

Decision No. C03-0273

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-097TO

IN THE MATTER OF EMERGENCY AMENDMENTS TO THE RULES, REGULATIONS,
AND CIVIL PENALTIES GOVERNING TOWING CARRIERS BY MOTOR VEHICLE.

DECISION ADOPTING EMERGENCY RULES

Mailed Date: March 13, 2003

Adopted Date: March 12, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of emergency rules amending the Commission's Rules, Regulations, and Civil Penalties Governing Towing Carriers By Motor Vehicle, 4 Code of Colorado Regulations (CCR) 723-9 (Towing Rules). The emergency rules amend the Towing Rules as indicated in redline format on Attachment A. For the reasons set forth in this decision, we now adopt on an emergency basis (*i.e.*, without compliance with the rulemaking requirements for permanent rules set forth § 24-4-103, C.R.S.) the rules appended to this order as Attachment A. We take this action in accordance with the provisions of § 24-4-103(6), C.R.S.

2. Generally, the purpose of the rules adopted by this order is to update the Towing Rules to comply with recently adopted statutes. Specifically, Senate Bill (SB) 02-132, entitled "Concerning the Reformation of the Regulation of Persons Who Tow Abandoned Motor Vehicles, and, in Connection Therewith, Recodifying the Laws Regulating Towing Abandoned Vehicles", had the effect of separating two previously joined Parts of Title 42, Article 4.

3. We note that the Commission previously adopted emergency amendments to the Towing Rules in response to SB-02-132. *See* Decision No.C02-0878 (Mailed Date of August 15, 2002). Those emergency rules expire on March 13, 2003. The Commission had initiated a rulemaking proceeding to make the previous emergency rules permanent in accordance with the procedures specified in § 24-4-103, C.R.S. *See* Docket No. 02R-596TR. However Docket No. 02R-596TR was terminated by the Commission (by operation of Decision No. C03-0185) prior to adoption of permanent rules. Therefore, unless we readopt emergency rules, the Towing Rules would be inconsistent with the provisions of SB02-132. In addition, the rules adopted here, unlike the emergency amendments adopted in Decision No. C02-0878, take account of newly adopted rules by the Colorado Department of Revenue. The Department of Revenue had not adopted those rules at the time Decision No. C02-0878 was issued.

4. Previously, Part 18 of Title 42, Article 4 (*i.e.* 42-4-1801 *et. seq.*, C.R.S.) dealt with Towing and Storage. SB 02-132 amended that Part to address Vehicles Abandoned on Public Property only, and created the new Part 21 to address Vehicles Abandoned on Private Property. Prior to the enactment of SB 02-132, pertinent notice, reporting, and storage charge provisions for both private property tows and public property tows were located in section § 42-4-1805, C.R.S. Post-SB 02-132, they are split between §§ 42-4-1803 (storage charges) and 42-4-1804 (notice and reporting) for public property tows, and 42-4-2103 (all) for private property tows. These provisions addressing requirements for operators of towing vehicles are substantively identical, but, again, have been split in different statutory sections.

5. Therefore, besides merely changing statutory references in the Towing Rules, with this emergency rule change we add necessary references to the previously joined, but now discrete, notice, reporting, and storage charge sections. As stated above, the previously existing

notice, reporting, and storage charge provisions have merely been placed, in the same substantive form, in two separate sections, instead of the previous one section. So, for example, new Rules 17.7.3 and 17.7.4 (Attachment A) now refer to § 42-4-2103 (notice requirements, report, and storage charges for abandonment of motor vehicles on private property) instead of the former § 42-4-1805.

6. Similarly, Rule 2.1 adds a reference to the new definitions section in Part 21, § 42-4-2102, C.R.S. Rule 13.2 adds a reference to Part 21 to the reference to Part 18 of Title 42, Article 4. Rule 15.3 is amended to refer to § 42-4-2103, instead of the former § 42-4-1805.¹ The reference in Rule 723-9-15.2.3 to Rule 723-9-14.1 is changed to the appropriate citation: 723-9-15.1. The amendment to Rule 17.4 deletes a reference to the former § 42-4-1805, and replaces it with references to §§ 42-4-1804, 42-4-2103, and the rules of the Colorado Department of Revenue, 1 CCR 204-14.

7. Existing Rule 17.7.3 is deleted because it is no longer applicable. Sections 42-4-1802(1) and 42-4-2102(1), C.R.S., now define when a vehicle becomes an “abandoned motor vehicle.” Due to the deletion of this section, the following sections, 17.7.4 and 17.7.5, are renumbered.

8. Rules 17.7.3 and 17.7.4, formerly Rules 17.7.4 and 17.7.5, are amended as explained, *supra*, to cover the new statutory changes to the notice, reporting, and storage charges provisions of SB02-132. References to 42-4-1805 are removed as they apply only to motor vehicles abandoned on public property and the notification requirements applicable to law enforcement agencies. The reference to § 38-20-116, C.R.S. is deleted as it is no longer

¹ This particular statutory requirement only applies to private property tows. Therefore, there is no mirror requirement in Part 18.

applicable here. In addition, Rule 17.7.3 was revised to include motor vehicles defined as “collector’s item” in § 42-12-101(2), C.R.S.

