.
 - (~~VII~~) If the applicant is a limited liability company:
 - (A) The state in which the company is organized.
 - (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 certified copy of the applicant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the application.
 - (~~VIII~~) If the applicant is a partnership, the name, title, and business address of each partner.
 - (~~IX~~) A statement that applicant is familiar with the Towing Carrier Rules and all applicable safety rules and that applicant will comply with them.

- ~~(VIII)~~ A statement that applicant understands that the 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, if one exists, telephone number.
 - ~~(XII)~~ 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.
 - ~~(XIII)~~ An application fee of \$150.00.
- (c) In addition to the application, a person seeking a permit to operate as a towing carrier shall cause to be filed both the required proof of financial responsibility and the required annual identification fees.
- (d) The Commission will not issue a permit to operate as a towing carrier until the Commission has received a complete application, the required proof of financial responsibility, and the required annual identification fees.

6504. [Reserved].

6505. ~~Revocation, Suspension, Alteration, or Amendment of Permit~~[Reserved].

- ~~(a) After a hearing upon at least ten days' notice to the towing carrier affected, the Commission may revoke, suspend, alter, or amend a towing carrier permit for any of the following reasons:~~
- ~~(I) Violation of, or failure to comply with, any statute or regulation concerning towing carriers or the towing, storage, or disposal of towed motor vehicles. This subparagraph includes, but is not limited to, a violation of part 18 and part 21 of article 4 of title 42, C.R.S.~~
 - ~~(II) Violation of, or failure to comply with, the terms and conditions of the permit.~~
 - ~~(III) Exceeding the authority granted in the towing carrier permit.~~
 - ~~(IV) Violation of, or failure to observe and comply with, any Commission order, rule, or regulation.~~
- ~~(b) A towing carrier whose towing carrier permit(s) is revoked for a third time shall not be issued another towing carrier permit for one year from the date of the third such permit revocation. In determining whether a towing carrier has had its towing carrier permit(s) revoked three times, a revocation for failure to maintain the financial responsibility required by rule 6007 shall not be counted as one of the three revocations unless the towing carrier knowingly operated without the required financial responsibility.~~

6506. Equipment and Accessories.

In addition to complying with all applicable safety regulations, all towing vehicles 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;
 - (D) one steering wheel tying device free from cracks, fraying, or deterioration; and
 - (E) the following accessories for any towing carrier that performs tows from accident scenes:
 - (i) one shovel; and
 - (ii) one broom.
- (b) 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:
 - (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) A towing carrier shall not tow a 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 a 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.

6507. Storage Facilities.

- (a) Disclosure of facility location. For non-consensual tows of other than an abandoned motor vehicle as provided for under paragraph (b) of this rule, within one hour of placing a motor vehicle in a storage facility, or such lesser time as may be required by law, a towing carrier shall disclose the location of the storage facility by notifying the responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed. However, if notification of the

law enforcement agency is not possible, then by notifying either: using at least one of the following options:

- (I) By notifying the owner, the authorized operator, or the authorized agent of the owner of the towed motor vehicle; or
- (II) By notifying the owner of the 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.~~

Compliance with this paragraph will be considered accomplished if the location of the storage facility was provided to the property owner or the law enforcement agency in conjunction with obtaining authorization for the tow.

- (b) Disclosure for abandoned motor vehicles. A towing carrier which places an abandoned motor vehicle in a storage facility shall disclose the location of the 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 the stored motor vehicle.
- (d) Release of motor vehicles from storage shall be in accordance with rule 6512.

6508. Authorization for Towing of Motor Vehicles.

- (a) Towing carrier not an agent.
 - (I) Notwithstanding rule 6501(k), Aa 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 except that, when the property is vacant (i.e. not being used as a residence or as a business), the towing carrier may act as the agent for the property owner under a written contract to that effect. Such written contract shall be maintained as provided in rule 6005.
 - (II) Nothing in this paragraph shall preclude a towing carrier, which towing carrier has been paid for the tow by the property owner at rates in accordance with rule 6511(d), from collecting the towing charges from the motor vehicle owner and reimbursing said charges to the property owner.
- (b) 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 upon the authorization of the property owner.
- (II) Property owner authorization. The authorization from the property owner shall be in writing; shall identify, by make and license plate number (or in lieu thereof, by vehicle identification number), the motor vehicle to be towed; and shall 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 before~~ the motor vehicle is ~~to be~~ removed from the property. The property owner may sign using a verifiable employee identification number or code name in lieu of the person's proper name.
 - (B) A towing carrier shall not accept or use blank authorizations pre-signed by the property owner.
 - (C) A 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 6509.
- (c) 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 that was towed without proper authorization shall be released immediately to the owner, lienholder, or agent of the owner or lienholder without charge.

