

Decision No. C06-0296

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF COLORADO

DOCKET NO. 06R-165TR

IN THE MATTER OF THE EMERGENCY REPEAL OF THE RULES REGULATING EXEMPT PASSENGER CARRIERS AND THE RULES REGULATING HOUSEHOLD GOODS MOVERS AND PROPERTY CARRIERS, AS FOUND IN 4 CCR 723-33 AND 4 CCR 723-35, RESPECTIVELY, AND THE EMERGENCY AMENDMENTS TO THE RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE, 4 CCR 723-6.

**DECISION APPROVING EMERGENCY REPEAL
AND ADOPTING EMERGENCY RULES**

Mailed Date: March 29, 2006

Adopted Date: March 29, 2006

I. BY THE COMMISSION

A. Statement

1. This matter comes before the Commission for emergency repeal of the Commission's Rules Regulating Exempt Passenger Carriers and the Commission's Rules Regulating Household Goods Movers and Property Carriers, 4 *Code of Colorado Regulations* (CCR) 723-33 and 35, respectively, and for adoption of emergency rules amending the Commission's Rules Regulating Transportation by Motor Vehicle, adopted in Docket No. 03R-554TR.

2. The Commission's new Rules Regulating Transportation by Motor Vehicle, as adopted in Docket No. 03R-554TR, are scheduled to become effective on April 1, 2006. The emergency repeal and the emergency rules adopted by this Decision are also intended to become effective at the same time on April 1, 2006. The emergency rules are intended to amend and supersede the rules adopted in Docket No. 03R-554TR.

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 rules appended to this order as Attachment A. We take this action in accordance with the provisions of §§ 40-2-108 and 24-4-103(6), C.R.S.

4. This Decision repeals, on an emergency basis, the current Rules Regulating Exempt Passenger Carriers and the current Rules Regulating Household Goods Movers and Property Carriers, as found in 4 CCR 723-33 and 723-35, respectively. While the permanent repeal of these rules is already the subject of Docket No. 05R-517TR, it is clear that the permanent repeal will not be effective prior to April 1, 2006. Therefore, the emergency repeal of the 723-33 and 35 rules is necessary to ensure that there is no conflict with the new rules becoming effective on April 1, 2006.

5. The emergency rules adopted in this order amend Rule 6008 adopted in Docket No. 03R-554TR to include emergency procedures for suspension and revocation of the authorities and operating rights of common carriers, contract carriers, and towing carriers.

6. The emergency rules also amend various typographical errors in Rules 6100 through 6105. These typographical errors include erroneous punctuation in paragraphs (c) and (d) of Rule 6101; erroneous numbering of various paragraphs and subparagraphs of Rule 6103; and erroneous rule references in subparagraphs (a)(I) and (III) of Rule 6103, the table contained in paragraph (b) of Rule 6105, and subparagraph (j)(II) of Rule 6105.

7. The emergency rules amend various provisions of Rules 6500 to 6513. Specifically, definitions in paragraphs (d), (h), (j), (k), and (l) of Rule 6501 are added or revised, in conjunction with a corresponding deletion of definitions in paragraph (a) of Rule 6508, to clarify the terms as they are used in the rules; paragraph (d) of Rule 6507 is amended and

paragraph (m) of Rule 6511 is added to provide for the release of a motor vehicle upon payment of the towing and storage charges; paragraph (a) of Rule 6511 is added to clarify the types of tows to which the rates do not apply; paragraphs (b), (d), (e), (f), (g), and (l) of Rule 6511 are amended to increase the towing and storage rates and charges; with regard to storage charges in Rule 6511, subparagraphs (d)(IV) is deleted and (f)(II) is amended to be consistent with subparagraph (f)(I)(B); subparagraph (f)(IV) of Rule 6511 is added to provide an exemption for the storage of motor vehicles performed under a contract with a governmental agency; and corresponding amendments are made to the rules to provide consistent use of terms and appropriate rule references.

8. Generally, the purpose of the emergency rules adopted by this order is to provide consistent accurate rules that are understandable and enforceable.

9. The emergency repeal of the current rules, and the emergency rules attached to this order shall be effective on April 1, 2006. The rules adopted in this docket shall amend and supersede the rules adopted in Docket No. 03R-554TR, and shall remain in effect until the permanent repeal of the current rules and permanent version of the rules adopted in this docket become effective, or for 210 days, whichever period is less.

II. ORDER

A. The Commission Orders That:

1. The rules appended to this decision as Attachment A are hereby repealed on an emergency basis, consistent with the above discussion.