9. Along with the rule updates necessitated by SB 02-132, the Commission changes the reference to § 4-9-503.5, C.R.S., to § 4-9-629, C.R.S., found in Rule 1.4. This statutory section was moved as part of a complete repeal and reenactment of Article 9 of Colorado’s Uniform Commercial Code pursuant to SB 01-240. The referenced section remains entirely unchanged.

10. We adopt the attached rules as emergency rules in accordance with the provisions of § 24-4-103(6), C.R.S. We find that immediate adoption of the rules is imperatively necessary to comply with a state law, *to wit*, SB 02-132. Further, compliance with the rulemaking requirements associated with permanent rules, as set forth in § 24-4-103, C.R.S., would be contrary to the public interest.

11. As grounds for these findings, we state: It is necessary to adopt these emergency rules due to the enactment of SB 02-132, which separated the laws for the towing of abandoned vehicles into discrete parts for vehicles abandoned on private property (Part 21) and for vehicles abandoned on public property (Part 18). Additionally, it is necessary to adopt these emergency rules due to the recent adoption of Department of Revenue Rules, 1 CCR 204-14, regarding abandoned automobiles. The Commission finds it necessary to immediately clarify in the Towing Rules, that, while the references themselves have changed, the underlying basis for the rules, and the substance of the rules have not changed.

12. Failure to adopt these rules on an emergency basis would delay action on this matter for several months. These rules would remain unclear as to which tows -- public, private, or both -- are regulated by the Commission.

13. Therefore, emergency adoption of the attached rules is appropriate. The statutory authority for adoption of these rules is set forth in §§ 40-2-108, 40-4-101, and 40-13-107, C.R.S. The rules attached to this order shall be effective immediately upon the mailed date of this decision, and shall remain in effect until permanent rules become effective or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this decision as Attachment A are hereby adopted as emergency rules consistent with the above discussion.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
MARCH 12, 2003.**

(SEAL)



ATTEST: A TRUE COPY

A handwritten signature in cursive script, appearing to read "Bruce N. Smith".

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

JIM DYER

Commissioners

COMMISSIONER POLLY PAGE
ABSENT.

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

**RULES, REGULATIONS, AND CIVIL PENALTIES
GOVERNING TOWING CARRIERS BY MOTOR VEHICLE**

4 CODE OF COLORADO REGULATIONS (CCR) 723-9

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis and purpose of these towing carrier rules are to govern the operation and activities of towing carriers by motor vehicle for hire.

The Commission's specific statutory authority for the issuance of these rules is §§ 40-7-113(2), 40-13-104(1), 40-13-105, 40-13-107, 40-13-110(1), 42-4-1809(2)(a), and 42-4-2108(2)(a), C.R.S. In addition, the general statutory authority for the Commission's rulemaking is found at § 40-2-108, C.R.S.

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RULE (4 CCR) 723-9-1. APPLICATION OF RULES AND REGULATIONS.

723-9-1.1 Towing Rules and Regulations. These rules and regulations apply to towing carriers, as defined in § 40-13-101(3), C.R.S., operating upon the public ways of Colorado.

723-9-1.2 Safety Regulations. Towing carriers shall comply with all safety regulations, including the Motor Carrier Safety Regulations, 8 CCR 1507-1, adopted by the Department of Public Safety (Colorado State Patrol) pursuant

to § 42-4-235(4), C.R.S., which are hereinafter referred to as the Safety Regulations.

723-9-1.2.1 USDOT Number. By February 1, 2003 all towing carriers shall obtain a United States Department of Transportation (USDOT) certification number.

723-9-1.3 Additional Requirements. Nothing in these rules shall be construed to prohibit a law enforcement agency from adopting and enforcing additional or more stringent requirements relating to safety, equipment, and accessories for any towing carrier providing towing services at the direction of the law enforcement agency.

723-9-1.4 Repossession Not Included. Nothing in these rules 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 § ~~4-9-503~~.54-9-629, C.R.S.

RULE (4 CCR) 723-9-2. DEFINITIONS.

When used in these rules the following shall have meanings as stated:

723-9-2.1 Abandoned motor vehicle means a motor vehicle as defined by §§ 42-4-1802 and 42-4-2102, C.R.S.

723-9-2.2 Commission means the Colorado Public Utilities Commission.

723-9-2.3 Delivery means placing a towed motor vehicle in the actual possession of the owner, authorized operator, or authorized agent of the owner.

723-9-2.4 Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the maximum loaded weight of a single or combination (articulated) vehicle. The

GVWR of a combination (articulated) vehicle, commonly referred to as the "gross combination weight rating" or "GCWR" is the GVWR of the power unit plus the GVWR of any towed unit.

723-9-2.5 Holidays means those days designated as legal holidays by the Colorado General Assembly.

723-9-2.6 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.

723-9-2.7 Motor vehicle means any vehicle which 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.

723-9-2.8 Mountain area means that part of the State of Colorado west of a line drawn ten (10) air miles west of, and parallel to, Interstate Highway 25.