6509. 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 tow record/invoice 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 the telephone number for that storage facility if the number is different than the telephone number of the towing carrier;
 - (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 of the tow, and the one-way mileage between such addresses;
- (VII) unless incorporated into the authorization in rule 6508(b)(II),
 - _____ (A) _____ the name, address, and telephone number of the person authorizing the tow; and
 - _____ (VIII B) _____ the signature of the property owner authorizing a tow;
 - (IX VIII) if the towed motor vehicle is unlocked, a list of its contents;
 - (IX IX) the unit number or license number of the towing vehicle;
 - (IX IX) the signature of the towing vehicle operator;
 - (IX XI) an itemized invoice of all towing charges assessed; and
 - (IX XII) the signature of the owner, authorized operator, or other authorized person to whom the motor vehicle is released.
- (XIII) within six months of the effective date of these rules and on at least the customer's copy, the following notice in a font size of at least 10: Report problems to the Public Utilities Commission at (303) 894-2070.

- (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.

6510. Disclosure of Rates and Charges.

- (a) Except as provided in paragraph (c) of this rule, prior to performing any tow, a towing carrier shall 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 is not limited to, the following information:
 - (I) any extra charges made necessary because, at the time of the tow, the towing carrier would 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 made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a location and at a time agreed upon by the owner, authorized operator, or authorized agent of the owner 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 non-consensual tows authorized by the property owner or tows ordered by law enforcement officers.

6511. Rates and Charges.

- (a) The rates and charges in this rule 6511 shall not apply to:
- (I) a tow of an abandoned motor vehicle weighing in excess of 10,000 pounds GVWR for which the charges are determined by negotiated agreement between the towing carrier and the responsible law enforcement agency as provided in § 42-4-1809(2)(a), C.R.S.;
 - (II) a tow of an abandoned motor vehicle performed under a contract between the towing carrier and the responsible law enforcement agency as provided in § 42-4-1809(3), C.R.S.; or
 - (III) a tow of a motor vehicle authorized by a law enforcement officer, unless otherwise provided.
- (b) Charge if retrieved before removal (commonly known as "drop charge").
- (I) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle with a GVWR of less than 10,000 pounds that is parked without the authorization of the property owner attempts to retrieve the motor vehicle before its removal from the property, the maximum drop charge (whether motor vehicle is hooked up or not) is ~~\$64.00~~70.00.
 - (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 drop charge.
 - (III) Release of the motor vehicle shall be in accordance with rule 6512.
- (c) Rates for recovery, which includes waiting time, associated with a non-consensual tow.
- (I) Except as provided in § 42-4-1809(2)(a) regarding abandoned motor vehicles, this paragraph shall apply to the recovery of any size vehicle.
 - (II) When accompanied by documentation showing starting and ending times of the recovery, which documentation may include law enforcement incident reports and verification, a towing carrier may charge for recovery at its hourly rates, a record of which is maintained in compliance with rule 6005.

- (III) Hourly rates for recovery shall be calculated from the time the towing carrier arrives at the scene and the law enforcement officer approves the recovery to the time the towing carrier has completed the recovery and may include time to load and to secure recovery equipment and the cleanup of the scene. Recovery time shall not include loading and securing the recovered motor vehicle to, or onto, the towing vehicle. Recovery time may include documented post-towing maintenance of recovery equipment directly attributable to the recovery.
 - (IV) The cost of additional equipment used may be recovered from the motor vehicle owner at the towing carrier's actual costs incurred plus a reasonable administrative fee of not more than twenty-five percent of those actual costs, provided that the actual costs are reasonable by industry standards.
- (d) Rates and charges for non-consensual tows. Subject to the provisions of this paragraph, the maximum rate that a towing carrier may charge for a non-consensual tow of a motor vehicle with a GVWR of less than 10,000 pounds performed upon the authorization of the property owner is ~~\$140.00~~154.00. Except as provided in paragraphs (b), (c), (e), (f), (g), (h), (i), and (j) of this rule, this maximum rate shall include, but not be limited to, charges for the following:
- (I) all towing services rendered;
 - (II) hookup;
 - (III) use of dollies or go-jacks;
 - (IV) access to or release of the motor vehicle from storage;
 - (V) except for an abandoned motor vehicle, removal of personal property that is not attached to or a part of the equipment of the motor vehicle;
 - ~~(VI)~~ all commissions paid; and
 - ~~(VII)~~ all other services rendered in performing such non-consensual tow.
- (e) The maximum rates for a non-consensual tow from storage (i.e., directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation) are as follows:
- (I) ~~\$83.00~~91.00 for one additional hookup;
 - (II) ~~\$83.00~~91.00 per hour waiting time ~~(i.e., directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation)~~; and
 - (III) mileage charges as provided in paragraph (f).
- (f) Mileage.
- (I) The maximum mileage charge that may be assessed for a non-consensual tow of a motor vehicle with a GVWR of less than 10,000 pounds is ~~\$3.45~~3.80 per laden mile. For

