

Decision No. C03-0890

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-347EC

IN THE MATTER OF ADOPTION OF EMERGENCY RULES REGULATING HOUSEHOLD
GOOD MOVERS, 4 CCR 723-35.

DECISION ADOPTING NEW EMERGENCY RULES

Mailed Date: August 8, 2003

Adopted Date: August 8, 2003

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for adoption of emergency rules that are required as a result of the passage of House Bill 03-1289, and which were enacted by the Colorado General Assembly and are effective on August 6, 2003. The Colorado General Assembly, in the most recent legislative session, recreated and reenacted Article 14 of title 40 of the Colorado Revised Statutes regarding the regulation of Motor Carriers of Household Goods.

2. In response to the legislature's reenactment of Article 14 of title 40 of the Colorado Revised Statutes, we promulgate the attached Rules Regulating Household Goods Movers at *4 Code of Colorado Regulations* (CCR) 723-35. These rules describe the manner of regulation over persons providing transportation services by motor vehicle in or through the State of Colorado.

3. 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 in

§ 24-4-103, C.R.S.) the rule appended to this order as Attachment A. We take this emergency action in accordance with the provisions of § 24-4-103(6).

4. We find that adoption of the rule is necessary for the preservation of public health, safety, and welfare, and 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.

5. As grounds for these findings, we state: It is necessary to adopt these emergency rules due to the recreation and reenactment by the Colorado General Assembly, of Article 14 of title 40 of the Colorado Revised Statutes that provides for regulation of intrastate household movers, including changing the registration requirements for a motor carrier of household goods within Colorado. These regulations were effective on August 8, 2003, as such it was necessary to promulgate Commission Rules detailing the method of regulation over motor carriers of household goods.

6. Therefore, emergency adoption of the attached rules is appropriate. The statutory authority for promulgation of these rules is set forth in §§ 40-2-108, 40-2-110.5(8), 40-7-113(2), 40-14-103(2)(c), 40-14-104(2), 40-14-108(1) and 40-14-110, 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. Emergency Rule 723-35, appended to this decision as Attachment A is hereby adopted as an emergency rule consistent with the above discussion.

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

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
August 8, 2003.**

(SEAL)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

JIM DYER

Commissioners

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

**PART 35
RULES REGULATING HOUSEHOLD GOODS MOVERS**

4 CCR 723-35

BASIS, PURPOSE, AND STATUTORY AUTHORITY.....	1
HOUSEHOLD GOODS MOVER RULES.....	2
6600. Applicability of Rules Regulating Household Goods Movers.	
Rules 6600 through 6699 apply to all movers as defined in rule 6601(v).	2
6601. Definitions. The following definitions apply throughout this	
Part 35, except where a specific rule or statute provides otherwise:...	2
6602. [Reserved].	4
6603. [Reserved].	4
6604. [Reserved].	4
6605. [Reserved].	4
6606. Reports, Name and Address Changes.	4
6607. Designation of Agent.	4
6608. Financial Responsibility.	5
6609. Summary Suspensions and/or Revocations for Lack of Financial	
Responsibility.	7
6610. Annual Motor Vehicle Identification Fees.	8
6611. Registration Maintained in Motor Vehicle.	9
6612. [Reserved].	9
6613. [Reserved].	9
6614. [Reserved].	9
6615. [Reserved].	9
6616. Registration.	9
6617. Revocation of Registration.	10
6618. Annual Filing Fee. Every mover shall pay to the Commission an	
annual filing fee of three hundred dollars as set forth in § 40-14-	
103(2)(a), C.R.S.....	10
6619. Advertising.	11
6620. Forms of Payment. A mover shall accept at least two of the	
following four forms of payment:.....	11
6621. Estimates and Contract for Service.	11
6622. Delivery and Storage of Household Goods.	13
6623. Waivers and Variances.	14
6624. Violations, Civil Enforcement, and Civil Penalties.	15
6625. - 6699. [Reserved].	16

BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over persons providing transportation services by motor vehicle in

or through the State of Colorado. These rules address a wide variety of subject areas including, but not limited to, civil penalties, insurance, and registration requirements. These rules cover motor carriers of household goods.

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108, 40-2-110.5(8), 40-7-113(2), 40-14-103(2)(c), 40-14-104(2), 40-14-108(1), and 40-14-110, C.R.S.

