

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 03R-401HHG

IN THE MATTER OF PROPOSED RULES CONCERNING THE REGULATION OF
CARRIERS OF HOUSEHOLD GOODS, 4 CODE OF COLORADO REGULATIONS 723-35.

**RECOMMENDED DECISION OF
ADMINISTRATIVE LAW JUDGE
DALE E. ISLEY
ADOPTING RULES**

Mailed Date: December 19, 2003

I. STATEMENT

1. The Colorado Public Utilities Commission (Commission) commenced the captioned proceeding on September 18, 2003, through the issuance of a Notice of Proposed Rulemaking (NOPR). *See*, Decision No. C03-1052. The NOPR gave public notice of a proposed rulemaking to enact new Rules Regulating Household Goods Movers and Property Carriers, 4 *Code of Colorado Regulations* (CCR) 723-35.

2. The stated purpose of the proposed rulemaking is to describe the scope and manner of Commission regulation over the operations of carriers of household goods pursuant to §§ 40-14-101 through 40-14-113, C.R.S., as enacted by House Bill 03-1289. The proposed household goods carrier rules are new and cover a wide range of areas, including, but not limited to: insurance and registration requirements, advertising, the provision of estimates and contracts for service, acceptable forms of payment for household goods transportation services, cargo liability options available to shippers, the delivery and storage of household goods, revocation of registrations, and civil penalties.

3. This rulemaking also includes regulations governing the operation of property carriers by motor vehicle as defined by § 40-16-101(6.5), C.R.S., that were previously located in rules covering carriers exempt from regulation as public utilities. *See*, 4 CCR 723-33.

4. The NOPR was published in the October 10, 2003, edition of *The Colorado Register*. It included a copy of the proposed rules. The hearing was scheduled for November 7, 2003. No written comments were submitted in advance of the hearing.

5. At the assigned place and time, the undersigned Administrative Law Judge (ALJ) called the matter for hearing. Oral comments were submitted at the hearing by William H. Ebbert, Director of Legal Operations for Johnson Moving & Storage Co. (Johnson), Gregory D. Fulton, President of the Colorado Motor Carriers Association (CMCA), and Terry Willert, Chief of the Commission's Transportation Staff (Staff). Exhibits 1 and 2 were identified, offered, and admitted into evidence.

6. At the conclusion of the hearing the ALJ extended the comment period to November 26, 2003. Written comments were submitted on behalf of Johnson and CMCA on or before that date. All written and oral comments submitted in this matter have been considered by the ALJ.

II. FINDINGS, CONCLUSIONS, AND DISCUSSION

7. Mr. Willert provided a summary of the basis and purpose of the proposed rules at the hearing. In general, the rules are proposed in connection with recently enacted legislation governing the operations of Colorado intrastate household goods movers. *See*, § 40-14-110, C.R.S. They also include regulations governing the operation of property carriers by motor vehicle that were previously located in rules covering carriers exempt from regulation as public

utilities. By and large, the rules are a restatement of the existing emergency household carrier and exempt property carrier rules. *See*, Decision Nos. C03-0889 and C03-0890. Exhibit 1 is a chart cross-referencing such emergency rules with the proposed rules.

8. Mr. Willert described certain typographical errors in the proposed rules that require correction. These include erroneous references to § 40-14-101(1), C.R.S., in various portions of Rule 6601 (the correct references should be to § 40-14-102(1), C.R.S.); an erroneous heading to Rule 6607(a)(I) (the correct heading should read “Motor Vehicle Liability Coverage”); erroneous references to § 40-4-716, C.R.S., in subsections (b)(I)(C), (e), and (g)(I)(B) of Rule 6607 (such references should be deleted), an erroneous heading to Rule 6608 (the correct heading should read “Summary Suspensions and/or Revocations for Lack of Financial Responsibility”); and an erroneous reference to Rule 6621(a) in Rule 6624(b)(III)(the correct reference should be to Rule 6621(b)). These corrections should be made and they are reflected in the attached final rules.

9. Mr. Willert also identified and described the more significant rules designed to correct many of the abuses visited upon household goods shippers by unscrupulous movers that prompted, at least in part, the passage of House Bill 03-1289. These include, among others, the following: a requirement that movers promptly notify the Commission of name, address, and registered agent changes (Rules 6606 and 6612); minimum cargo liability insurance requirements and the ability to summarily suspend a mover’s registration for failure to comply with the same (Rule 6607); a requirement that a mover may only advertise its services in the same names it registers with the Commission and that mover advertisements include the registration number assigned to the mover by the Commission (Rule 6608); a requirement that movers provide shippers with a document (contract for service) prior to performing transportation or accessorial

services detailing the rates and charges to be assessed, advising of the forms of payment accepted by the mover, and advising the shipper of various cargo liability options (Rule 6621); requirements concerning the delivery of household goods (Rule 6622(b)); limitations on the mover's ability to retain certain types of household goods pending payment (Rule 6622(a)); notice requirements pertaining to the delivery and storage of household goods (Rule 6622(c) and (d)); limitations on the mover's ability to use alternate storage locations not specified in the contract for service (Rule 6622(b)(II)(B)); limitations on additional charges that may be assessed by the mover in connection with the use of alternate storage locations (Rule 6622(b)(II)(A)); and provisions authorizing the Commission to assess civil penalties for non-compliance with the rules (Rule 6624).