purposes of this paragraph, laden mile means a mile when the towed motor vehicle is being transported.

- (II) Fuel surcharge. Beginning on ~~the effective date of these rules July 30, 2008~~, the maximum mileage charge shall be adjusted monthly by the Public Utilities Commission by setting a fuel surcharge. The surcharge shall be based on the United States Department of Energy "weekly retail on-highway diesel prices" for the Rocky Mountain region using the price per gallon ~~on April 1, 2006 of \$2.60~~, as the base rate. The adjustment shall provide a one-percent increase in the mileage rate for every ten-cent increase in fuel cost, or a one-percent decrease in the mileage rate for every ten-cent decrease in fuel cost, but in no event decreasing below the base rate.
- (g) 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) ~~\$27.00~~\$30.00 for motor vehicles having a GVWR of less than 10,000 pounds;
 - (ii) ~~\$34.00~~\$37.00 for motor vehicles having a GVWR of 10,000 pounds or more;
 - (iii) in lieu of subparagraphs (A)(i) and (ii), and at the option of the towing carrier, storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at ~~\$4.35~~\$1.50 per foot or portion thereof.
 - (B) Storage charges shall not be charged, collected, or retained for any day in which garage keeper's liability insurance coverage is not kept in force.
 - (II) Storage charges for a non-consensual tow may commence upon placing the motor vehicle in storage.
 - (III) Maximum accumulated charges for abandoned motor vehicles. Unless a hold order has been placed on the motor vehicle by a court, district attorney, or law enforcement agency, or unless 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.
 - (IV) Exemption for municipal or county contracts. Notwithstanding any other provision of these rules, this paragraph shall not apply to any storage of a towed motor vehicle performed under a contract with a municipal, county, state, or federal agency.
- (h) For a non-consensual tow, the maximum charge for release of a motor vehicle from storage or access to a motor vehicle in storage at any time other than normal business hours is ~~\$60.00~~\$66.00.

- (i) Additional charges in mountain areas for non-consensual tows and storage.
 - (I) When a motor vehicle is towed between points in the mountain area, the towing carrier may add an additional amount not to exceed 12 percent of the towing charges provided in paragraphs (b), (d), (e), and (f).
 - (II) When a motor vehicle is towed into or out of the mountain area, the towing carrier may add an additional amount not to exceed 12 percent of the towing charges, provided that the mileage charge is prorated for, and applied only to, mileage actually traveled within the mountain area.
 - (III) The towing carrier may add an additional amount not to exceed 12 percent of the storage charges provided in subparagraph (I)(A) of paragraph (g).
- (j) Abandoned motor vehicles.
 - (I) Notifications. The charges for notification(s) to the owner and the lien holder(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.
 - (II) Consequences of failure to notify. A 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., and § 42-5-109, C.R.S., shall release the motor vehicle immediately to the owner, lien holder, or their agents without charging, collecting, or retaining storage fees.
 - (III) Sale of an abandoned motor vehicle to cover the outstanding towing and storage charges must be done in accordance with the 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.
 - (IV) Additional costs that may be charged when a stored motor vehicle is sold.
 - (A) When a stored motor vehicle is sold, a towing carrier may charge the costs of maintaining that motor vehicle while in storage in accordance with § 38-20-109, C.R.S.
 - (B) When a stored motor vehicle that does not come within the provisions of § 38-20-109, C.R.S., is sold, a towing carrier may charge the costs of maintaining that motor vehicle, to a maximum of \$90.00.
 - (C) "Cost of maintaining a motor vehicle" means a documented cost that is incurred by the towing carrier and that keeps a motor vehicle in safe or operable condition.
 - (D) Certified VIN verification procedure. 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:

- (i) Rates as provided in paragraph (e); and
- (ii) In addition, the towing carrier may charge for all other documented expenses of obtaining the VIN verification.

