

(Decision No. C95-726)

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

* * *

IN THE MATTER OF REVISIONS TO THE)	
RULES AND REGULATIONS GOVERNING)	
MOTOR VEHICLE CARRIERS EXEMPT)	DOCKET NO. 95R-349CY
FROM REGULATION AS PUBLIC)	
UTILITIES, 4 CCR 723-33.)	
)	

NOTICE OF PROPOSED RULEMAKING

Mailed Date: August 10, 1995
Adopted Date: August 2, 1995

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. The intent of the rules is to establish cargo insurance limits and procedures to be used by carriers in complying with the dictates of HB 95-1068.

2.The proposed rules further require that motor vehicle carriers exempt from regulation as public utilities carry proof of registration in each motor vehicle. The purpose of this rule is to aid enforcement of the registration requirement found at § 40-16-103, C.R.S.

3.Additionally, the proposal includes a rule specifying requirements for the Designation of Agent required by the provisions of § 40-16-103, C.R.S. The purpose of this rule is to establish who may act as an agent for service of process.

4.In Decision No. C95-486, the Commission adopted emergency rules relating to the same subject matter. An intent of this rulemaking docket is to consider permanent rules to replace the emergency regulations previously adopted.

5.A copy of the proposed rules is attached to this notice of proposed rulemaking. The statutory authority for the proposed rules as found at § 40-2-108, C.R.S.

6.The Commission will conduct a hearing before an administrative law

judge on the proposed rules and related issues beginning at 9:00 a.m. on October 2, 1995. The hearing will be conducted in a Commission Hearing Room, Office Level 2 (OL2), Logan Tower, 1580 Logan Street, Denver, Colorado 80203. Interested persons may submit written comments on the rules and present these orally at hearing, unless the Commission deems oral presentations unnecessary. Interested persons may file written comments before the hearing. All submissions will be considered by the Commission.

II. ORDER

A. The Commission Orders That:

1.1.1 This Notice of Proposed Rulemaking shall be filed with the Secretary of State for publication in the next *Colorado Register*. At the time of filing with the Secretary of State, this notice shall also be filed with the Office of Regulatory Reform.

1.1.2 Hearing on the proposed rules and related matters shall

be held beginning at:

DATE: October 2, 1995

TIME: 9:00 a.m.

PLACE: Commission Hearing Room
Office Level 2 (OL2)
Logan Tower
1580 Logan Street
Denver, CO 80203

At the time set for hearing, interested persons may submit written comments and may present these orally unless the Commission deems oral comments unnecessary.

1.1.3 Interested persons may file written comments in this matter before hearing. All submissions will be considered.

1.2 This Order is effective on its Mailed Date.

ADOPTED IN OPEN MEETING AUGUST 2, 1995.

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

Commissioners

CHAIRMAN ROBERT J. HIX ABSENT.

ORDER-ADZ

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

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

4 CCR 723-33

RULE 3. ~~EVIDENCE OF LIABILITY~~ INSURANCE

3.1 Liability Insurance

Every carrier having registered under the provisions of § 40-16-103, C.R.S., shall obtain and keep in force at all times, public liability insurance coverage issued by an insurance company authorized to do business in the State of Colorado, which coverage shall not be less than the minimum limits set forth in § 40-16-104. In lieu of liability insurance, public entities may obtain a certificate of self-insurance from the Colorado Department of Revenue. Every carrier shall cause to be filed with the Commission, in lieu of the original policy, a Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance, executed by a duly authorized agent of the insurer. The original policy is to be retained by the carrier and kept available for inspection by any authorized representative of the Commission. Public entities may file a certificate of self-insurance issued by the Colorado Department of Revenue in lieu of a Form E.

3.2 Cargo Insurance

Every property carrier by motor vehicle 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.

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Carriers transporting only loads of commodities with an aggregate value of \$500, or less, are exempt from this rule (3.2). Carriers transporting only loads of commodities not subject to appreciable loss or damage, due to physical characteristics, are exempt from this rule (3.2). Every property carrier by motor vehicle 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.

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

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

3.5 Every 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. Certificates of self-insurance will be considered valid until canceled or not renewed by the Colorado Department of Revenue.

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.

RULE 7.DESIGNATION OF AGENT

Each motor vehicle carrier exempt from regulation as a public utility shall file with the Commission, and maintain on file, the name and address of a person upon whom service may be made of notices or orders in proceedings pending before the Commission, process issued by or under the authority of any court or board in any judicial or other proceeding brought against such carrier, or any other process, notice, or demand required or permitted by law to be served upon the carrier. The designation of agent shall be in writing in a form prescribed by the Commission. The designation may be changed by a similar filing. The Secretary of State of the State of Colorado may not be the person designated as agent. 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.

RULE 7 8.HARDSHIP

In case of hardship, a carrier may file a written application for relief from any rule. The Commission, at its discretion, may grant the application or set the matter for hearing.

The Commission may permit variance from this rule for good cause and if it is satisfied that the public interest will be served, and if it finds compliance to be impossible, impractical, or unreasonable.

A copy of any grant of such application by the Commission shall be carried in the vehicle(s) affected by it and shall be made available for inspection upon request by the enforcement staff of the Commission.

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

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

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BRUCE N. SMITH
DIRECTOR