HOUSEHOLD GOODS MOVER RULES

6600. Applicability of Rules Regulating Household Goods Movers. Rules 6600 through 6699 apply to all movers as defined in rule 6601(v).

6601. Definitions. The following definitions apply throughout this Part 35, except where a specific rule or statute provides otherwise:

- (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. This excludes listings of the mover's name, address, and telephone number in a telephone directory or similar publication; however, Yellow Pages advertising is included in the definition.
- (c) "C.F.R." means the Code of Federal Regulations.
- (d) "Commission" means the Public Utilities Commission of the State of Colorado.
- (e) "Compensation" means "compensation" as that term is defined in § 40-14-102(4), C.R.S.
- (f) "Document" means "document" as that term is defined in § 40-14-102(5), C.R.S.
- (g) "Driver" means any person driving a motor vehicle, including an independent contractor.
- (h) "Enforcement official" means authorized personnel of the Commission, the Colorado State Patrol, or the Colorado Department of Revenue, or any peace officer as defined in § 16-2.5-101, C.R.S.
- (i) "Estimate" means "estimate" as that term is defined in § 40-14-102(6), C.R.S.
- (j) "Exempt interstate carrier" means any interstate or foreign commerce carrier by motor vehicle operating into, from, within,

or through the State of Colorado pursuant to federal exemptions or partial exemptions from economic regulation, as described in § 40-10-120(3) and 40-11-115(3), C.R.S.

- (k) "FMCSA" means the Federal Motor Carrier Safety Administration and includes predecessor or successor agencies performing similar duties.
- (l) "Form D-1" means a NARUC Uniform Identification Cab Card for motor vehicle or driveaway operations conducted by an exempt interstate carrier.
- (m) "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.
- (n) "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.
- (o) "Form H" means a NARUC Form H Uniform Motor Carrier Cargo Certificate of Insurance, executed by a duly authorized agent of the insurer.
- (p) "Form J" means a NARUC Form J Uniform Motor Carrier Cargo Surety Bond, executed by a duly authorized agent of the surety.
- (q) "Form K" means a NARUC Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies.
- (r) "Form L" means a NARUC Form L Uniform Notice of Cancellation of Motor Carrier Surety Bond.
- (s) "Form RS-3 registration receipt" means a receipt issued to a regulated interstate carrier indicating that the required financial responsibility has been filed with the Commission and fees have been paid.
- (t) "GVWR" means gross vehicle weight rating, the value specified by the manufacturer as the loaded weight of a single motor vehicle.
- (u) "Household goods" means "household goods" as that term is defined in § 40-14-102(7), C.R.S.
- (v) "Mover" means "mover" as that term is defined in § 40-14-102(9), C.R.S.
- (w) "NARUC" means the National Association of Regulatory Utility Commissioners.
- (x) "Property carrier" means "property carrier by motor vehicle," as that term is defined in § 40-16-101(6.5), C.R.S.

- (y) "Regulated interstate carrier" means any interstate or foreign commerce carrier by motor vehicle operating into, from, within, or through the State of Colorado under authority issued by the Interstate Commerce Commission or the FMCSA, as described in §§ 40-10-120(2) and 40-11-115(2), C.R.S.
- (z) "Shipper" means "shipper" as that term is defined in § 40-14-102(12), C.R.S.
- (aa) "Storage" means "storage" as that term is defined in § 40-14-102(13), C.R.S.

6602. [Reserved].

6603. [Reserved].

6604. [Reserved].

6605. [Reserved].

6606. Reports, Name and Address Changes.

- (a) Each mover shall within two days of receipt of all supporting documentation required by this paragraph report to the Commission, with an appropriate signed filing, any name change or address change. Such a filing shall indicate the affected registration numbers. Name change filings, including trade name changes or trade name additions, shall include supporting documentation from the Colorado Secretary of State or the Colorado Department of Revenue.
- (b) In the event of any name or address change, the mover shall comply with all other applicable Commission rules.
- (c) No name change shall be effective until proper proof of financial responsibility has been filed with the Commission in the new name.
- (d) Notice sent by any person to the mover's address on file with the Commission shall constitute evidence that such notice has been sent to the mover at its correct address.

6607. Designation of Agent.

- (a) Each mover 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 Secretary of State of the State of Colorado shall 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.