(k) Except as provided in rule 6512(a), a towing carrier shall accept at least two of the following four forms of payment for the rates and charges related to non-consensual tows: A towing carrier that accepts a credit card as payment for its drop charge, or its towing and storage fees, may charge the customer a credit card transaction fee in an amount up to and including, but not more than, the credit card transaction fee that the towing carrier must pay the credit card company for the transaction.

(I) Cash;

(II) Cashier's check, money order, traveler's check, or other form of certified funds;

(III) A valid personal check, showing upon its face the name and address of the owner, authorized operator, lienholder or authorized agent of said vehicle; or

(IV) A valid credit card.

6512. Release of Motor Vehicle.

(a) Except as provided in subparagraph ~~(b)(II)~~ of this rule, if payment of the drop charge is offered in either cash or a valid credit card (specified by the towing carrier), or if payment of or the towing, storage, and release charges is offered in cash or cash or another form of payment accepted by the towing carrier pursuant to rule 6511(k), the towing carrier shall immediately accept payment and release the motor vehicle to:

- (I) the motor vehicle owner, authorized operator, or authorized agent of the owner of the motor vehicle;
- (II) the lienholder or agent of the lienholder of the motor vehicle; or
- (III) the insurance company or agent of the insurance company providing coverage on the motor vehicle, if released to the insurance company by the owner.

(b) Release of motor vehicles from storage.

(I) A towing carrier that accepts for storage a motor vehicle that has been towed as a non-consensual tow upon the authorization of the property owner shall be available within the first 24 hours of storage to provide access to or release of the motor vehicle as provided in paragraph (a) to the owner, authorized operator, or authorized agent of the owner of the motor vehicle either:

- (A) With one hour's notice during all times other than normal business hours; or
- (B) Upon demand during normal business hours.

~~(c)~~ ~~(ii)~~ — The towing carrier, at its discretion, need not comply with ~~subparagraph (1a) of this paragraph~~ if:

- (A) the towing carrier is reasonably certain that at the time the motor vehicle is to be released from storage, the driver of the motor vehicle is not capable of safely driving the motor vehicle due to the influence of drugs or alcohol;
- (B) the towing carrier that is to remove the motor vehicle from storage does not have a valid towing carrier permit or proof of motor vehicle liability coverage;
- (C) a hold order is in place on the motor vehicle by a court, district attorney, law enforcement agency, or law enforcement officer; or
- (D) the release of the motor vehicle does not comply with the release procedures agreed to between the towing carrier and the applicable law enforcement agency.
- (V) the towing carrier, upon notification for the release of or access to a motor vehicle at other than normal business hours, has immediately contacted an appropriate law enforcement agency and, in the interest of public order, has requested a law enforcement officer's presence during the release of the motor vehicle. This exception is applicable when the towing carrier has reason to believe that the motor vehicle's owner, authorized operator, or authorized agent of the owner of the motor vehicle may disrupt the public order.

(e) Upon payment of the charges the towing carrier shall make the property owner's written authorization available for inspection by the owner of the towed motor vehicle or his or her authorized representative.

(e) The towing carrier may require either written or oral notification from the owner or lienholder of a motor vehicle that the person to whom it is to be released is authorized to take possession of the motor vehicle.

6513. Inspection of Records, Facilities, and Towing Vehicles.

- (a) Upon request of any enforcement official and during normal business hours, a towing carrier shall make available for inspection ~~its books and records concerning its towing and storage operations, and~~ its storage facilities.
- (b) Upon request 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.~~

6514. Towing Violations and Civil Penalty Assessments.

- (a) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$1,100.00 for each violation:
 - (I) § 40-13-103(1), C.R.S.; or rule 6502.

- (II) subparagraph (b)(I) or (II)(B) of rule 6508.
- (III) paragraph (c) of rule 6508.
- (b) A violation of paragraph ~~(b)~~, (d), (e), (f), (h), (i), or subparagraphs (b)(1) or (g)(I)(A) of rule 6511 may result in the assessment of a civil penalty as follows for each violation:
 - (I) Up to \$275.00 for an overcharge \$25.00 or less.
 - (II) Up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$50.00.
 - (III) Up to \$1,100.00 for an overcharge greater than \$50.00.
- (c) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$550.00 for each violation:
 - (I) paragraph (a), (b), or (c) of rule 6507.
 - (II) paragraph (a) of rule 6510.
- (d) A violation of rule 6506 may result in the assessment of a civil penalty of up to \$100.00 for each violation
- (e) Except as provided in paragraph (a), (b), (c), and (d) of this rule, a violation of any provision of Title 40, C.R.S., pertaining to towing carriers, or any provision of rules 6500 through 6513, may result in the assessment of a civil penalty of up to \$275.00 for each violation.