2. The rules appended to this decision as Attachment B are hereby adopted as emergency rules, consistent with the above discussion.

3. The emergency repeal and emergency adoption of the rules as set forth in this order shall occur at the same time on April 1, 2006 that the rules adopted in Docket No. 03R-554TR become effective.

4. This Order is effective upon its Mailed Date.

**B. ADOPTED IN COMMISSIONERS' WEEKLY MEETING
March 29, 2006.**

(SEAL)



ATTEST: A TRUE COPY

Doug Dean,
Director

THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF COLORADO

GREGORY E. SOPKIN

POLLY PAGE

CARL MILLER

Commissioners

~~COLORADO DEPARTMENT OF REGULATORY AGENCIES~~

~~Public Utilities Commission~~

~~4 CODE OF COLORADO REGULATIONS (CCR) 723-33~~

~~RULES REGULATING EXEMPT PASSENGER CARRIERS~~

[Omitted Material: All the current rules found in 4 CCR 723-33, are repealed and reenacted.
Therefore, all pages of the current rules are omitted.]

~~COLORADO DEPARTMENT OF REGULATORY AGENCIES~~

~~Public Utilities Commission~~

~~4 CODE OF COLORADO REGULATIONS (CCR) 723-35~~

~~RULES REGULATING HOUSEHOLD GOODS MOVERS
AND PROPERTY CARRIERS~~

[Omitted Material: All the current rules found in 4 CCR 723-35, are repealed and reenacted.
Therefore, all pages of the current rules are omitted.]

COLORADO DEPARTMENT OF REGULATORY AGENCIES

Public Utilities Commission

4 CODE OF COLORADO REGULATIONS (CCR) 723-6

PART 6

RULES REGULATING TRANSPORTATION BY MOTOR VEHICLE

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, safety; civil penalties; the issuance, extension, transfer, and revocation of authority to operate as a transportation carrier; insurance and registration requirements; tariff and time schedule requirements; the identification, condition, and leasing of motor vehicles; record keeping; and service standards. These rules cover an array of carriers, including motor vehicle carriers (common carriers), contract carriers by motor vehicle, interstate carriers, hazardous materials carriers, towing carriers, household goods movers, and motor vehicle carriers exempt from regulation as public utilities (charter or scenic buses, children's activity buses, luxury limousines, off-road scenic charters, and 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), 40-2-116, 40-3-101(1), 40-3-102, 40-3-103, 40-3-110, 40-4-101, 40-5-105, 40-7-113(2), 40-10-105(1), 40-10-105(2)(c), 40-10-107, 40-10-110, 40-10-111, 40-10-120(4), 40-11-103(1), 40-11-105, 40-11-106, 40-11-109, 40-11-115(4), 40-13-104(1), 40-13-105, 40-13-107, 40-13-110(1), 40-14-103(2)(c), 40-14-104(2), 40-14-108(1), 40-14-110, 40-16-105, 40-16-103.6(1), 40-16-104(1.5), 40-16-105(1), 42-4-1809(2)(a), and 42-4-2108(2)(a), 42-20-202(1)(a), C.R.S.

* * *

[signifies omission of unaffected rule sections]

6008. Summary Suspensions and/or Revocations for Lack of Financial Responsibility.

- (a) Common carriers, contract carriers, household goods movers, or towing carriers.
- (I) Whenever Commission records indicate that a common carrier's, contract carrier's, household goods mover's, or towing carrier's required insurance or surety coverage, except for garage keeper's coverage, is or will be canceled, and the Commission has no proof on file indicating replacement coverage, the Commission shall, pursuant to § 24-4-104(3) and (4), C.R.S., summarily suspend such common carrier, contract carrier, household goods mover, or towing carrier's authority or operating right. 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 serve a~~ Complaint and Notice of Suspension and Hearing upon such a common carrier, contract carrier, household goods mover, or towing carrier. ~~The notice~~ Such Complaint and Notice shall advise the common carrier, contract carrier, household goods mover, or towing carrier:

- (A) that the Commission is in receipt of insurance or surety cancellation, and the effective date of such cancellation;
- (B) that its authority or operating right is summarily suspended as of the coverage cancellation date;
- (C) that it shall not conduct operations under any of its authorities or operating rights after the coverage cancellation date;
- (D) and that the Commission has initiated ~~or may initiate revocation complaint~~ proceedings to revoke its authorities or operating rights;
- (E) that it may submit, at a hearing convened to determine whether its authorities or operating rights should be revoked, written data, views, and arguments showing why such authorities or operating rights should not be revoked; and
- (F) the date, time, and place set for such hearing.