723-9-2.9 Non-consensual tow means a tow authorized or directed by a person other than the owner, authorized operator, or authorized agent of the owner. A non-consensual tow includes, but is not limited to: (1) a private property tow; (2) any tow performed contrary to the specific direction of the owner, authorized operator, or authorized agent of the owner; (3) any tow performed without disclosure of the rates and charges to be assessed as set forth in Rule 723-9-7; or (4) a tow directed or authorized by a law enforcement officer, either verbally or in writing, in any circumstance when the

owner, authorized operator, or authorized agent of the owner is unavailable, unable, or unwilling to direct the tow.

723-9-2.10 Normal business hours means 8:00 AM to 5:00 PM, Monday through Friday, excluding holidays.

723-9-2.11 Private property tow means the towing of a motor vehicle from private property at the request of the property owner as set forth in Rule 723-9-15.1.

723-9-2.12 Public ways include, but are not limited to, every street, road, or highway in the state of Colorado over which the public generally has a right to travel.

RULE (4 CCR) 723-9-3. PERMIT REQUIRED, NAME AND ADDRESS CHANGES, REVOKED PERMITS.

723-9-3.1 Permit Required. No person, unless exempted by § 40-13-103(2), C.R.S., shall operate as a towing carrier without a valid permit issued by the Commission. This permit does not authorize for-hire transportation requiring specific authority as set forth in Articles 10 and 11, or registration as a motor vehicle carrier exempt from regulation as a public utility under Article 16 of Title 40, C.R.S.

723-9-3.2 Change of Name and Address. Every towing carrier shall notify the Commission in writing of all changes of name and address not involving a change in ownership or control, and file all necessary amendments to its insurance filings.

723-9-3.3 Revoked Permits Not Reissued. A towing carrier permit revoked pursuant to the provisions of § 40-13-109, C.R.S., shall not be reissued. A person must obtain a new permit, with a different number, to operate as a towing carrier. Any towing permit holder whose towing permit(s) has been previously revoked twice may not obtain another towing

permit for one year from the date of the most recent permit revocation.

RULE (4 CCR) 723-9-4. CONTENTS OF APPLICATION FOR PERMIT.

Every towing carrier shall submit an application for a permit to the Commission. This rule shall not be construed to require a towing carrier holding a valid permit on the effective date of these rules to reapply. The application shall contain the following information:

723-9-4.1 Name and Address. The name and complete street address, city, state, zip code, and telephone number of the applicant, and the trade name under which the operation shall be conducted. A post office box is acceptable as an address so long as a physical address is also provided.

723-9-4.2 Corporations. If the applicant is a corporation:

723-9-4.2.1 A statement of that fact and the name of the state in which it is incorporated;

723-9-4.2.2 The location of its principal office in the State of Colorado and the names of its directors and officers;

723-9-4.2.3 A copy of its articles of incorporation or charter; and

723-9-4.2.4 A copy of its certificate of assumed trade name, if any.

723-9-4.3 Limited Liability Companies. If the applicant is a Limited Liability Company, the name, title, and business address of each member.

723-9-4.4 Partnerships. If the applicant is a partnership, the name, title, and business address of each partner.

723-9-4.5 Description of Equipment. A list with a complete description of the equipment to be operated.

723-9-4.6 Statement on Rules. A statement that applicant is familiar with these "Rules, Regulations, and Civil Penalties Governing Towing Carriers by Motor Vehicle," and will comply with them.

723-9-4.7 Statement on Safety Regulations. A statement that the towing carrier is familiar with all applicable safety regulations and will comply with them.

723-9-4.8 Statement on Insurance. A statement that applicant has obtained at least the minimum levels of insurance as set forth in Rule 723-9-11 and has requested its insurance company to file evidence of this insurance in the form and manner prescribed by the Commission.

723-9-4.9 Filing Not Authority. A statement that applicant understands that the filing of an application does not constitute authority to operate.

723-9-4.10 Statement on Storage Facilities. A statement whether or not the towing carrier will provide storage for towed motor vehicles. If storage is provided, a complete address and phone number, if any, and description of the storage facilities shall be included.

723-9-4.11 Signature on Application. Every application must be signed by the applicant or its attorney or agent with the complete address and telephone number of the attorney or agent.

RULE (4 CCR) 723-9-5. VEHICLE IDENTIFICATION STAMPS.

723-9-5.1 Application. At least 30 days before the first day of January of each calendar year, every towing carrier shall apply to the Commission for the issuance of a vehicle

identification stamp for each self-propelled vehicle which the towing carrier owns, controls, operates, or manages within the State of Colorado.

723-9-5.2 Period of Validity. The vehicle identification stamps shall be valid for the calendar year for which they are purchased.

723-9-5.3 Obtaining Stamps. Vehicle identification stamps for towing carriers obtaining a new permit or acquiring new or additional vehicles during the year may be obtained at any time during the year.

723-9-5.4 Display. The vehicle identification stamps shall be affixed to the inside, lower, right-hand corner of the windshield of each towing vehicle; except that towing carriers also registered under the Single State Registration System for regulated interstate carriers shall carry a copy of the Form RS-3 Registration Receipt in each towing vehicle in lieu of the vehicle identification stamp.

RULE (4 CCR) 723-9-6. TOW RECORD/INVOICE.