6515. - 6599. [Reserved].

HOUSEHOLD GOODS MOVER AND PROPERTY CARRIER RULES

6600. Applicability of Household Goods Mover and Property Carrier Rules.

Rules 6600 through 6699 apply to all household goods movers and property carriers.

6601. Definitions.

In addition to the generally applicable definitions in rule 6001, the following definitions apply only in the context of these Household Goods Mover and Property Carrier Rules:

- (a) "Accessorial service" means "accessorial service" as that term is defined in § 40-14-102(1), C.R.S.
- ~~(b) "Advertise" means "advertise" as that term is defined in § 40-14-102(2), C.R.S.~~
- (c) "Contract" means "document" as that term is defined in § 40-14-102(5), C.R.S.
- (d) "Estimate" means "estimate" as that term is defined in § 40-14-102(6), C.R.S. An estimate is not a contract.

- (e) "Shipper" means "shipper" as that term is defined in § 40-14-102(12), C.R.S.
- (f) "Storage" means "storage" as that term is defined in § 40-14-102(13), C.R.S.

6602. Registration Requirement and Limitation.

- (a) Registration required.
 - (I) No person shall offer service, operate, or advertise as a household goods mover without a valid registration issued by the Commission or a temporary household goods mover registration issued through the Colorado Ports of Entry.
 - (II) No person shall offer service or operate as a property carrier without a valid registration issued by the Commission.
- (b) Registration as a household goods mover is not a substitute for registration as a property carrier. Registration as a property carrier is not a substitute for registration as a household goods mover.

6603. Registration.

- (a) Any person seeking to register as a household goods mover or property carrier shall provide the following information, as applicable:
 - (I) The name of the registrant and the trade name under which operations will be conducted.
 - (II) A copy of the registrant's certificate of assumed trade name or trade name registration.
 - (III) The registrant's telephone number, complete physical address, and complete mailing address. A post office box is only acceptable if a physical address is also provided.
 - (IV) ~~A statement describing the registrant's business structure (corporation, limited liability company, partnership, or sole proprietorship).~~ The name and address of the registrant's Colorado agent for service of process, if required by rule 6011.
 - (V) ~~The name and address of the registrant's Colorado agent for service of process, as required by rule 6012.~~ A statement describing the registrant's business structure (corporation, limited liability company, partnership, or sole proprietorship).
 - (VI) If a registrant is a corporation:
 - (A) The name of the state in which the registrant is incorporated.
 - (B) The location of the registrant's principal office, if any, in Colorado.
 - (C) The name and title of each director and officer.
 - (D) A certified copy of the registrant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the registration.

- (VII) If the registrant is a limited liability company:
 - (A) The state in which the company is organized.
 - (B) The location of the registrant's principal office, if any, in Colorado.
 - (C) The name and title of each member.
 - (D) A certified copy of the registrant's certificate of good standing authorizing it to do business in Colorado, certified within 14 days prior to the filing of the registration.
 - (VIII) If the registrant is a partnership:
 - (A) The name and business address of all general and limited partners.
 - (B) The location of the registrant's principal office, if any, in Colorado.
 - (IX) If the registrant is a sole proprietorship:
 - (A) The name and business address of the sole proprietor.
 - (B) The location of the sole proprietor's principal office, if any, in Colorado.
 - (X) A statement that the registrant is familiar with the Household Goods Mover and Property Carrier Rules and all applicable safety rules and that the registrant will comply with them.
 - (XI) A statement that the registrant understands that the filing of a registration does not constitute authority to operate.
 - (XII) A statement indicating whether any of the motor vehicles to be used have a GVWR of 10,000 or more pounds.
 - (XIII) A verification made under penalty of perjury and signed by an authorized officer, partner, owner, employee, or manager of the registrant, as appropriate, verifying that the contents of the registration form and all attachments are true, accurate, and correct. The registration form shall contain the complete address of the affiant.
- (b) In addition to the information required by paragraph (a):
- (I) A person registering as a household goods mover or property carrier under this rule shall cause to be filed both the required proof of financial responsibility and the required annual identification fees.
 - (II) Household goods movers shall pay an annual filing fee of \$300.00.
 - ~~(III) [Reserved].~~
 - ~~(IV)~~ Property carriers shall pay a registration filing fee of \$50.00; except that a person that simultaneously registers as a property carrier and as a household goods mover shall be

exempt from the \$50.00 registration filing fee and need only pay the \$300.00 annual filing fee for a household goods mover.