10. The comments submitted by Johnson deal with certain portions of proposed Rules 6607 (Financial Responsibility), 6621 (Estimates and Contract for Service), and 6622 (Delivery and Storage of Household Goods).

11. Regarding proposed Rule 6607, Johnson is concerned that subsection (d)(VI) will preclude movers from settling shipper claims for lost or damaged household goods prior to the submission of such a claim to the mover's cargo insurance carrier. It proposes that a new subsection (d)(VII) be added to Rule 6607 making it clear that movers can engage in settlement procedures with shippers prior to the submission of an insurance claim. Mr. Willert testified that this portion of Rule 6607 was not designed to preclude such settlement procedures but, rather, was intended to work in conjunction with subsection (d)(IV) so that shipper attempts to resolve cargo claims are not frustrated through the imposition of insurance deductibles. As a result, Staff has no objection to adoption of the amendment proposed by Johnson. CMCA also supports this change. The ALJ agrees that Rule 6607 should be modified in the manner proposed. Therefore,

language in substantially the form proposed by Johnson will be added to Rule 6607(d)(VI) implementing this modification.

12. Regarding proposed Rule 6621, Johnson is concerned that subsection (b)(V) imposes too rigid a requirement on movers to include the address where household goods are to be delivered, the telephone number where the shipper can be reached, and a mailing address where the shipper can receive notices in the contract for service. It points out that shippers of household goods frequently do not have such information available at the time the move is commenced and, instead, indicate that they will subsequently provide this information to the mover. Johnson is concerned that the failure to incorporate this information in the contract for service prior to commencement of the move will subject it to liability for civil penalty assessments or invalidate the contract for service. It proposes that subsection (b)(V) be amended to require the inclusion of this information in the contract for service only if it is known and/or available to the mover. CMCA supports such a change and Staff does not oppose it. The ALJ agrees that Rule 6621 should be modified in the manner proposed. Therefore, language in the form proposed by Johnson will be added to Rule 6621(b)(V) implementing this modification.

13. Johnson also expresses general concerns relating to the effect the requirements of proposed Rule 6621 would have on the current practice in the moving industry relating to the issuance of estimates and bills of lading. Johnson points out that many of the terms included in a mover's bill of lading are not required to be included in the contract for service described in Rule 6621(b). Johnson also is concerned that the requirements imposed by proposed Rule 6621(b) for the inclusion of specific types of information in the contract of service may not accommodate unknown or changed circumstances affecting a particular move that could result between the time the contract for service is issued and the time the move is completed.

14. With regard to Johnson's concerns regarding estimates, it is observed that proposed Rule 6621(a) is permissive in nature and imposes no requirement that a mover issue an estimate to a shipper. Neither does it impose requirements as to the content of estimates. It is also noted that proposed Rule 6621(b)(X) specifically allows a mover and shipper to enter into an agreement (*i.e.*, bill of lading) that is more comprehensive than the contract for service required by Rule 6621(b) so long as that agreement is not inconsistent with the requirements imposed by this rule. Therefore, the issuance of a bill of lading whose terms are not in conflict with the requirements of Rule 6621(b) would be permissible so long as the shipper agrees to those terms. With regard to the potential for changed circumstances, it is observed that proposed Rule 6621(c) allows the mover and shipper to amend the contract for service at any time by mutual agreement. This provides a mover the opportunity to secure the shipper's agreement to, for example, additional charges relating to a move that could not have reasonably been anticipated at the time the contract for service was entered into.

15. Regarding proposed Rule 6622, Johnson is concerned that subsection (b) imposes too rigid a limitation on the circumstances that require a mover to relinquish household goods and to place them in the shipper's dwelling at destination. This portion of Rule 6622 provides that a mover may refuse to so relinquish goods under only one circumstance; namely, the shipper's failure to tender payment in the amount and in the acceptable form specified in the contract for service. Johnson points out that movers are frequently unable to relinquish household goods at destination and/or to place them in the shipper's dwelling due to the failure of the shipper or his agent to be present at the agreed date, time, and/or location for the purpose of accepting delivery. It proposes that Rule 6622(b) be amended to include such a contingency. CMCA supports such a change and Staff does not oppose it. The ALJ agrees that Rule 6622

should be modified in the manner proposed. Therefore, language substantially in the form proposed by Johnson will be added to Rule 6622(b) implementing this modification.