- (b) If the agent designated changes, or if the agent's name or address changes, the mover shall immediately notify the Commission by filing a new designation.
- (c) Service by any person upon the designated agent on file with the Commission shall be deemed to be service upon said mover.

6608. Financial Responsibility.

- (a) Financial responsibility required.
 - (I) Motor vehicle liability. Every mover shall obtain and keep in force at all times motor vehicle liability insurance coverage or a surety bond providing the same coverage. Motor vehicle liability means liability for bodily injury or property damage.
 - (II) Cargo liability. Every mover shall obtain and keep in force at all times cargo liability insurance coverage or a surety bond providing the same coverage.
 - (III) General liability. Every mover shall obtain and keep in force at all times general liability insurance coverage or a surety bond providing the same coverage.
- (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 GVWR	Minimum Level
Mover	10,000 pounds or more GVWR	\$ 750,000
	Less than 10,000 pounds GVWR	\$ 300,000

- (C) Movers may obtain a certificate of self-insurance issued pursuant to §§ 10-4-716 and 42-7-501, C.R.S.
- (II) Cargo liability coverage. The minimum cargo liability coverage shall be sixty cents (\$.60) per pound, per article. For purposes of this rule, and by way of example, "article" means a desk but not each individual drawer of the desk.

- (III) General liability coverage. The minimum general liability coverage shall be five hundred thousand dollars (\$500,000.00).
- (c) Coverage criteria. The mover shall ensure that insurance or surety bond coverage:
 - (I) is provided only by insurance or surety companies authorized to provide such coverage in the State of Colorado;
 - (II) is not less than the minimum limits set forth under paragraph (b) of this rule;
 - (III) covers all motor vehicles which may be operated by or for the mover, or which may be under the control of the mover, with such coverage being accomplished by a "Waiver of Description" endorsement on each policy;
 - (IV) provides for the payment of benefits by the insurance or surety bond company directly to parties damaged by the mover 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 mover regardless of the level of funds in the retained risk pool; and
 - (VI) does not permit a mover to pay benefits directly to a party damaged by said carrier.
- (d) The provisions of subparagraphs (IV) - (VI) of paragraph (c) of this rule shall not apply to movers who have filed proof of self-insurance pursuant to §§ 10-4-716 or 42-7-501, C.R.S.
- (e) Proof of financial responsibility and inspection. The mover shall maintain at its principal place of business each original insurance policy, surety policy, or certificate of self-insurance for required coverage; maintain proof of its motor vehicle liability coverage in each motor vehicle that it operates; and shall make such information available for inspection by any enforcement official.
- (f) Forms. The mover shall cause to be filed with the Commission the appropriate form in lieu of the original policy as follows:
 - (I) Motor vehicle liability.
 - (A) A Form E or G.
 - (B) For movers obtaining a certificate of self-insurance under the provisions of §§ 10-4-716 or 42-7-501,

C.R.S., a copy of said certificate. Upon renewal of the certificate, the carrier shall file a copy of the most current certificate.

(II) Cargo liability. A Form H or J.

(III) General liability. A Colorado Form GL.

- (g) The mover shall ensure that the policy and the forms noted in this rule contain the mover's exact name, trade name (if any), and address as shown in the records of the Commission; and
- (h) An appropriate endorsement or amendment shall be filed with the Commission for any subsequent changes of name, address, or policy number.
- (i) Insurance cancellation. Each certificate of insurance required by and filed with the Commission shall be kept in full force and effect unless and until canceled by a 30-day written notice, on Form K or Form L, as applicable, from the insurer to the Commission. Time shall run from the date the notice is received by the Commission. In lieu of the prescribed form, the insurer may cancel a certificate of insurance by letter to the Commission containing the same information as required by the prescribed form.

6609. Summary Suspensions and/or Revocations for Lack of Financial Responsibility.

- (a) Whenever Commission records indicate that a mover's required insurance or surety coverage is or will be canceled, and the Commission has no proof on file indicating replacement coverage, the Commission shall summarily suspend such carrier's registration. The summary suspension shall be effective on the date of coverage cancellation.
- (b) The Director of the Commission shall send a notice of canceled insurance or surety coverage to such a carrier. The notice shall advise the carrier that its authority to operate is summarily suspended as of the coverage cancellation date and that the Commission has initiated or may initiate revocation proceedings.
- (c) A carrier receiving notice of summary suspension shall not conduct operations under its registration until proper proof of insurance or surety coverage is filed with the Commission.
- (d) If the Commission receives proper proof of coverage, the summary suspension will be deemed lifted without further order of the Commission.
- (e) If the Commission has initiated revocation proceedings, but receives proper proof of coverage prior to revocation, the

Commission shall lift the summary suspension, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to civil penalty assessments.