(c) The Commission will not register any person as a household goods mover or property carrier until the Commission has received all information, documentation, and payments required by paragraphs (a) and (b) of this rule.

~~(d) [Reserved].~~

(ed) Household goods mover registration.

(I) The Commission may deny or refuse to renew the registration of a household goods mover pursuant to §§ 40-14-103(3), C.R.S.

(II) For a household goods mover that submitted registration materials during the effectiveness of House Bill 07-1249 and whose registration remains pending, the Commission waives all fingerprint-based criminal history record check rule requirements derived under House Bill 07-1249 that preclude the immediate issuance of said registration.

(fe) The Colorado Department of Revenue, Motor Carrier Services Division, through its Port of Entry weigh stations:

(I) may issue a non-renewable temporary household goods mover registration, valid for 15 consecutive days, to a person who:

(A) completes the temporary household goods mover registration form provided by the Commission;

(B) provides evidence of motor vehicle liability insurance as required by § 40-14-104, C.R.S.;

(C) signs a verification, under penalty of perjury as specified in § 24-4-104(13)(a), C.R.S., that the applicant is insured as required by § 40-14-104, C.R.S.;

(D) pays a fee of one hundred fifty dollars; and

(E) pays the annual identification fee required by § 40-2-110.5, C.R.S.

(II) may issue a temporary registration for the seasonal transportation of unprocessed agricultural produce to market or to places of storage, valid for 90 consecutive days, to a person who:

(A) provides evidence of motor vehicle liability insurance as required by § 40-16-104, C.R.S., or

(B) signs a verification, under penalty of perjury as specified in § 24-4-104(13)(a), C.R.S., that the applicant is insured as required by § 40-16-104, C.R.S.; and

- (C) pays a fee of twenty dollars per vehicle.
- (III) may issue the temporary registrations provided for in subparagraph (II) upon notification by the Commission identifying the specific counties, crops, and time periods for which the registrations are required, as identified by the Colorado Department of Agriculture.

6604. Revocation of Registration[Reserved].

- ~~(a) After a hearing upon at least ten days' notice to the household goods mover or property carrier affected, the Commission may revoke the household goods mover's registration pursuant to § 40-14-106(1) and (2), C.R.S., or a property carrier's registration pursuant to § 40-16-103.6, C.R.S. for any of the following reasons:
 - ~~(I) Violation of, or failure to observe and comply with, any statute or regulation concerning household goods movers or property carriers.~~
 - ~~(II) Violation of, or failure to comply with, the terms and conditions of the household goods mover or property carrier registration.~~
 - ~~(III) Exceeding the authority granted in the household goods mover or property carrier registration.~~
 - ~~(IV) Violation of, or failure to observe and comply with, any Commission order, rule, or regulation.~~~~
- ~~(b) A household goods mover or property carrier whose household goods mover or property carrier registration(s) is revoked for a third time shall not be issued another household goods mover or property carrier registration for two years from the date of the third such household goods mover or property carrier registration revocation. In determining whether a household goods mover or property carrier has had its household goods mover or property carrier registration(s) revoked three times, a revocation for failure to maintain the financial responsibility required by rule 6007 shall not be counted as one of the three revocations unless the household goods mover or property carrier knowingly operated without the required financial responsibility.~~

6605. Household Goods Movers — Annual Filing Fee.

- (a) Every household goods mover shall pay to the Commission an annual registration filing fee of \$300.00, as set forth in § 40-14-103(2)(a), C.R.S.
- (b) For initial registrants, the annual registration filing fee shall be valid for one year from the date the registration is issued. For renewal registrants, the annual registration filing fee shall be valid for one year after expiration of the prior registration. For purposes of this paragraph, "initial registrant" includes any person re-registering after cancellation or revocation of a prior registration.

6606. Advertising[Reserved].

- ~~(a) No household goods mover, nor any officer, agent, employee, or representative of the household goods mover, shall advertise a transportation service in a name other than that in which the~~

~~household goods mover's registration is held. If a household goods mover registers under a trade name, nothing in this paragraph shall be construed to require advertising under the name of the household goods mover's parent company. If a household goods mover registers under more than one trade name, nothing in this paragraph shall be construed to require the household goods mover to advertise under all the trade names.~~

~~(b) Each advertisement of a household goods mover shall include the phrase "CO PUC Mover Reg. No. [HHG registration number]" and the physical address of the household goods mover.~~

~~(c) A household goods mover shall coordinate with the advertising companies with which it advertises to ensure compliance with this rule.~~

6607. Forms of Payment.

A household goods mover shall accept at least two of the following four forms of payment:

- (a) Cash;
- (b) Cashier's check, money order, traveler's check, or other form of certified funds;
- (c) A valid personal check, showing upon its face the name and address of the shipper or authorized representative; or
- (d) A valid credit card.