723-9-6.1 Tow Record/Invoice To Be Used. Towing carriers shall use a tow record/invoice form for all non-consensual tows, which shall contain the information shown in Appendix A to these rules.

723-9-6.2 Completion of Tow Record/Invoice. Towing carriers shall complete all applicable portions of the tow record/invoice form for each non-consensual tow.

723-9-6.3 Copies of Tow Record/Invoice. The tow record/invoice shall be a multiple copy form, the copies of which shall be distributed as follows: The towing carrier shall retain the copy bearing all required original signatures for authorization and release. 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.

RULE (4 CCR) 723-9-7. DISCLOSURE OF RATES AND CHARGES.

The towing carrier shall, prior to performing any tow, disclose to the owner, authorized operator, or authorized agent of the owner of the motor vehicle all rates and charges to be assessed. This shall include, but not be limited to, any extra charges because the towing carrier would, at the time, be unable to deliver the motor vehicle to a repair or body shop during normal working hours. Mileage and days for storage charges may be estimated. This rule does not apply to private property tows and tows ordered by law enforcement officials.

RULE (4 CCR) 723-9-8. LEASE OF TOWING VEHICLES.

723-9-8.1 Requirement to Own or Lease. Every towing carrier shall own or lease all towing vehicles operated under its permit.

723-9-8.2 Contents of Lease. All towing vehicle leases shall be in writing and be signed by the lessor (towing vehicle owner) and lessee (permit holder). All towing vehicle leases shall contain at least the date of the agreement; the names of the lessor and lessee; the make, year, and vehicle identification number; and the period of the lease.

723-9-8.3 Effect of Lease. During the period of the lease, the lessee shall have full discretion and complete control of the leased vehicle and will be fully responsible for its operation, in accordance with all applicable laws and regulations. This includes, but is not limited to, compliance

with insurance requirements, marking requirements, and safety of the towing vehicle, its equipment, and accessories.

723-9-8.4 Leases Carried on Towing Vehicle. A copy of the lease agreement shall be carried in the leased vehicle at all times.

RULE (4 CCR) 723-9-9. MARKING OF TOWING VEHICLES.

723-9-9.1 Requirement. No towing carrier shall operate any towing vehicle, owned or leased, upon the public ways of the State of Colorado without first marking or affixing on each side of the towing vehicle, the towing carrier's permit number in the form COPUC T-XXX (permit number shall be placed after the "T"), which markings shall also comply with applicable safety regulations.

723-9-9.2 Removal. All markings shall be completely removed from all towing vehicles which are permanently withdrawn from service.

RULE (4 CCR) 723-9-10. PERMITS.

723-9-10.1 Copies. Copies of the towing permit shall be made by the towing carrier and placed in each towing vehicle.

723-9-10.2 Display. Upon demand, the copy of the towing carrier permit shall be presented by the driver of the towing vehicle to any law enforcement officer, Port of Entry officer, or authorized personnel of the Commission.

RULE (4 CCR) 723-9-11. INSURANCE OR SURETY BOND.

723-9-11.1 Required Insurance Coverage.

723-9-11.1.1 Public Liability Insurance. Every towing carrier shall obtain and keep in force at all times public bodily injury liability and property damage liability

insurance coverage or a surety bond providing the same coverage.

723-9-11.1.2 Cargo Liability Insurance. Every towing carrier shall obtain and keep in force at all times cargo liability insurance coverage. Cargo liability insurance coverage shall include coverage of physical damage to the motor vehicle in tow (on hook) and loss of its contents.

723-9-11.1.3 Garage Keepers Liability Insurance. Towing carriers providing storage, directly or through an agent, shall obtain and keep in force at all times garage keepers liability insurance coverage. Towing carriers shall not charge, collect, or retain storage charges for those days in which garage keepers liability insurance coverage is not kept in force.

723-9-11.2 Minimum Amounts of Coverage. The full coverage for each type of liability insurance policy shall be in amounts not less than the minimum limits set forth in this rule, with schedules and endorsements as required by the Commission.

723-9-11.2.1 Public Liability Coverage for all towing carriers shall be not less than a minimum combined single limit liability (CSL) of \$750,000.

723-9-11.2.2 Cargo liability insurance 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.

723-9-11.3 Insurance Policies.

723-9-11.3.1 Authorized Insurer. Each policy of required liability insurance shall be issued by an insurance or surety company authorized to do business in the State of Colorado by the Commissioner of Insurance.

723-9-11.3.2 Coverage of All Towing Vehicles. Each policy of required liability insurance, with schedules and endorsements as required by the Commission, shall provide coverage for all towing vehicles operated by, for, or under the control of the towing carrier. This coverage shall be accomplished by a "Waiver of Description" endorsement on each policy.

723-9-11.3.3 Retention and Inspection of Policies. Each original policy for required liability insurance shall be retained by the towing carrier and be available for inspection by authorized personnel of the Commission.

723-9-11.4 Certificates of Insurance.

723-9-11.4.1 Filing with Commission. The towing carrier shall cause to be filed with the Commission, in lieu of the original policies, certificates of insurance executed by an authorized agent of the insurer in the forms and amounts stated in Rules 723-9-11.1 and 723-9-11.2.