16. Johnson also expressed concern regarding two aspects of subsection (c) of Rule 6622. The first involves the requirement imposed on a mover by subsection (c)(I) to “immediately” mail notice to a shipper of any alternate storage location (*i.e.*, a storage location other than as specified in the contract of service). Johnson believes that the imposition of a definite time period within which notice must be given is preferable and has suggested a period of two working days. Both Staff and CMCA support such a change. The ALJ agrees that Rule 6622 should be modified in the manner proposed. Therefore, language will be added to Rule 6622(c)(I) requiring that such notice be given within two “business” days of placing household goods in an alternate storage location. In addition, a definition of what constitutes a “business day” will also be incorporated into this portion of Rule 6622.

17. Johnson’s remaining concern with proposed Rule 6622 involves the ability of the mover to assess the shipper additional charges for placing his household goods in an alternate storage location. Proposed subsection (c)(II) of Rule 6622 only authorizes the mover to assess additional storage fees under these circumstances. However, Johnson points out that unloading and reloading expenses are also commonly incurred when alternate storage is required. Therefore, it proposes that Rule 6622(c)(II) be modified so that a mover will be allowed to recover these additional charges as well. Both Staff and CMCA supports such a change. The ALJ agrees that Rule 6622 should be modified in the manner proposed. Therefore, language in substantially the form proposed by Johnson will be added to Rule 6622(c)(II) implementing this modification.

18. Finally, Johnson expressed some concern that proposed Rule 6624 lacked provisions affording movers procedural due process rights (*i.e.*, notice and an opportunity to be heard) in the event they were to be charged with violating Commission regulations under that rule. However, Staff testified, and the ALJ agrees, that the notice and hearing procedures contained in § 40-7-116, C.R.S., will apply to any civil penalty assessed to a mover under the provisions of Rule 6624.

19. In addition to the modifications described above, the ALJ has made various editorial changes to certain rules designed to make them clearer, more understandable, and internally consistent. They are not intended to materially change the substance of the rule. *See, for example*, Rule 6607(a) subsections I, II, and III; Rule 6607(b)(I); Rule 6607(b)(II)(A)(i); Rule 6607(b)(III); Rule 6607(g) subsections I, II, and III; Rule 6607(j); Rule 6607(k); Rule 6608(a)(II); Rule 6608(b); Rules 6609(b), (c), and (f); Rules 6610(a), (c), and (d); Rule 6612(b); Rules 6616(c), (d), (f), (h), (i), (j), (k), (l), and (m); Rules 6618(a) and (b); Rule 6619(a); Rule 6621(b)(VI); Rule 6622(c); Rule 6624(f)(II); and Rules 6624(g)(II) and (III). Other changes deemed necessary by the ALJ are more substantive in nature and are described below.

20. Rule 6606(c) has been modified to provide that notices sent to a transportation carrier at the address provided to the Commission by the carrier will constitute *prima facie* evidence that the notices were received by the carrier. This change bolsters the requirement that carriers provide accurate and current address information to the Commission. It also enhances the ability of the Commission and other parties to enforce the subject rules by shifting of burden of proving that a notice was not received to the carrier.

21. Proposed Rule 6607(b)(II) has been modified to make it clear that property carriers who transport household goods as defined by Rule 6607(c) will, as to such goods, be required to maintain cargo liability coverage that will compensate shippers at a level that is no less than sixty cents (\$.60) per pound, per article transported. This is consistent with the minimum level of cargo liability coverage imposed on movers as discussed below.

22. Proposed Rule 6607(b)(II)(B) did not effectively impose a minimum cargo liability coverage requirement on movers. Instead, it permitted them to limit their liability for cargo loss or damage to sixty cents (\$.60) per pound, per article transported. Applicable provisions of federal law require that interstate household goods carriers obtain, keep in force, and submit evidence of cargo liability coverage in specific amounts notwithstanding the ability to limit their liability for cargo loss or damage in this manner. *See, 49 Code of Federal Regulations* § 387.303(c). While the above-described liability limitation is consistent with industry practice and should be retained, movers should be required to maintain cargo liability coverage at a specified level (*i.e.*, \$10,000 per motor vehicle unit operated) unless the subject liability limitation would, based on the characteristics of a particular shipment, result in a higher level of coverage. In that case, the sixty cents (\$.60) per pound, per article limitation would become the minimum required level of cargo liability coverage. Rule 6607(b)(II)(B) has been modified to reflect such a minimum cargo liability coverage scheme for movers.

23. Rule 6621(b) has been modified to make it clear that movers are to provide a contract for service to shippers **prior** to providing transportation or accessorial services. In addition, subsection (b)(IX) of rule 6621 dealing with the cargo liability options to be made available to shippers has been modified in certain respects. The two options have been labeled (*i.e.*, the Released Value Option and the Full Replacement Cost Option) in a manner that is

believed to be consistent with industry usage. Certain terms originally used in proposed Rule 6621(b)(IX)(B) has been changed to make the liability option described therein internally consistent (*i.e.*, the use of the term “full replacement cost” instead of the terms “replacement cost” or “full replacement value”; the use of the term “value” instead of “actual value”). Changes have been made to make it clear that, if elected, the Full Replacement Cost Option will allow the shipper to recover the full replacement cost of each lost or damaged article up to the value he has declared for the shipment, unless the declared value is less than the value of the shipment. In that case, the shipper’s recovery for each lost or damaged article will be limited to the proportional value of the article to the declared value of the shipment.