6608. Estimates and Contracts.

(a) Estimates. A household goods mover may provide an estimate of the total costs, and the basis for such costs, to be incurred by the shipper. Estimates need not be binding. Notwithstanding this paragraph, a household goods mover shall comply with paragraph (b) of this rule.

(b) Contracts. Prior to providing any transportation or accessorial services, a household goods mover shall provide a document (the contract) to the prospective shipper, which shall be in substantial compliance with the form available from the Commission or its website. Such document shall be signed and dated by the shipper and the household goods mover, and shall clearly and conspicuously include:

- (I) The name, telephone number, and physical address where the household goods mover's employees are available during normal business hours;
- (II) The household goods mover's mailing address on file with the Commission;
- (III) The phrase "[name of household goods mover] is registered with the Public Utilities Commission of the State of Colorado as a household goods mover. Registration No. [household goods mover's registration number]."
- (IV) The date the document is prepared and any proposed date of the move;
- (V) The name and address of the shipper;

- (VI) The addresses where the household goods are to be picked up and, if known, delivered;
- (VII) A telephone number where the shipper may be reached, if available;
- (VIII) A mailing address where the shipper can receive notices from the household goods mover, if available;
- (IX) The name, telephone number, and physical address of a location where the household goods will be held pending further transportation, including situations where the household goods mover retains possession of household goods pending resolution of a fee or non-payment dispute with the shipper;
- (X) An itemized breakdown and description of (i) all costs and/or rates including, if applicable, an explanation of the hourly amounts charged and/or amounts charged based on the weight of the load, (ii) services for transportation, and (iii) accessorial services to be provided during a move or during the storage of household goods; and
- (XI) The forms of payment the household goods mover accepts pursuant to rule 6607.
- (XII) The cargo valuation options available to the shipper, including at least the following two options:
 - (A) Released Value Option. This option shall allow the calculation of the value of loss or damage to household goods shipments to the lesser of: (1) a value equal to sixty cents (\$.60) per pound per lost or damaged article; or (2) the value of the lost or damaged article, less depreciation for age and wear.
 - (B) Full Replacement Cost Option. This option shall allow the shipper to recover the full replacement cost for loss or damage to household goods shipments. This option shall: (1) require the shipper to declare the value of the shipment; (2) permit the shipper to specify a deductible; (3) provide that the mover will be liable for the full replacement cost of each lost or damaged article up to the declared value of the shipment; (4) permit the shipper to purchase additional insurance coverage from the household goods mover's insurance company; and (5) explain that, without the purchase of additional coverage, the shipper will be liable for any declared amount not covered by the household goods mover's insurance or surety company. However, if the shipper declares a value that is less than the value of the shipment, the mover's liability for each lost or damaged article will not exceed the proportional value of the article when compared to the declared value of the entire shipment.
- (c) More comprehensive contract. Nothing in this rule shall be construed to preclude the household goods mover and the shipper from entering into a more comprehensive contract. However, the household goods mover shall not enter into any more comprehensive contract containing provisions that conflict with the provisions of this rule.
- (d) Amendment. The contract may be amended at any time upon mutual agreement of the household goods mover and the shipper. An amendment of the contract shall not be valid or enforceable unless, without duress or coercion as per Colorado law, both the household goods

mover and the shipper sign such amendment. A household goods mover shall not charge, collect, or retain any increased costs and/or rates contained in an amendment if the amendment is not signed by both parties or is obtained by duress or coercion. The mover shall leave with the shipper a copy of the amendment.

(e) Effect. The terms of an executed contract shall be binding on both the household goods mover and the shipper unless a court of competent jurisdiction determines otherwise.

(f) Upon completion of the move, the mover shall provide the shipper with a copy of the completed contract, including any amendments, with a breakdown of all charges.