6610. Annual Motor Vehicle Identification Fees.

- (a) Every mover shall pay to the Commission an annual identification fee of five dollars before the first day of January of each calendar year, for each motor vehicle that such carrier owns, controls, operates, or manages within the State of Colorado as set forth in § 40-2-110.5, C.R.S.
- (b) Movers obtaining a new registration or acquiring additional motor vehicles during the year shall pay the annual identification fees at the time of registering as a mover or prior to putting said motor vehicles in service, as applicable.
- (c) Annual identification fees shall be valid only for the calendar year for which they are purchased.
- (d) Proof of payment of each annual identification fee shall be in the form of a vehicle identification stamp issued by the Commission; except that a Form RS-3 shall be issued to a regulated interstate carrier registered under the Single State Registration System.
 - (I) Except as provided in subparagraphs (II) or (III) of this paragraph, a carrier shall not operate a motor vehicle unless it has affixed a valid vehicle identification stamp to the inside lower right-hand corner of the motor vehicle's windshield.
 - (II) Movers that are also exempt interstate carriers shall carry a Form D-1 with the identification stamp on the back of the cab card in the square bearing the name of the State of Colorado in lieu of affixing the vehicle identification stamp to the windshield.
 - (III) Movers that are also registered under the Single State Registration System shall carry a copy of the current year's Form RS-3 Registration Receipt in each motor vehicle in lieu of affixing the vehicle identification stamp to the windshield or to the Form D-1.
- (e) Movers using a motor vehicle in both interstate and intrastate operations need only pay the fees associated with interstate operations for that motor vehicle.

6611. Registration Maintained in Motor Vehicle.

- (a) Every mover shall maintain a copy of its proof of registration under rule 6616 in each motor vehicle it owns, controls, operates, or manages under said registration.
- (b) A mover not complying with paragraph (a) shall be excused from compliance if, at the time of contact, an enforcement official can electronically verify the registration.
- (c) Except as noted in paragraph 6611 (b), the mover shall present the copy of its proof of registration and, if applicable, its Form D-1 or Form RS-3 to any enforcement official upon demand.

6612. [Reserved].

6613. [Reserved].

6614. [Reserved].

6615. [Reserved].

6616. Registration.

- (a) Registration required.
 - (I) No person shall operate, offer, or advertise as a mover without a valid registration issued by the Commission.
 - (II) Registrations do not authorize transportation services covered by Articles 10, 11, 13, or 16 of Title 40, C.R.S.
- (b) Any person seeking to register as a mover shall provide the following information:
 - (I) The name of the registrant and the trade name, if applicable, under which operations shall be conducted.
 - (II) The registrant's telephone number, and complete physical and mailing addresses. A post office box is only acceptable if a physical address is also provided.
 - (III) If a registrant is a corporation:
 - (A) The name of the state in which it is incorporated. If the state of incorporation is not Colorado, the registration shall also contain a certificate from the Colorado Secretary of State that qualifies the registrant to do business in Colorado.
 - (B) The location of its principal office, if any, in the State of Colorado.

- (C) The names of its directors and officers.
 - (D) A copy of its articles of incorporation or charter.
 - (E) A copy of its certificate of assumed trade name, if any.
- (IV) If a registrant is a limited liability company:
- (A) The name of the state in which it is organized. If the state of organization is not Colorado, the registration shall also contain a certificate from the Colorado Secretary of State that qualifies the registrant to do business in Colorado.
 - (B) The location of its principal office, if any, in the State of Colorado.
 - (C) The name, title, and business address of each member.
 - (D) A copy of its certificate of assumed trade name, if any.
- (V) If a registrant is a partnership: the name, title, and business address of each partner.
- (VI) An annual filing fee of three hundred dollars as set forth in rule 6618.
- (VII) The proof of financial responsibility required by rule 6608.
- (VIII) A statement that the registrant is familiar with the Household Goods Mover Rules and all applicable safety rules of the Commission and the Colorado Department of Public Safety, and will comply with them.