24. Proposed Rule 6621(c) has been amended to provide that, while the mover and shipper are free to amend their contract for service at any time, an amendment will not be effective if accompanied by circumstances establishing that it was signed under duress or through the coercive conduct of one of the parties. Movers will not be allowed to charge, collect, or retain increased fees contained in an amendment (*i.e.*, fees in excess of those set forth in the original contract for service) if it is not signed by both parties or if the shipper’s signature was obtained under duress or through coercion.

25. Proposed Rule 6622(c)(II) allows a mover to charge additional fees (*i.e.*, in excess of those set forth in the contract for service) for alternate storage and associated unloading and loading services if such additional fees are reasonable and if the alternate storage was necessitated by some act or omission of the shipper. This rule has been amended to also allow the mover to access such additional fees if the alternate storage was necessitated by other circumstances beyond its control.

26. The final rules attached to this Decision are clear; are necessary to protect the public health, safety, and welfare; are understandable; do not conflict with other provisions of law; and do not duplicate other rules. The rules are in the public interest, and they should be adopted.

27. In accordance with § 40-6-109, C.R.S., the ALJ recommends that the Commission enter the following order.

III. ORDER

A. The Commission Orders That:

1. The Rules Regulating Household Goods Movers and Property Carriers, 4 *Code of Colorado Regulations* 723-35, which are set out in the Appendix to this Order are adopted.

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

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

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

b) If a party seeks to amend, modify, annul, or reverse basic findings of fact in its exceptions, that party must request and pay for a transcript to be filed, or the parties may stipulate to portions of the transcript according to the procedure stated in § 40-6-113, C.R.S. If

no transcript or stipulation is filed, the Commission is bound by the facts set out by the administrative law judge and the parties cannot challenge these facts. This will limit what the Commission can review if exceptions are filed.

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

(S E A L)



ATTEST: A TRUE COPY

Bruce N. Smith
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

DALE E. ISLEY

Administrative Law Judge

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

RULES REGULATING HOUSEHOLD GOODS MOVERS AND PROPERTY CARRIERS

4 CCR 723-35

BASIS, PURPOSE, AND STATUTORY AUTHORITY.....	1
HOUSEHOLD GOODS MOVER AND PROPERTY CARRIER RULES.....	2
6600. Applicability of Rules Regulating Household Goods Movers and Property Carriers.	2
6601. Definitions.	2
6602. Applications.	4
6603. [Reserved].	4
6604. Registrations.	4
6605. [Reserved].	4
6606. Reports, Name and Address Changes.	4
6607. Financial Responsibility.	4
6608. Summary Suspensions and/or Revocations for Lack of Financial Responsibility.....	7
6609. Annual Motor Vehicle Identification Fees.	8
6610. Registration Requirement and Limitation.....	9
6611. [Reserved].	9
6612. Designation of Agent.	9
6613. [Reserved].	9
6614. [Reserved].	9
6615. [Reserved].	9
6616. Registration.	9
6617. Revocation of Registration.	11
6618. Annual Filing Fee.	11
6619. Advertising.....	11
6620. Forms of Payment.	11
6621. Estimates and Contract for Service.....	12
6622. Delivery and Storage of Household Goods.	13
6623. Waivers and Variances.	14
6624. Violations, Civil Enforcement, and Civil Penalties.	15

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 and motor vehicle carriers exempt from regulation as public utilities (property carriers by motor vehicle).

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), 40-14-110 and 40-16-104(1.5), C.R.S.

HOUSEHOLD GOODS MOVER AND PROPERTY CARRIER RULES

6600. Applicability of Rules Regulating Household Goods Movers and Property Carriers.

Rules 6600 through 6624 apply to all movers and property carriers.

6601. Definitions.

The following definitions apply throughout this Part 6, 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.
- (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 Department of Revenue, the Colorado State Patrol, and any other law enforcement agency.
- (i) "Estimate" means "estimate" as that term is defined in § 40-14-102(6), C.R.S.
- (j) "Exempt intrastate carrier" means "motor vehicle carrier exempt from regulation as a public utility" as that term is defined in § 40-16-101(4), C.R.S.
- (k) "Exempt intrastate carrier registration" means the registration issued to an exempt intrastate carrier pursuant to § 40-16-103, C.R.S.
- (l) "Household Goods Mover and Property Carrier Rules" means rules 6600 through 6624, inclusive.
- (m) "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.
- (n) "FMCSA" means the Federal Motor Carrier Safety Administration and includes predecessor or successor agencies performing similar duties.
- (o) "Form D-1" means a NARUC Uniform Identification Cab Card for motor vehicle or driveway operations conducted by an exempt interstate carrier.
- (p) "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.