723-9-11.4.2 Execution. All certificates of insurance filed must be executed in the exact name, initials, corporate and trade name (if any), and address listed on the application for the permit.

723-9-11.4.3 Endorsements. Subsequent changes of name, address, or policy number shall be made to the certificates of insurance by filing an appropriate written endorsement with the Commission.

723-9-11.4.4 Forms. The certificates of insurance or surety bond for bodily injury, property damage, cargo insurance, and garage keepers liability insurance shall be filed on forms which are attached to these rules as Appendices B, C, D, and E. Any cancellation of insurance or surety bonds shall be on forms which are attached to these rules as Appendices F and G.

723-9-11.5 Cancellation of Insurance, Notice. Each certificate of insurance required by and filed with the Commission shall be kept in full force and effect unless and until canceled by a 30-day written notice, on the appropriate form prescribed in Rule 723-9-11.4.4, from the insurer to the Commission. The time shall run from the date the notice is received by the Commission. In lieu of the prescribed form, the insurer may cancel a certificate of insurance by letter to the Commission containing the same information as required by the prescribed form.

723-9-11.6 Summary Suspension and Notice of Show Cause Proceedings.

723-9-11.6.1 Summary Suspension of Permit. Whenever the Commission records indicate that a towing carrier's liability insurance is canceled, and there is no proof on file with the Commission indicating replacement coverage, the towing carrier's permit shall be summarily suspended until the Commission receives proper proof of new coverage as required by Commission rules, or until the towing carrier's permit is canceled or revoked.

723-9-11.6.1.1 Towing Carrier Not to Operate. A towing carrier receiving notice of summary suspension shall not conduct operations under its permit until proper proof of insurance is filed with the Commission.

723-9-11.6.1.2 Reinstatement. When proper proof of insurance is received by the Commission, the summary suspension will be lifted without further order of the Commission.

723-9-11.6.2 Notice. The Director of the Commission shall send a notice of show cause proceedings to a towing carrier that fails to maintain proper proof of insurance as required by Commission rules. The notice shall advise the towing carrier that its authority to operate is summarily suspended.

RULE (4 CCR) 723-9-12. REVOCATION OR SUSPENSION OF PERMIT AND NOTICE OF SHOW CAUSE PROCEEDINGS.

723-9-12.1 Revocation, Suspension, Alteration, Amendment of Permit. After a hearing upon at least ten days' notice to the towing carrier affected, a towing permit may be revoked, suspended, altered, or amended by the Commission, for any of the following reasons:

723-9-12.1.1 Violation of or failure to comply with any statutory enactment, or supporting Colorado Regulation, concerning towing carriers or the towing, storage, or disposal of towed vehicles.

723-9-12.1.2 Violation of or failure to comply with the terms and conditions of the permit.

723-9-12.1.3 Exceeding the authority granted in the permit.

723-9-12.1.4 Violation of or failure to observe and comply with any lawful order, rule, or regulation of the Commission.

RULE (4 CCR) 723-9-13. STORAGE FACILITIES.

723-9-13.1 Disclosure of Location of Storage Facility For Other Than Abandoned Motor Vehicles. The towing carrier, on placing a motor vehicle other than an abandoned motor vehicle in a storage facility, shall disclose the location of the storage facility where the towed motor vehicle is in storage as follows:

723-9-13.1.1 By notifying the owner, the authorized operator, or the authorized agent of the owner of the towed motor vehicle; or,

723-9-13.1.2 By notifying the owner of the private property from which the motor vehicle was towed; or,

723-9-13.1.3 By notifying the responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed.

723-9-13.2 The towing carrier, on placing an abandoned motor vehicle in a storage facility, shall disclose the location of the storage facility where the abandoned motor vehicle is in storage by complying with the procedure for abandoned motor vehicles in Title 42, Article 4, Part s 18 and 21, C.R.S.

723-9-13.3 Noncompliance with Disclosure Requirement. A towing carrier that fails to comply with the disclosure requirements of Rule 723-9-13 shall not charge, collect, or retain any fees or charges for storage of a motor vehicle.

RULE (4 CCR) 723-9-14. EQUIPMENT AND ACCESSORIES.

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

723-9-14.1 Basic Towing Vehicle Requirements. Towing vehicles shall be equipped with engines, transmissions, differentials, driveline components, brake systems, frames, steering components, and suspensions of sufficiently heavy construction to safely winch, lift, tow, load or transport any motor vehicle tendered to the towing carrier. Towing vehicles shall be maintained in a manner to ensure the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle.

723-9-14.1.1 All towing vehicles shall have a GVWR of at least 10,000 pounds.

723-9-14.2 Fenders. There must be fender coverings for front and rear wheels.

723-9-14.3 Towing Equipment Options. Winching, lifting, towing, and carrying equipment shall be maintained in a manner to ensure the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle, and shall include at least one of the following combinations:

723-9-14.3.1 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; or

723-9-14.3.2 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

723-9-14.3.3 Rollback System. A rollback system with a winch and cable as described in Rule 723-9-14.3.1, safety chains, tie-down equipment, and truck bed of sufficiently heavy construction to ensure the safe loading and transporting of the motor vehicle.