6609. Consumer Advisement and Binding Arbitration

(a) A mover shall provide the shipper with a consumer advisement at or before the commencement of the move or any accessorial services rendered. The consumer advisement shall be in substantially the following form and language:

CONSUMER ADVISEMENT

Intrastate movers in Colorado are regulated by the Colorado Public Utilities Commission (PUC). Each mover should have a PUC registration number. You are encouraged to contact the PUC to confirm that the mover you are using is indeed registered in Colorado.

A mover that is not registered may not withhold any of your property to enforce payment of money due under the contract ('carrier's lien').

A mover must include its PUC registration number, true name, and physical (street) address in all advertisements.

You should be aware that the total price of any household move can change, based on a number of factors that may include, but are not limited to:

Additional services you request at the time of the move;

Additional items to be moved that were not included in the mover's original estimate;

Changes to the location or accessibility of building entrances, at either end of the move, that were not included in the mover's original estimate;
and

Changes to the previously agreed date of pickup or delivery.

You should also be aware that, in case of a dispute between you and the mover, Colorado has an arbitration process available to resolve the dispute without going to court.

If you have any questions, you are encouraged to call the PUC at (303) 894-2070 for guidance on your rights and obligations.

I acknowledge that I have been given a copy of this consumer advisement to keep for my records.

Signed _____ (shipper). Date _____

(b). In the event of a dispute between the shipper and the mover regarding the amount charged for services or concerning lost or damaged goods, the mover shall offer the shipper the opportunity to participate in binding arbitration per the requirements of §40-14-114, C.R.S.

66096610. Delivery and Storage of Household Goods.

- (a) Pursuant to § 40-14-109(1), C.R.S., a household goods mover shall not refuse to relinquish prescription medicines, medical equipment, medical devices, or goods for use by children, including children's furniture, clothing, or toys under any circumstances. The household goods mover shall relinquish such items as expeditiously as possible under the circumstances.
- (b) A household goods mover shall relinquish household goods to a shipper and shall place the goods inside a shipper's dwelling unless:
 - (I) the shipper has not tendered payment in the amount and in the acceptable form specified in the contract; or
 - (II) the shipper or the shipper's agent is not available to accept delivery of the household goods at the agreed upon date, time, and location.
- (c) If, pursuant to paragraph (b) of this rule, a household goods mover maintains possession of a shipper's household goods, such household goods mover may place the household goods in storage until payment is tendered. Such storage shall only be at the location specified in the contract unless, for good cause and in good faith, the mover is required to store the household goods at a location other than that specified in the contract. If the household goods mover stores the household goods at such an alternate location, the household goods mover:
 - (I) Shall mail to the shipper a notice of such alternate storage location within two business days. For purposes of this subparagraph, "business day" means Monday through Friday, excluding legal holidays designated by the Colorado General Assembly.
 - (II) May only charge additional fees for such alternate storage (i.e., in excess of those set forth in the contract) unloading services, and reloading services, if:
 - (A) Such additional fees are reasonable; and
 - (B) Storage at the alternate storage location is necessitated by some act or omission of the shipper, or is necessitated by circumstances beyond the control of the mover.
- (d) Notwithstanding any other provision of this rule, upon written request from the shipper, the household goods mover shall notify the shipper of the storage location and the amount due. Such notice shall be given within five days of receipt of the written request.
- (e) If a household goods mover opts not to place the shipper's household goods in storage pursuant to paragraph (c) of this rule, the household goods mover shall take reasonable care to ensure the safekeeping of such household goods.

- (f) A household goods mover shall not require a shipper to waive any rights or requirements under this rule.

66106611. Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates any of the following provisions may be assessed a civil penalty of up to \$1,100.00 for each violation:
- (I) § 40-14-103(1), C.R.S., with regard to operating, offering service, or advertising without being registered; § 40-16-103, C.R.S., with regard to offering service without being registered; or rule 6602(a).
 - (II) § 40-14-108(1), C.R.S., or paragraph 6608(b), with regard to providing the shipper with a contract prior to providing transportation or accessorial services.
 - (III) paragraph 6608(d).
 - (IV) § 40-14-109(1) or (2), C.R.S.; or paragraph (a) or (b) of rule 66096610.
- (b) A person who violates any of the following provisions may be assessed a civil penalty of up to \$550.00 for each violation:
- ~~(I) paragraph (a) of rule 6606.~~
 - ~~(H)~~ paragraph (c), (d), (e), or (f) of rule 66096610.
- (c) Except as provided for in paragraph (a) and (b) of this rule, a person who violates any provision of Title 40, C.R.S., pertaining to household goods movers, or any provision of rules 6600 through 66096610 may be assessed a civil penalty of up to \$275.00.

66116612. – 6699. [Reserved].