- (q) "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.
- (r) "Form H" means a NARUC Form H Uniform Motor Carrier Cargo Certificate of Insurance, executed by a duly authorized agent of the insurer.
- (s) "Form J" means a NARUC Form J Uniform Motor Carrier Cargo Surety Bond, executed by a duly authorized agent of the surety.
- (t) "Form K" means a NARUC Form K Uniform Notice of Cancellation of Motor Carrier Insurance Policies.
- (u) "Form L" means a NARUC Form L Uniform Notice of Cancellation of
- (v) "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.
- (w) "GVWR" means gross vehicle weight rating, the value specified by the manufacturer as the loaded weight of a single motor vehicle.
- (x) "Household goods" means "household goods" as that term is defined in § 40-14-10 2(7), C.R.S.
- (y) "Interstate carrier" means a "regulated interstate carrier" or an "exempt interstate carrier," as those terms are defined in this rule.
- (z) "Mover" means "mover" as that term is defined in § 40-14-10 2(9), C.R.S.
- (aa) "Mover registration" means the registration issued to a mover pursuant to § 40-14-103, C.R.S.
- (bb) "NARUC" means the National Association of Regulatory Utility Commissioners.
- (cc) "Property carrier" means "property carrier by motor vehicle," as that term is defined in § 40-16-101(6.5), C.R.S.
- (dd) "Property carrier registration" means the registration issued to an property carrier pursuant to § 40-16-103, C.R.S.
- (ee) "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.
- (ff) "Safety Rules" means the rules found in 4 CCR 723-15, inclusive.
- (gg) "Shipper" means "shipper" as that term is defined in § 40-14-10 2(12), C.R.S.
- (hh) "Storage" means "storage" as that term is defined in § 40-14-10 2(13), C.R.S.
- (ii) "Transportation carrier" means a mover or a property carrier.

6602. Applications.

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

- (a) For a waiver or variance of any of these rules.
- (b) For any other matter provided by statute or rule but not specifically described in this rule.

6603. [Reserved].

6604. Registrations.

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

- (a) For registration as a mover, as provided in rule 6616.
- (b) For registration as a property carrier, as provided in rule 6616.

6605. [Reserved].

6606. Reports, Name and Address Changes.

- (a) Within 48 hours of receipt of all supporting documentation required by this paragraph, each transportation carrier shall file a signed report with the Commission detailing 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 transportation carrier shall comply with all other applicable Commission rules, including but not limited to, rules regarding financial responsibility filings.
- (c) Notice sent by any person to the transportation carrier's address on file with the Commission shall constitute prima facie evidence that the notice was received by the carrier.
- (d) No name change shall be effective until proper proof of financial responsibility in the carrier's new name has been filed with the Commission.

6607. Financial Responsibility.

- (a) Financial responsibility requirements .
 - (I) Motor vehicle liability coverage. Every transportation carrier shall obtain and keep in force at all times motor vehicle liability insurance coverage or a surety bond providing the same coverage. Motor vehicle liability means liability for bodily injury or property damage.
 - (II) Cargo liability coverage. Every transportation carrier shall obtain and keep in force at all times cargo liability insurance coverage or a surety bond providing the same coverage.

- (III) General liability coverage. 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 or Property Carrier	10,000 pounds or more GVWR	\$ 750,000
	Less than 10,000 pounds GVWR	\$ 300,000

- (C) Transportation carriers may obtain a certificate of self-insurance issued pursuant to § 42-7-501, C.R.S.

(II) Cargo Liability Coverage.

- (A) For property carriers, the minimum level of cargo liability 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, unless the shipper and the property carrier otherwise agree by written contract to a lesser amount. Notwithstanding the above, for household goods as defined by this rule 6607, the minimum level of cargo liability coverage shall not be less than sixty cents (\$.60) per pound per article transported.

- (i) Exemption. A property carrier transporting commodities other than household goods is exempt from this rule (II)(A) if the property carrier submits to the Commission a signed statement reading as follows:

I swear that the only commodities transported by (name of carrier)
either:

[] have an aggregate value of \$500.00 or less, or

[] are not subject to appreciable loss or damage due to their physical characteristics.

- (B) For movers , the minimum level of cargo liability coverage shall be \$10,000 per motor vehicle unit operated or an amount not less than sixty cents (\$.60) per pound, per article transported, whichever is greater. 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. For movers, the minimum general liability coverage shall be \$500,000.