- (III) Until proper proof of insurance or surety coverage is filed with the Commission, a common carrier, contract carrier, household goods mover, or towing carrier receiving notice of summary suspension shall not, under any of its authorities or operating rights, conduct operations after the effective date of such summary suspension.
- (IV) If the Commission receives proper proof of coverage prior to the hearing, the summary suspension and complaint will be dismissed without further order of the Commission, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to civil penalty assessments.
- (V) If the Commission ~~has initiated revocation proceedings, but~~ receives proper proof of coverage prior to revocation, the Commission shall dismiss the summary suspension and complaint, even if there is a lapse in coverage. However, operations performed during lapses in coverage are subject to civil penalty assessments.

* * *

6101. Definitions.

In addition to the generally applicable definitions in rule 6001, and those incorporated from federal law in rule 6102, the following definitions apply only in the context of these Safety Rules:

* * *

- (c) "Employer", ~~;~~ in addition to the definition found in 49 C.F.R. § 390.5, means a transportation carrier.
- (d) "Motor vehicle", ~~;~~ is synonymous with the term "commercial motor vehicle" as defined in this rule.

* * *

6103. Modification of Regulations Incorporated by Reference.

- (a) With regard to the external markings of motor vehicles:

- (I) All markings shall be in accordance with 49 C.F.R. ~~391.21~~390.21(c) and (d).
- (II) The markings shall contain all the following information, as applicable:
 - (A) The name or a trade name as set forth in the common carrier certificate(s), the contract carrier permit(s), the towing carrier permit(s), and the household goods mover registration(s), as applicable.
 - (B) The letter and/or number designation of the common carrier certificate(s), the contract carrier permit(s), the exempt passenger carrier registration(s), the towing carrier permit(s), and the household goods mover registration(s), as applicable, preceded by the letters "CO PUC" or "PUC."
 - (C) The letter and number designation of the property carrier registration, except that the property carrier may meet this requirement by marking its USDOT number in compliance with 49 C.F.R. ~~391.21~~390.21(b).

* * *

~~(VIIb)~~ With regard to qualification and examination of drivers:

~~(VIII)~~ 49 C.F.R. Part 391 shall not apply to household goods movers or property carriers, or to their drivers; but this exclusion applies only to the extent that the motor vehicles used:

- (A) do not transport passengers,
- (B) have a GVWR or GCWR of less than 10,001 pounds, and
- (C) do not require a commercial driver's license to operate.

~~(IXII)~~ Subpart E of 49 C.F.R. Part 391, relating to physical qualifications and examinations, shall not apply to household goods movers or property carriers, or to their drivers; but this exclusion applies only to the extent that the motor vehicles used:

- (A) do not transport passengers,
- (B) have a GVWR or GCWR of less than 26,001 pounds, and
- (C) do not require a commercial driver's license to operate.

~~(XIII)~~ 49 C.F.R. § 391.11(b)(1), relating to age of drivers, shall not apply to drivers operating solely in intrastate commerce; such drivers shall be at least eighteen years of age. This subparagraph (III) shall not apply to drivers operating motor vehicles used in transporting hazardous materials of a type and quantity that would require the motor vehicle to be marked or placarded under 49 C.F.R. § 177.823.

~~(bc)~~ With regard to motor vehicle parts and accessories necessary for safe operation:

* * *

~~(ed)~~ With regard to hours of service of drivers:

* * *

(de) With regard to inspection of drivers and/or motor vehicles:

* * *

(ef) The provisions for periodic inspections, inspector qualifications, periodic inspection record keeping, and equivalent to periodic inspections contained in 49 C.F.R. §§ 396.17, 396.19, 396.21, and 396.23 shall apply only to motor vehicles that:

* * *

(fg) Transportation carriers filing reports required by 49 C.F.R. Parts 40, 382, 383, 390, 391, 392, 393, 395, 396, or 399 shall file such reports with the Commission at its business address: Office Level 2, 1580 Logan Street, Denver, CO 80203.

(gh) Transportation carriers and drivers shall, upon request by an enforcement official, make available for inspection all records required to be made by these Safety Rules and all motor vehicles subject to these Safety Rules.