723-9-14.4 Extra Lights. Each towing vehicle shall be equipped with the following operational electric lights:

723-9-14.4.1 Spotlight. One spotlight, mounted behind the cab, capable of lighting the scene of disability and the motor vehicle to be moved. The back-up lights of the towing vehicle shall not be used in lieu of the spot light; and

723-9-14.4.2 Portable Light System. One portable, combination light system capable of being securely attached on the rear of the towed motor vehicle. It shall consist of, with an equal number on each side, two tail lamps, two stop lamps, and two turn signals, and be operated in conjunction with the same lights on the towing vehicle.

723-9-14.5 Accessories. Every towing vehicle shall be equipped with the following accessories:

723-9-14.5.1 One shovel;

723-9-14.5.2 One broom;

723-9-14.5.3 One steering wheel tying device free from cracks, fraying or deterioration.

723-9-14.5.4 Dollies or Other Systems. Any motor vehicle that is extensively damaged so as to be unmovable on its own wheels is not to be accepted for towing 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.

723-9-14.6 Rescue and Recovery Equipment. The following equipment is required only if the towing carrier performs rescue and recovery operations:

723-9-14.6.1 Dead-man blocks/scotch blocks and other tie-down equipment sufficient to hold the towing vehicle in place while performing the rescue or recovery operation;

723-9-14.6.2 Web straps or slings which shall be free of cuts or fraying across 50 percent of the width of their surface;

723-9-14.6.3 Snatch blocks which shall be free of any cracks and excessive wear, and be lubricated sufficiently to allow free movement of the sheave and other swivel points; and

723-9-14.6.4 Chains shall be capable of withstanding a test of not less than 10,000 pounds at breaking point, and links shall be free of cracks and of wear that exceeds 15 percent of the original stock diameter.

RULE (4 CCR) 723-9-15. AUTHORIZATION FOR TOWING OF MOTOR VEHICLES.

723-9-15.1 Private Property Tows.

723-9-15.1.1 Property Owner. The property owner shall include (i) a private property owner, a lessee, or an agent of the private property owner authorized in writing; and (ii) a federal, state, or local government entity and its employees responsible for publicly owned property.

723-9-15.1.2 Private Property. Private property shall include publicly owned property except public ways. Publicly owned property may include, but is not limited to,

medians, parking lots or areas where parking is reserved, regulated by permits or meters, or otherwise restricted or prohibited.

723-9-15.1.3 Towing Carrier Not an Agent.

A towing carrier, its employees, partners, officers, directors, stockholders, or independent contractors working for and/or with the towing carrier shall not be allowed to act as an agent for the property owner.

723-9-15.2 Authorization Conditions.

A towing carrier shall not tow any motor vehicle unless one of the following conditions is met:

723-9-15.2.1 Authorization by Law Enforcement Officer. The towing carrier is directed to perform a tow by a law enforcement officer; or

723-9-15.2.2 Authorization by Owner, Authorized Operator or Authorized Agent of the Owner of Motor Vehicle. 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

723-9-15.2.3 Authorization by Property Owner. The towing carrier is requested to perform a tow from private property as described in Rule 723-9-~~14.1~~15.1 upon the authorization of the property owner.

723-9-15.2.3.1 Authorization Document. The authorization from the property owner shall be in writing and shall identify the motor vehicle by make and license plate number (or in lieu thereof, the vehicle identification number) and include the date, time, and place of removal.

723-9-15.2.3.2 Authorization Procedure. The authorization shall be filled out in full, signed by the

property owner, and given to the towing carrier at the time the motor vehicle is to be removed from the private property.

723-9-15.2.3.3 Blank Authorizations Prohibited. No towing carrier shall accept blank authorizations pre-signed by the property owner.

723-9-15.2.3.4 Records Retention. The written authorization from the property owner shall be retained by the towing carrier for seven years and be made available for inspection by the owner or the authorized representative of the owner.

723-9-15.3 Noncompliance with Authorization Conditions.

If a tow is not performed consistent with any of the conditions as stated in Rule 723-9-15.2.1 or 723-9-15.2.3 above, or ~~§42-4-1805~~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 held in storage which was towed without such authorization must be released immediately to the registered owner, lien holder, or their agent.

RULE (4 CCR) 723-9-16. RESPONSIBILITIES AND DUTIES OF TOWING CARRIERS.

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

RULE (4 CCR) 723-9-17. RATES AND CHARGES.

723-9-17.1 Rates and Charges For Private Property Tows. The maximum rate that may be charged for a private property tow of a vehicle with a GVWR of less than 10,000 pounds shall be no more than one hundred thirty dollars (\$130.00), which shall include charges for all towing and storage services rendered including, but not limited to, hookup fees, use of dollies or go-jacks, gate fees, commissions paid, storage for first 24 hours, and all other services rendered in performing such private property tow, except as provided in this rule.