- (c) For purposes of this rule 6607, in addition to the definition found in rule 6601, household goods shall also mean:
 - (I) Furniture, fixtures, equipment, and the property of stores, offices, museums, institutions, hospitals, or other establishments when a part of the stock, equipment, or supply of such stores, offices, museums, institutions, hospitals, or other establishments; except that this subparagraph shall not be construed to include the stock-in-trade of any establishment, whether consignor or consignee, other than used furniture and used fixtures, except when transported as incidental to moving of the establishment, or a portion thereof, from one location to another; and
 - (II) Articles, including objects of art, displays, and exhibits, which because of their unusual nature or value require the specialized handling and equipment usually employed in moving household goods; except that this subparagraph shall not be construed to include any article, whether crated or uncrated, which does not, because of its unusual nature or value, require the specialized handling and equipment usually employed in moving household goods.
- (d) Coverage criteria. The transportation carrier shall ensure that insurance or surety bond coverage:
 - (I) is provided only by insurance or surety companies authorized to provide such coverage in the State of Colorado;
 - (II) is not less than the minimum limits set forth under paragraph (b) of this rule;
 - (III) covers all motor vehicles which may be operated by or for the transportation carrier, or which may be under the control of the transportation carrier, 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 transportation carrier on a "first dollar"/"dollar one" basis;
 - (V) if the coverage contains a retained risk provision, such provision shall obligate the insurance or surety company to pay the party damaged by the transportation carrier regardless of the level of funds in the retained risk pool; and
 - (VI) does not permit a transportation carrier to pay insurance or surety benefits directly to a party damaged by said carrier; except that nothing in this subparagraph shall preclude the damaged party from settling a claim of loss or damage prior to making the claim against the transportation carrier's insurance or surety policy.
- (e) The provisions of subparagraphs (IV) – (VI) of paragraph (d) of this rule shall not apply to transportation carriers who have filed proof of self-insurance pursuant to § 42-7-501, C.R.S.
- (f) Proof of financial responsibility and inspection. The transportation carrier 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.

- (g) Forms. The transportation carrier shall cause to be filed with the Commission the appropriate form in lieu of the original policy as follows:
 - (I) Motor vehicle liability coverage.
 - (A) For all transportation carriers, a Form E or Form G.
 - (B) For transportation carriers obtaining a certificate of self-insurance under the provisions of § 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 coverage. For all movers and property carriers, a Form H or Form J.
 - (III) General liability coverage. For all movers, a Colorado Form GL.
- (h) The transportation carrier shall ensure that each policy and each form required by or identified in this rule contains the transportation carrier's exact name, trade name (if any), and address as shown in the records of the Commission.
- (i) The transportation carrier shall ensure that any change of name, trade name (if any), address, or policy number is filed, using an appropriate endorsement or amendment, with the Commission.
- (j) The proof of minimum levels of financial responsibility required by this rule is public information and may be obtained from the Commission.
- (k) Each certificate of insurance or surety bond required by and filed with the Commission shall be kept in full force and effect unless and until canceled upon 30-days advance written notice, on Form K or Form L, as applicable, from the insurer to the Commission. The 30-day cancellation period shall commence on 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 provided the letter contains the same information as required by such form.
- (l) In lieu of paragraph 6607(k), the Commission, upon receipt of a new certificate of insurance or surety bond, may administratively cancel any earlier certificate of insurance or surety bond on the effective date of the new certificate of insurance or surety bond.

6608. Summary Suspensions and/or Revocations for Lack of Financial Responsibility.

- (a) Whenever Commission records indicate that a property carrier'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:
 - (I) Prior to coverage cancellation, mail notice to said carrier indicating that its required coverage will be cancelled and that the property carrier's registration to operate will be revoked on the date of coverage cancellation; and
 - (II) After coverage cancellation, immediately revoke the carrier's registration, and mail notice to said carrier indicating that its required coverage has been cancelled and that the property carrier's registration has been revoked.

- (b) 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,:
 - (I) The Commission shall summarily suspend such mover's registration. The summary suspension shall be effective on the date of coverage cancellation.
 - (II) The Commission shall send a notice of canceled insurance or surety coverage to such a mover. 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.
 - (III) A mover receiving notice of summary suspension shall not conduct operations under any of its authorities, including operations under any registration, after the effective date of such summary suspension until proper proof of insurance or surety coverage is filed with the Commission.
 - (IV) If the Commission receives proper proof of coverage prior to commencement of revocation proceedings, the summary suspension will be deemed dismissed without further order of the Commission.

6609. Annual Motor Vehicle Identification Fees.

- (a) Every transportation carrier 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) A transportation carrier that obtains a registration during the calendar year shall pay the annual identification fees at the time it registers as a transportation carrier.
- (c) A transportation carrier that acquires one or more additional motor vehicles during the calendar year shall pay the annual identification fees prior to placing such additional vehicle(s) in-service.
- (d) Annual identification fees shall be valid only for the calendar year for which they are purchased.
- (e) 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) Transportation carriers 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) Transportation carriers that are also regulated interstate carriers 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.

- (f) Transportation carriers using a motor vehicle in both interstate and intrastate operations need only pay the annual identification fees associated with interstate operations for that motor vehicle.

6610. Registration Requirement and Limitation.

- (a) Registration required.
 - (I) No person shall operate, offer, or advertise services as a mover without a valid registration issued by the Commission.
 - (II) No person shall operate as a property carrier without a valid registration issued by the Commission.
- (b) Registrations do not authorize transportation services covered by Articles 10, 11, 13, or 16 regarding passenger transportation of Title 40, C.R.S.
- (c) Every transportation carrier shall maintain a copy of its registration in each motor vehicle it owns, controls, operates, or manages under said registration.
- (d) The transportation carrier shall, upon request, present the copy of its registration and, if applicable, its Form D-1 or Form RS-3 to any enforcement official.