* * *

6105. Safety Violations, Civil Enforcement, and Civil Penalties.

* * *

- (b) A person who violates the following provisions may be assessed a civil penalty of up to \$2,500.00 for each violation:

Citation	Violation Description
390.35	Making, or causing to make fraudulent or intentionally false statements or records and/or reproducing fraudulent records if such action misrepresents a fact that constitutes a violation other than a reporting or recordkeeping violation.
391.11(a)	Requiring or permitting a driver who is not qualified to drive [391.11(b)(4), (5), and (7)].
391.15(a)	Using a disqualified driver.
391.45(a)	Using a driver not medically examined and certified.
391.45(b)(1)	Using a driver not medically examined and certified during the preceding 24 months.
392.2	Operating a motor vehicle not in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.
392.9(a)(1)	Requiring or permitting a driver to drive without the vehicle's cargo being properly distributed and adequately secured.
395.3(a)(1)	Requiring or permitting driver to drive more than 10 hours.
395.3(a)(2)	Requiring or permitting driver to drive after having been on duty 15 hours.
395.3(b)(1)	Requiring or permitting driver to drive after having been on duty more than 60 hours in 7 consecutive days.
395.3(b)(2)	Requiring or permitting driver to drive after having been on duty more than 70 hours in 8 consecutive days.
6103(d)(IV)(AB)(i)	Requiring or permitting driver to drive after having been on duty more than 70 hours in 7 consecutive days.
6103(d)(IV)(B)(ii)	Requiring or permitting driver to drive after having been on duty more than 80 hours in 8 consecutive days.
396.17(a)	Using a commercial motor vehicle not periodically inspected.
396.17(g)	Failing to promptly repair parts and accessories not meeting minimum periodic inspection standards.

* * *

- (j) Special penalties pertaining to violations of out-of-service orders by persons holding a commercial driver's license (CDL-holders).
- (l) A CDL-holder who is convicted of violating an out-of-service order may be assessed a civil penalty of not less than \$1,100.00, nor more than \$2,750.00.

- (II) An employer of a CDL-holder who knowingly allows, requires, permits, or authorizes that CDL-holder to operate a commercial motor vehicle as defined in 49 C.F.R. § 390.5383.5 during any period in which the CDL-holder is subject to an out-of-service order may be assessed a civil penalty of not less than \$2,750.00, nor more than \$5,000.00.

* * *

6501. Definitions.

In addition to the generally applicable definitions in rule 6001, the following definitions apply only in the context of these Towing Carrier Rules:

* * *

(d) "Law enforcement officer" means any sheriff, police officer, Colorado state patrol officer, municipal code enforcement officer, or other such person acting in his or her official capacity for enforcement of motor vehicle laws.

(de) "Legal disability" means the condition of a trailer or semi-trailer that, due to its weight, height, or other size characteristics, is unable to be transported when attached to the vehicle that was pulling it.

(ef) "Motor vehicle" means any vehicle that is propelled or drawn by mechanical power on the public ways of the State of Colorado. The term also includes any trailer or semi-trailer attached to the vehicle, or any trailer or semi-trailer which, due to collision, mechanical disablement, legal disability, order of a law enforcement officer or property owner, must be towed or transported separately from the vehicle from which it was detached.

(fg) "Mountain area" means that part of the State of Colorado west of a line drawn ten air miles west of, and parallel to, Interstate Highway 25.

(gh) "Non-consensual tow" means a tow authorized or directed by a person other than the owner, authorized operator, or authorized agent of the owner; except that a non-consensual tow does not include the repossession of a motor vehicle pursuant to § 4-9-629, C.R.S. A non-consensual tow includes:

~~(i) a private property tow;~~

~~(ii)~~ any tow performed contrary to the specific direction of the owner, authorized operator, or authorized agent of the owner;

~~(iii)~~ except for a ~~private property~~ tow authorized by the property owner or a tow ordered by a law enforcement ~~official~~officer, any tow performed without disclosure of the rates and charges to be assessed as set forth in rule 6510;

~~(iv)~~ a tow directed or authorized by a law enforcement officer, either orally or in writing, in any circumstance when the owner, authorized operator, or authorized agent of the owner is unavailable, unable, or unwilling to direct the tow; or

~~(v)~~ any other tow performed without prior consent or authorization of the owner, authorized operator, or authorized agent of the owner of the motor vehicle.