6617. Revocation of Registration.

- (a) The Commission, on its own motion or as a result of a complaint or grievance by any person, after reasonable notice and a hearing, shall revoke a mover's registration pursuant to § 40-14-106(1), C.R.S.
- (b) The Commission, on its own motion or as a result of a complaint or grievance by any person, after reasonable notice and a hearing, may revoke a mover's registration pursuant to § 40-14-106(2), C.R.S.

6618. Annual Filing Fee. Every mover shall pay to the Commission an annual filing fee of three hundred dollars as set forth in § 40-14-103(2)(a), C.R.S.

6619. Advertising.

- (a) No mover, nor any officer, agent, employee, or representative of the mover, shall advertise a transportation service in a name other than that in which the mover's registration is held. If a mover operates under a trade name, nothing in this paragraph shall be construed to require advertising under the name of the mover's parent company. If a mover operates under more than one trade name, nothing in this paragraph shall be construed to require the mover to advertise under all the trade names.
- (b) Each advertisement of a mover shall include the phrase "CO PUC Mover Reg. No. (*mover's registration number*)" and the physical address of the mover.
- (c) A mover shall coordinate with the advertising companies with which it advertises to ensure compliance with this rule.

6620. Forms of Payment. A mover shall accept at least two of the following four forms of payment:

- (a) Cash;
- (b) Cashier's check, money order, or traveler's check;
- (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.

6621. Estimates and Contract for Service.

- (a) Estimate. A mover may provide an estimate of costs to be incurred by the shipper. Notwithstanding this paragraph, a mover shall comply with paragraph (b) of this rule.
- (b) Contract for service. A mover who provides any moving or accessorial services shall provide a document (the contract for service) 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 mover, and shall include:
 - (I) The name, telephone number, and physical address where the mover's employees are available during normal business hours;
 - (II) The mover's mailing address on file with the Commission;
 - (III) The phrase "*(Name of mover)* is registered with the Public Utilities Commission of the State of Colorado as a mover. Registration No. (*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, the addresses where the household goods are to be picked up and delivered, a telephone number where the shipper may be reached, and a mailing address where the shipper can receive notices from the mover;
- (VI) The name, telephone number, and physical address of a location where the household goods will be held pending further transportation, including situations where the mover retains possession of household goods pending resolution of a fee or non-payment dispute with the shipper;
- (VII) An itemized breakdown and description of costs or rates and services for transportation and accessorial services to be provided during a move or storage of household goods; and
- (VIII) The forms of payment the mover accepts pursuant to rule 6620.
- (IX) The cargo liability options available to the shipper, including at least the following two options:
 - (A) A limit of the mover's liability to the lesser of either (1) a value equal to sixty cents per pound per lost or damaged article, or (2) the actual value of the lost or damaged article after depreciation for age and wear.
 - (B) A limit of the mover's liability to the replacement cost of the entire shipment. This option shall require the shipper to declare the value of the shipment. This option may permit the shipper to specify a deductible. This option shall provide that the mover is liable for the actual amount of loss or damage to each lost or damaged article, up to the full replacement value of each lost or damaged article. However, if the shipper declares a value that is less than the actual value of the entire shipment, the mover's liability for each lost or damaged article will not exceed the proportional value of the article when compared to the entire shipment.
- (X) Nothing in this rule shall be construed to preclude the mover and the shipper from entering into a more comprehensive contract for service. However, the mover shall not enter into any contract containing provisions that conflict with the provisions of this rule.

- (c) Amendment. The contract for service may be amended at any time upon mutual agreement of the mover and the shipper. Amendments of the contract for service shall not be valid or enforceable unless signed by both the mover and the shipper.
- (d) Effect. The terms of an executed contract for service shall be binding on both the mover and the shipper unless a court of competent jurisdiction determines otherwise.