6611. [Reserved].

6612. Designation of Agent.

- (a) Each transportation carrier shall file in writing with the Commission, and shall maintain on file, its designation of the name and address of a person upon whom service may be made of any notice, order, process, or demand. The named person is the carrier's designated agent. A carrier shall not designate the Secretary of State of the State of Colorado. The person designated, if a natural person, shall be at least 18 years of age. The address of the person designated shall be in the State of Colorado.
- (b) Each transportation carrier shall notify the Commission of changes in the identity or address of its registered agent by filing a new designation within 48 hours of the effective date of such change.
- (c) Service upon a transportation carrier's named designated agent as filed with the Commission shall be deemed to be service upon the transportation carrier.

6613. [Reserved].

6614. [Reserved].

6615. [Reserved].

6616. Registration.

Any person seeking to register as a transportation carrier shall provide the following:

- (a) The name of the registrant and the trade name, if applicable, under which operations shall be conducted.

- (b) 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.
- (c) If a registrant is a corporation:
 - (I) 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 certifying that the registrant is qualified to do business in Colorado.
 - (II) The location of its principal office, if any, in the State of Colorado.
 - (III) The names of its directors and officers.
 - (IV) A copy of its articles of incorporation or charter.
 - (V) A copy of its certificate of assumed trade name, if any.
- (d) If a registrant is a limited liability company:
 - (I) 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 certifying that the registrant is qualified to do business in Colorado.
 - (II) The location of its principal office, if any, in the State of Colorado.
 - (III) The name, title, and business address of each of its members.
 - (IV) A copy of its certificate of assumed trade name, if any.
- (e) If a registrant is a partnership: the name, title, and business address of each partner.
- (f) A statement indicating whether any of the motor vehicles to be used have a GVWR of 10,000 or more pounds.
- (g) A statement that the registrant is familiar with the Household Goods Mover and Property Carrier Rules and all applicable safety rules, and will comply with them.
- (h) A statement that the registrant understands that the filing of a registration does not constitute authority to operate.
- (i) A verification made under penalty of perjury and signed by an authorized officer, partner, owner, employee, or member of the registrant certifying that the contents of the registration are true, accurate, and correct. The registration shall contain the complete address and title of the person signing the verification.
- (j) For movers, an annual registration filing fee of \$300.
- (k) For property carriers, a registration filing fee of \$50; except that a transportation carrier that also simultaneously registers as a mover shall be exempt from the \$50 registration filing fee and need only pay the \$300 annual registration filing fee for a mover.

- (l) A person seeking to register as a transportation carrier shall cause to be filed both the required proof of financial responsibility and the required annual identification fees.
- (m) The Commission will not issue a registration to operate as a transportation carrier until the Commission has received a complete registration, the required proof of financial responsibility, and the required annual identification fees.

6617. Revocation of Registration.

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(1) and (2), C.R.S.

6618. Annual Filing Fee.

- (a) Every mover shall pay to the Commission an annual registration filing fee of \$300 as set forth in § 40-14-103(2)(a), C.R.S.
- (b) For initial registrants, the annual registration filing fee shall be valid for one year from the date the registration is issued. For renewal registrants, the annual registration filing fee shall be valid for one year after expiration of the prior registration.

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 its registration is held. If a mover registers 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 registers 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. Prior to providing any transportation or accessorial services, a mover 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, if known, delivered, a telephone number where the shipper may be reached, if available, and a mailing address where the shipper can receive notices from the mover, if known;
 - (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 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) Released Value Option. This option shall allow the mover to limit its liability for loss or damage to household goods shipments to the lesser of: (1) a value equal to sixty cents per pound per lost or damaged article, or (2) the value of the lost or damaged article, less depreciation for age and wear.
 - (B) Full Replacement Cost Option. This option shall allow the shipper to recover the full replacement cost for loss or damage to household goods shipments. This option shall: (1) require the shipper to declare the value of the shipment; (2) permit the shipper to specify a deductible; and (3) provide that the mover will be liable for the full replacement cost of each lost or damaged article up to the declared value of the shipment. However, if the shipper declares a value that is less than the value of the shipment, the mover's liability for each lost or damaged article will not exceed the proportional value of the article when compared to the declared value of the entire shipment.

- (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 to the contract for service shall not be valid or enforceable unless, without duress or coercion, they are signed by both the mover and the shipper. A mover shall not charge, collect, or retain any increased costs and/or rates contained in an amendment if the amendment is not signed by both parties or if the shipper's signature is obtained by duress or coercion.
- (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: (1) the shipper has not tendered payment in the amount and in the acceptable form specified in the contract for service; or (2) the shipper or the shipper's agent is not available to accept delivery of the household goods on the date and at the time and location specified in the contract for service or as otherwise agreed upon.
- (c) If, pursuant to paragraph (b) of this rule, a mover maintains possession of a shipper's household goods, such mover may place the household goods in storage until payment is tendered. Such storage shall only be at the location specified in the contract for service unless, for good cause and in good faith, the mover is required to store the household goods at a location other than that specified in the contract for service. If the mover stores the household goods at such an alternate location, it
 - (I) Shall mail to the shipper a notice of the name and address of such alternate storage location within two business days of placing the household goods in storage. For purposes of this rule, business day means all days other than Saturdays, Sundays, and Colorado legal holidays specified in § 24-11-101, C.R.S.
 - (II) The mover may only charge additional fees for such alternate storage (i.e., in excess of those set forth in the contract for service) and for associated unloading and loading services if:
 - (A) Such additional fees are reasonable; and
 - (B) Storage at the alternate storage location is necessitated by some act or omission of the shipper or by circumstances beyond the control of the mover.
- (d) 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 request.

