

(Decision No. C95-486)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF EMERGENCY RULES)
AUTHORIZING CARGO INSURANCE)
REQUIREMENTS AND REQUIRING PROOF)
OF REGISTRATION TO BE CARRIED IN) DOCKET NO. 95R-257
VEHICLES FOR CARRIERS OF)
PROPERTY BY MOTOR VEHICLE, 4 CCR)
723-33.)

Mailed Date: June 12, 1995
Adopted Date: June 7, 1995

**ORDER OF COMMISSION
ADOPTING EMERGENCY RULES**

I. BY THE COMMISSION:

A. Statement

1. As a result of the federal preemption resulting from the "AIRPORT IMPROVEMENT ACT OF 1994," 49 U.S.C. Section 11501(h), the Colorado General Assembly enacted HB 95-1068. This legislation was signed into law and became effective on May 31, 1995. HB 95-1068 creates a new class of motor carrier (carriers of property by motor vehicle) within Article 16 of Title 40 C.R.S., and requires the Commission to issue permits to these carriers based upon insurance and safety requirements. In addition to requiring liability

insurance, HB 95-1068 also requires that property carriers by motor vehicle carry cargo insurance in such amount and in such form as required by Commission rule.

2. Presently, the Commission has rules which mandate specific forms for proof of liability insurance (Rule 3, 4 CCR 723-33), however, there is no specification for amounts of cargo coverage nor acceptable forms for proof of cargo liability insurance. Absent rules on this subject, the Commission will be unable to issue the new permits required by HB 95-1068. In addition, there is presently no rule requiring carriers registered under Article 16 of Title 40 to carry proof of such registration in the motor vehicle, thereby making enforcement difficult.

3. In order to address these problems, we now determine that immediate adoption of the attached emergency rule is imperatively necessary for the preservation of the public health, safety, or welfare. We find that compliance with rulemaking notice and comment requirements as set forth in the Administrative Procedure Act, section 24-4-103, C.R.S., would be contrary to the public interest in that failure to adopt a rule could result in inadequate cargo insurance coverage for the transportation of

property. The emergency rule addresses this problem by requiring both minimum insurance coverage and the use of specific forms as proof of coverage.

4. For these reasons, we determine that emergency Rule 4, as attached to the Appendix to this Order, should be adopted immediately without notice. Pursuant to the provisions of § 40-2-108(2), such rules are to be effective for 210 days or until adoption of a permanent rule, whichever occurs first. We will initiate proceedings to adopt permanent rules to replace these emergency regulations.

5. The statutory authority for this rule is found at § 40-2-108, C.R.S.

II. ORDER

A. THEREFORE COMMISSION ORDERS THAT:

1. The Emergency Rules 4 and 5 attached to this Order in Appendix A are hereby adopted to be effective immediately. Such rules shall be in effect for 210 days or until replaced by a permanent rule.

2. Within 20 days following adoption, the attached emergency rule and this decision shall be filed with the Secretary of State along with the Attorney General's Opinion regarding the legality of the rule.

3. The adopted rules shall also be filed with the office of

Legislative Legal Services within 20 days following
the Attorney General's Opinion regarding the legality
of the rule.

B. This Order is effective on its Mailed Date

ADOPTED IN OPEN MEETING June 7, 1995.

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ATTEST: A TRUE COPY

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

ROBERT J. HIX

Bruce N. Smith
Director

CHRISTINE E.M. ALVAREZ

VINCENT MAJKOWSKI

Commissioners

ORDER-ADP

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

**RULES AND REGULATIONS CONCERNING
MOTOR VEHICLE CARRIERS EXEMPT
FROM REGULATION AS PUBLIC UTILITIES**

4 CCR 723-33

Rule 4 -- Cargo Insurance Coverage

4.1Every carrier having registered under the provisions of § 40-16-103, C.R.S., shall obtain and maintain in force at all times, cargo insurance coverage, which coverage shall be \$10,000 per motor vehicle unit operated, or an amount adequate to cover the value of the property being transported, whichever is less.

4.2Every carrier shall cause to be filed with the Commission, in lieu of the original policy, a Form H Uniform Motor Carrier Cargo Certificate of Insurance, executed by a duly authorized agent of the insurer. The original policy is to be retained by the carrier and shall be available for inspection by any authorized representative of the Commission.

4.3All cargo insurance coverage must be filed naming the insured in the exact name, initials, corporate and trade name (if any) and address as shown in the application or records of the Commission.

4.4Subsequent name or policy number changes shall be reflected by the insurer filing an endorsement.

4.5Every insurance certificate required by and filed with the Commission shall be kept in full force and effect, unless and until canceled by a 30-day written notice, on Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies, from the insurer to the Commission, which time shall run from the date the notice is received by the Commission and the certificate shall contain a statement to this effect.

Appendix

Rule 5 -- Proof of Registration

Every carrier having registered under the provisions of § 40-16-103, C.R.S., shall carry proof of such registration in the motor vehicles operated under said registration, and make available to all enforcement officers such proof upon request.

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CERTIFICATE OF SERVICE

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I, Bruce N. Smith, Director of The Public Utilities Commission of the State of Colorado, certify that I served a true and correct copy of the above Commission Decision -- entered in the above numbered matter of record -- upon each of the persons whose names and addresses appear below, by mailing the same in sealed envelopes properly addressed, with sufficient postage prepaid to carry the same to its destination on the date noted on this certificate at Denver, Colorado.

SEE ATTACHED LIST.

ROUTE:

1
2
3
4
6-Docketing
9
10
20
21
30
31/2 copies
40/5 copies
50
60
Black Book
Text Management
Operating Rights Unit
DMS (plus certificate)
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ORDER-ADP

WITNESS MY HAND AND THE SEAL OF
THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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BRUCE N. SMITH
DIRECTOR