- (hi) "Normal business hours" means 8:00 AM to 5:00 PM, Monday through Friday, excluding holidays, and any additional hours and days the towing carrier may designate.
- (ij) ~~"Private property tow" means the towing of a motor vehicle from private property at the request of the property owner, as those terms are defined in paragraph 6508(a). "Private property" means any real property that is not public property.~~
- (jk) ~~"Public ways" include, but are not limited to, every street, road, or highway in the State of Colorado over which the public generally has a right to travel. "Property owner" means:~~
- ~~(I) the owner or lessee of the private property or public property;~~
- ~~(II) a person who has been authorized in writing to act as agent for the owner or lessee of the private property or public property; or~~
- ~~(III) a federal, state, county, municipal, or other government entity that is the owner or lessee of the private property or public property, or such entity's employees responsible for such property.~~
- (l) ~~"Public property" means any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, or other governmental entity of this state.~~
- (km) "Towing vehicle" means "towing vehicle" as defined by § 40-13-101(4), C.R.S.

* * *

6507. Storage Facilities.

- (a) Disclosure of facility location. For non-consensual tows, within one hour of placing a motor vehicle other than an abandoned motor vehicle in a storage facility, a towing carrier shall disclose the location of the storage facility as follows:
- (I) By notifying the owner, the authorized operator, or the authorized agent of the owner of the towed motor vehicle;
- (II) By notifying the owner of the ~~private~~ property from which the motor vehicle was towed; or
- (III) By notifying the responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed.

* * *

- (d) Release of motor vehicles from storage.
- ~~(I) Except for the release of a motor vehicle under the direction of a law enforcement officer, a towing carrier that accepts for storage a motor vehicle that has been towed as a private property tow non-consensual tow upon the authorization of the property owner shall be available to release or provide access to said motor vehicle within the first 48 hours of storage to the owner, authorized operator, or authorized agent of the owner of the motor vehicle either:~~
- ~~(IA) With one hour's notice during all times other than normal business hours; or~~

~~(#B)~~ Upon demand during normal business hours.

~~(II)~~ Except as provided in subparagraph (III) of this paragraph, a towing carrier shall release the motor vehicle upon payment of the towing and storage charges as required by paragraph (m) of rule 6511.

~~(III)~~ The towing carrier, at its discretion, need not comply with subparagraph (II) of this paragraph if:

~~(A)~~ the towing carrier is reasonably certain that the driver of the motor vehicle is not capable of safely driving the motor vehicle due to the influence of drugs or alcohol;

~~(B)~~ the towing carrier that is to remove the motor vehicle from storage does not have a valid towing carrier permit or proof of motor vehicle liability coverage; or

~~(C)~~ a hold order is in place on the motor vehicle by a court, district attorney, law enforcement agency, or law enforcement officer.

- (e) Subparagraph (d)(I)~~(A)~~ of this rule shall not apply when a towing carrier, upon notification for the release of or access to a motor vehicle at other than normal business hours, has immediately contacted an appropriate law enforcement agency and, in the interest of public order, has requested a law enforcement officer's presence during the release of the stored motor vehicle. This exception is applicable when the towing carrier has reason to believe that the motor vehicle's owner, authorized operator, or authorized agent of the owner of the motor vehicle may disrupt the public order.

6508. Authorization for Towing of Motor Vehicles.

~~(a)~~ For purposes of this rule:

~~(I)~~ "Private property" includes publicly owned property except public ways.

~~(II)~~ "Property owner" includes:

~~(A)~~ a private property owner or lessee;

~~(B)~~ an agent of the private property owner, authorized in writing to act as agent; or

~~(C)~~ a federal, state, or local government entity, or such entity's employees responsible for publicly owned property.

~~(III)~~ "Publicly owned property" includes, but is not limited to, medians, parking lots, or areas where parking is reserved, regulated by permits or meters, or otherwise restricted or prohibited.

~~(b)~~ Towing carrier not an agent.

- (I) A towing carrier, its employees, partners, officers, directors, stockholders, or independent contractors working for or with the towing carrier shall not act as an agent for the property owner except that, when the ~~private~~ property is vacant (i.e. not being used as a residence or as a business), the towing carrier may act as the agent for the property owner under a

written contract to that effect. Such written contract shall be maintained as provided in rule 6005.

- (II) Nothing in this paragraph shall preclude a towing carrier, which towing carrier has been paid for the ~~private property~~ tow by the ~~private~~ property owner at rates in accordance with rule 6511(~~ed~~), from collecting the towing charges from the motor vehicle owner and reimbursing said charges to the ~~private~~ property owner.

(~~eb~~) Authorization.

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

- (A) The towing carrier is directed to perform a tow by a law enforcement officer;

- (B) The towing carrier is requested to perform a tow by the owner, authorized operator, or authorized agent of the owner of a motor vehicle; or

- (C) The towing carrier is requested to perform a tow ~~from private property~~ upon the authorization of the property owner.