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

6623. Waivers and Variances.

- (a) Variance or waiver - general.
 - (I) As used in this rule, "variance" means authorization to use a different method or means to comply with a rule.
 - (II) As used in this rule, "waiver" means authorization not to comply with a rule.
 - (III) The Commission may permit a variance of a rule, or may waive a rule, if it concludes that, under the circumstances presented, strict compliance with the rule is impossible, impracticable, or unreasonable. The Commission may grant a variance or a waiver subject to such terms and conditions as it deems appropriate. The Commission will not grant a variance or a waiver if the variance or waiver would be contrary to law.
 - (IV) A transportation carrier must comply with the rules until and unless the Commission grants that carrier a variance or a waiver of one or more rules.
- (b) Procedure for seeking variance or waiver.
 - (I) A request for a variance or a waiver made in an existing docket shall be made by motion.
 - (II) A request for a variance or a waiver made outside a docketed proceeding shall be made by petition.
 - (III) A request for a variance or a waiver, whether made by motion or by petition, shall include at least the following information:
 - (A) Citation to the specific provision of the rule which is sought to be varied or waived;
 - (B) A clear and concise statement of the variance or waiver requested;
 - (C) A statement of the facts and circumstances relied upon to demonstrate why the Commission should grant the variance or waiver;
 - (D) A statement regarding the duration of the requested variance or waiver, including a statement of specific date or event which will terminate the variance or waiver, if granted;
 - (E) A statement whether the variance or waiver, if granted, would be full or partial; and
 - (F) An acknowledgment that the transportation carrier requesting the variance or waiver understands that the variance or waiver is not effective until approved by the Commission.

- (c) Record keeping requirements. A transportation carrier that has obtained a variance or a waiver of any rule in this Part shall:
 - (I) If the variance or waiver pertains to a motor vehicle: maintain a copy of the variance or waiver both in the affected motor vehicle and in the carrier's motor vehicle maintenance files.
 - (II) If the variance or waiver pertains to a driver: ensure that a copy of the waiver or variance is carried on the affected driver's person whenever the driver is operating a motor vehicle as a transportation carrier and also is maintained in the affected driver's qualification file.
 - (III) If the variance or waiver pertains to any matter not listed in subparagraphs (c)(I) or (II) of this rule: maintain a copy of the variance or waiver 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.; § 40-16-104(1)(e), C.R.S.; or subparagraph (a)(I) or (b)(I) of rule 6607.
- (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.; § 40-16-103, C.R.S.; or subparagraph 6610(a)(I) or (II).
 - (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 provision of Title 40, C.R.S., or any provision of rules 6600 through 6623 pertaining to transportation carriers may be assessed a civil penalty of up to \$550.
- (d) Pursuant to § 40-7-114, C.R.S., any owner or other person who employs a driver who operates a motor vehicle in violation of the statute or these rules may be assessed a civil penalty for such violation.
- (e) Notwithstanding any provision in these rules to the contrary, the Commission may assess double or triple 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) the person engaged in prior conduct which resulted in the issuance of a prior civil penalty assessment notice;
 - (II) the conduct for which doubled penalties are sought is the same or narrower than the conduct that was cited in the prior civil penalty assessment notice;

- (III) the conduct for which doubled penalties are sought occurred within one year after the conduct which resulted in the issuance of a civil penalty assessment notice; and
 - (IV) the conduct for which doubled penalties are sought occurred after the person's receipt of the prior civil penalty assessment notice.
- (g) The Commission may assess any person a civil penalty containing tripled penalties if:
- (I) the person engaged in two or more instances of prior conduct which resulted in the issuance of two or more prior civil penalty assessment notices;
 - (II) the conduct for which tripled penalties are sought is the same or narrower than the conduct that was cited in the prior civil penalty assessment notices;
 - (III) the conduct for which tripled penalties are sought occurred within one year after the two most recent prior instances of conduct cited in the prior civil penalty assessment notices; and
 - (IV) the conduct for which tripled penalties are sought occurred after the person's receipt of two or more prior civil penalty assessment notices.
- (h) When more than two instances of prior conduct exist, the Commission shall only consider those instances occurring within one year prior to the conduct for which triple penalties are sought.
- (i) Nothing in this rule shall preclude the assessment of triple penalties when double and triple penalties are sought on the same civil penalty assessment notice.