723-9-17.2 Charge if Retrieved Before Removal. If the owner, authorized operator, or authorized agent of the owner of a motor vehicle which is parked without authorization on private property attempts to retrieve said vehicle before removal of the motor vehicle from said private property, the maximum release fee (whether vehicle is hooked up or not) shall not exceed fifty dollars (\$50.00). In such circumstances, the towing carrier shall advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle so parked that he or she may offer payment of the towing carrier's release fee, and if so offered before removal of the motor vehicle to be towed, the towing carrier shall immediately accept such payment, immediately thereafter release the motor vehicle, and immediately deliver a copy of the property owner's written authorization to the owner, authorized operator, or authorized agent of the owner of the motor vehicle.

723-9-17.3 Certified VIN Verification. When a vehicle must be sold, the amount which may be charged for a certified vehicle identification number (VIN) verification on abandoned

motor vehicles may include all documented expenses of obtaining the verification including additional transportation. Vehicles needing a tow to the certified VIN inspector may be charged a maximum sixty-five dollars (\$65.00) for one additional hookup, a maximum sixty-five dollars (\$65.00) per hour waiting time while waiting for inspection, and additional transportation charges shall not exceed a rate of two and 50/100 dollars (\$2.50) a mile.

723-9-17.4 Notifications. The charges for notification(s) to the owner and the lienholder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1805(3)(c)(I), 42-4-1804(6)(a) and 42-4-2103(3)(c)(I), C.R.S., and the rules of the Colorado Department of Revenue found at 1 CCR 204-14.

723-9-17.5 Mileage Charges. One way mileage charges may be assessed for all private property tows at a rate not to exceed two and 50/100 dollars (\$2.50) a mile.

723-9-17.6 Additional Charge For Towing a Motor Vehicle Into, Out Of, and Between Points in the Mountain Area. When a motor vehicle is towed between points in the mountain area the tow carrier may add on an additional sum not to exceed 12 percent of the towing charges. For trips into or out of the mountain area an amount not to exceed 12 percent of the towing charges may be added, which mileage charge shall be prorated based on that portion of mileage traveled within the mountain area.

723-9-17.7 Storage Charges for Non-Consensual Tows.

723-9-17.7.1 Storage Charges for Private Property Tows. After the first twenty-four (24) hour period of storage is exceeded, the maximum storage charge for each day shall be no greater than twenty dollars (\$20.00) for private

property tows of motor vehicles having a GVWR of less than 10,000 pounds. Subsequent storage charges for motor vehicles having a GVWR of 10,000 pounds or more shall not exceed twenty-six dollars (\$26.00) per day for a power unit, nor exceed one dollar (\$1.00) per day per foot of a trailer's length, including tongue. For storage in the mountain area the tow carrier may add up to 12 percent for vehicles of any GVWR.

723-9-17.7.2 Storage Charges for Other Non-Consensual Tows. Storage charges for other non-consensual tows may commence immediately on placing the motor vehicle in storage. Storage charges for motor vehicles having a GVWR of less than 10,000 pounds shall not exceed twenty dollars (\$20.00) per day. Storage charges for motor vehicles having a GVWR of 10,000 pounds or more shall not exceed twenty-six dollars (\$26.00) per day for a power unit, nor exceed one dollar (\$1.00) per day per foot of a trailer's length, including the tongue. For storage in the mountain area the tow carrier may add up to 12 percent for vehicles of any GVWR.

~~723-9-17.7.3 Maximum Accumulated Storage Charges for Motor Vehicles Other Than Abandoned Motor Vehicles. Unless a hold order has been placed on the motor vehicle by a court, district attorney, or law enforcement agency the accumulated storage charges for which a vehicle owner or lienholder is liable after the tow of other than abandoned motor vehicles shall not exceed an amount equal to sixty (60) days storage. Additional days of storage may be charged only if such storage is approved by the vehicle owner or lienholder, or is the result of a hold order from a court, district attorney, or law enforcement agency. Sale~~

~~of such motor vehicles to cover the outstanding towing and storage charges will be in accordance with those notice and procedure requirements of §§ 4-7-209, 4-7-210, 38-20-116, and 42-5-109, C.R.S.~~

~~723-9-17.7.4~~723-9-17.7.3 Maximum Accumulated Storage 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 extenuating circumstances have prevented a towing carrier from complying with the notice requirements of § ~~42-4-1805~~42-4-2103, C.R.S., the storage charges ~~against the motor vehicle operator or owner~~ after the tow and storage of an abandoned motor vehicle ~~subject to § 42-4-1805, C.R.S.,~~ shall not be accumulated beyond ~~the~~ sixty (60) days after the mailing date of the report required by § ~~42-4-1805(5)~~42-4-2103(4), C.R.S., ~~was mailed;~~ except that, if such motor vehicle meets the definition of a collector's item as defined in § 42-12-101(2), C.R.S., storage charges shall not be accumulated beyond 120 days after such date. Sale of such vehicle to cover the outstanding towing and storage charges will be in accordance with those notice and procedure requirements of ~~§§ 38-20-116, 42-4-1801, et seq.~~ Parts 18 and 21 of Article 4 of Title 42, C.R.S., and 42-5-109, C.R.S.