6622. Delivery and Storage of Household Goods.

- (a) Pursuant to § 40-14-109(1), C.R.S., a 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 mover shall relinquish such items as expeditiously as possible under the circumstances.
- (b) A mover shall relinquish household goods to a shipper and shall place the goods inside a shipper's dwelling unless the shipper has not tendered payment in the amount and in the acceptable form specified in the contract for service.
- (c) If, pursuant to paragraph (b) of this rule, a mover maintains possession of a shipper's household goods for non-payment, such mover may place the household goods in storage until payment is tendered. Except as provided in paragraph (d), such storage shall only be at the location specified in the contract for service.
- (d) A mover may, for good cause and in good faith, store the household goods at a location not specified in the contract for service. However, if the mover stores the household goods at such an alternate location, the mover shall:
 - (I) Immediately mail to the shipper a notice of such alternate storage location; and
 - (II) Charge additional fees for such storage only if:
 - (A) Such fees are reasonable; and
 - (B) The alternate storage location is necessitated by some act or omission of the shipper.
- (e) Notwithstanding any other provision of this rule, upon written request from the shipper, the 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.
- (f) If a mover opts not to place the shipper's household goods in storage pursuant to paragraph (c) of this rule, the mover shall

take reasonable care to ensure the safekeeping of such household goods.

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

6623. Waivers and Variances.

- (a) Petition for variance.

(I) The Commission may permit variances from these rules if it concludes that strict compliance is impossible, impracticable, or unreasonable. The Commission may subject any variance granted to such terms and conditions as it may deem appropriate. The Commission will not grant a variance if the grant would be contrary to law.

(II) Variance requests made in an existing docketed proceeding shall be by motion. Variance requests made outside a docketed proceeding shall be by petition.

(III) All variance requests shall include:

(A) Citation to the specific paragraph of the rule or order from which the variance is sought;

(B) A statement of the variance requested;

(C) A statement of facts and circumstances relied upon to demonstrate why the Commission should grant the request;

(D) A statement regarding the duration of the requested variance, explaining the specific date or event which will terminate it; and

(E) A statement whether the variance, if granted, would be full or partial.

- (b) A mover that has obtained a waiver or variance of any rule in this Part 35 shall:

(I) If the waiver or variance pertains to a motor vehicle: maintain a copy of the waiver or variance in the affected motor vehicle and in the carrier's motor vehicle maintenance files.

(II) If the waiver or variance pertains to a driver: ensure that a copy of the waiver or variance is carried on the affected driver's person and is maintained in the affected driver's qualification file.

(III) If the waiver or variance pertains to any matter not listed in subparagraphs (I) or (II) of this paragraph: maintain a copy of the waiver or variance at the carrier's primary place of business.

6624. Violations, Civil Enforcement, and Civil Penalties.

- (a) A person who violates any of the following provisions regarding motor vehicle liability insurance requirements may be assessed a civil penalty of up to \$11,000 for each violation: § 40-14-104(1), C.R.S.; or subparagraph (a)(I) or (b)(I) of rule 6608.
- (b) A person who violates any of the following provisions may be assessed a civil penalty of up to \$1,100 for each violation:
 - (I) Registration requirements: § 40-14-103(1), C.R.S.; or subparagraph 6616(a)(I).
 - (II) Providing required document to the shipper: § 40-14-108(1), C.R.S.; or paragraph 6621(b).
 - (III) Delivery and storage of household goods requirements: § 40-14-109(1) or (2), C.R.S.; or paragraph 6622(a) or (b).
- (c) Except as provided for in paragraphs (a) and (b) of this rule, a person who violates any relevant provision of Title 40, C.R.S., or any provision of rules 6600 through 6623 pertaining to movers may be assessed a civil penalty of up to \$550.
- (d) Any owner or other person, whose driver operates a motor vehicle in violation of these rules may be assessed a civil penalty for such violation pursuant to § 40-7-114, C.R.S.
- (e) Notwithstanding any provision in these rules to the contrary, the Commission may assess double or triple penalty assessments against any person, as provided by statute and this rule.
- (f) The Commission may assess any person a civil penalty containing doubled penalties if:
 - (I) said person engaged in prior conduct resulting 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 said person's prior conduct; and

- (IV) the conduct for which doubled penalties are sought occurred after said person's receipt of the prior civil penalty assessment notice.
- (g) Except as provided in paragraph (g) of this rule, the Commission may assess any person a civil penalty containing tripled penalties if:
- (I) said person engaged in two or more instances of prior conduct resulting 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 two prior instances of the conduct by said person; and
 - (IV) the conduct for which tripled penalties are sought occurred after said person's receipt of the 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. 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.

6625. - 6699. [Reserved].