~~723-9-17.7.5~~723-9-17.7.4 Storage Charges Not Chargeable or Collectible. Any towing carrier holding a vehicle in storage who cannot demonstrate that they have 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 ~~§§ 38-20-116, 42-4-1801, et seq.~~ Parts 18 and 21 of Article 4 of Title 42, C.R.S., and 42-5-109, C.R.S., must release the vehicle immediately to

the registered owner, lien holder, or their agents without retaining the storage fees.

723-9-17.8 Off-Road Retrieval Rates Exemption. When accompanied by appropriate documentation showing starting and ending times of the retrieval, which may include law enforcement incident reports and verification, a towing carrier may also charge additionally for off road retrieval at those hourly rates on file at the offices of the Public Utilities Commission. Hourly rates shall be calculated from the time the towing carrier arrives at the scene and the law enforcement officer approves the retrieval to the time the towing carrier has completed the retrieval which may include time to load and secure retrieval equipment and cleanup of the scene. Retrieval time shall not include loading and securing the retrieved motor vehicle to, or onto, the towing vehicle. Cost of additional equipment used may be passed on to the vehicle owner at actual reasonable costs incurred.

723-9-17.9 Incidental Costs of Selling a Motor Vehicle Allowed. When a motor vehicle is sold, the documented costs of maintaining the motor vehicle while in storage until it is disposed of may be chargeable in accordance with § 38-20-109, C.R.S. The documented costs of maintaining those motor vehicles not falling under § 38-20-109, C.R.S., while in storage may be chargeable to a maximum of ninety dollars (\$90.00). Cost of maintaining a vehicle means a documented cost incurred by the tow carrier which would keep a motor vehicle in safe or operable condition.

723-9-17.10 Municipality and County Contract Exemption. Notwithstanding any other provision of these rules, Rules 723-9-17.1 through 723-9-17.9 shall not apply to any tow or

storage of a towed vehicle performed under a contract with a municipality, county, state, or federal agency.

RULE (4 CCR) 723-9-18. INSPECTION OF RECORDS AND FACILITIES.

723-9-18.1 Books and Records. Books and records concerning the towing and storage operations of any towing carrier shall be made available upon request during normal business hours to authorized personnel of the Commission and Department of Revenue.

723-9-18.2 Equipment and Storage Facilities. A towing carrier's equipment and storage facilities shall be available for inspection without notice, during normal business hours by authorized personnel of the Commission.

723-9-18.3 Retention of Records. Copies of towing record/invoices, storage bills, authorizations for tows, and other written records required by these rules shall be retained by the towing carrier for a minimum of seven years.

RULE (4 CCR) 723-9-19. RULE EXEMPTION.

A towing carrier may file a written application for relief from Rules 723-9-1 through 723-9-18, stating the grounds for relief and the Commission, at its discretion, may set the matter for hearing to determine whether good cause exists to grant the application.

RULE (4 CCR) 723-9-20. VIOLATIONS, CIVIL PENALTY ASSESSMENTS.

723-9-20.1 Intentional Violations. Any person shall be deemed to have committed an intentional violation, as set forth in §§ 40-7-113(1)(g) or 40-7-114, C.R.S., if, after having been issued a written notification of any violation, said person commits a violation of the same statute, rule, or regulation. The existence of an intentional violation

within the meaning of this rule may also be shown by other facts, circumstances, or conduct as may be provided by law.

723-9-20.2 Multiple offenses. The violation of more than one statute, rule, or regulation during the course of one twenty-four (24) hour period shall constitute multiple offenses for which civil penalties may be assessed as set forth in these rules.

723-9-20.3 Separate offenses. Each violation of a statute, rule, or regulation within the scope of these rules shall constitute a separate offense for which a civil penalty may be assessed as set forth in these rules.

723-9-20.4 Violations of Statutes and Rules.

723-9-20.4.1 A violation of §§ 40-13-103(1), C.R.S., may result in the assessment of a penalty of up to four hundred dollars (\$400.00).

723-9-20.4.2 A violation of any other provisions of Title 40, C.R.S., pertaining to towing carriers except as provided for in § 40-13-103(1), C.R.S., and Rule 723-9-20.4.1, may result in the assessment of a penalty of up to two hundred dollars (\$200.00).

723-9-20.4.3 A violation of Rules 723-9-11.1, 723-9-11.2, 723-9-15.2, 723-9-15.3, 723-9-17.1, 723-9-17.2, 723-9-17.3 related to transportation charges, 723-9-17.5, 723-9-17.7.1, or 723-9-17.7.2 of these rules may result in the assessment of a penalty of up to four hundred dollars (\$400.00).

723-9-20.4.4 Any violation of any other of these rules, except as provided for in rule 723-9-20.4.3 of this rule, may result in the assessment of a penalty of up to two hundred dollars (\$200.00).

723-9-20.5 Repeat Violations of Statutes or Rules.

723-9-20.5.1 Any person who receives a second civil penalty assessment for a repeat violation of the statutes or rules listed in this rule within one year after the first violation may be assessed two times the amount specified for such second violation as set forth in § 40-7-113(3), C.R.S.

723-9-20.5.2 Any person who receives more than two civil penalty assessments for a repeat violation of the statutes or rules listed in this rule within one year may be assessed three times the amount specified for each such subsequent violation as set forth in § 40-7-113(4), C.R.S.