- (II) Property owner authorization. The authorization from the property owner shall be in writing; shall identify, by make and license plate number (or in lieu thereof, by vehicle identification number), the motor vehicle to be towed; and shall include the date, time, and place of removal.

- (A) The authorization shall be filled out in full, signed by the property owner, and given to the towing carrier at the time the motor vehicle is to be removed from the ~~private~~ property.

- (B) A towing carrier shall not accept or use blank authorizations pre-signed by the property owner.

- (C) A towing carrier shall make the written authorization available for inspection by the owner of the towed motor vehicle or his or her authorized representative.

- (D) The written authorization may be incorporated with the tow record/invoice required by Rule 6509.

(~~ec~~) Noncompliance. If a tow is performed in violation of this rule, or in violation of § 42-4-2103, C.R.S., the towing carrier shall not charge, collect, or retain any fees or charges for the unauthorized services it performs. Any motor vehicle that is held in storage and that was towed without proper authorization shall be released immediately to the owner, lienholder, or agent of the owner or lienholder.

6509. Tow Record/Invoice.

(a) Towing carriers shall use and complete all applicable portions of a tow record/invoice form for all non-consensual tows. The tow record/invoice form shall contain the following information:

- (I) the serial number of the tow record/invoice;

- (II) the name, address, permit number, and telephone number of towing carrier;

- (III) the address of the storage facility used by the towing carrier, including the telephone number for that storage facility if the number is different than the telephone number of the towing carrier;
- (IV) the date and time of tow commencement and completion, the time of arrival on the scene if different from the time of commencement, the time the towed motor vehicle is placed in storage, and all other times necessary for the purpose of calculation of hourly charges;
- (V) the make, model, year, vehicle identification number, and, if available, license plate number of the motor vehicle towed;
- (VI) the origin address of the tow, the destination address of the tow, and the one-way mileage between such addresses;
- (VII) the name, address, and telephone number of the person authorizing the tow;
- (VIII) the signature of the person-property owner authorizing a private-property tow;
- (IX) a list of the contents of the motor vehicle towed;
- (X) the unit number or license number of the towing vehicle;
- (XI) the signature of the towing vehicle operator;
- (XII) an itemized invoice of all towing charges assessed; and
- (XIII) the signature of the owner, authorized operator, or other authorized person to whom the motor vehicle is released.

* * *

6510. Disclosure of Rates and Charges.

- (a) Except as provided in paragraph (c) of this rule, prior to performing any tow, a towing carrier shall disclose to the owner, authorized operator, or authorized agent of the owner of the motor vehicle all rates and charges to be assessed.
- (b) This disclosure may either be written or oral and shall include, but is not limited to, the following information:
 - (I) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a repair or body shop during the normal working hours of such repair or body shop;
 - (II) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a location and at a time agreed upon by the owner, authorized operator, or authorized agent of the owner to take delivery of the vehicle and pay the tow charges; and
 - (III) estimated charges for mileage and storage.
- (c) This rule does not apply to private-property-non-consensual tows authorized by the property owner or tows ordered by law enforcement officials/officers.

6511. Rates and Charges.

(a) The rates and charges in this rule 6511 shall not apply to:

- (I) a tow of an abandoned motor vehicle weighing in excess of 10,000 pounds GVWR for which the charges are determined by negotiated agreement between the towing carrier and the responsible law enforcement agency as provided in § 42-4-1809(2)(a), C.R.S.;
- (II) a tow of an abandoned motor vehicle performed under a contract between the towing carrier and the responsible law enforcement agency as provided in § 42-4-1809(3), C.R.S.; or
- (III) a tow of a motor vehicle authorized by a law enforcement officer, unless otherwise provided.

(ab) Charge if retrieved before removal (commonly known as "drop charge").

- (I) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle with a GVWR of less than 10,000 pounds that is parked without the authorization ~~on private-of the~~ property owner attempts to retrieve the motor vehicle before its removal from the ~~private~~ property, the maximum drop charge (whether motor vehicle is hooked up or not) is \$53.0064.00.
- (II) In such circumstances, the towing carrier shall advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle that he or she may offer payment of the towing carrier's drop charge.
- (III) If payment in cash of the drop charge is offered before removal, the towing carrier shall immediately:
 - (A) accept payment;
 - (B) release the motor vehicle; and
 - (C) make the property owner's written authorization available for inspection by the owner of the towed motor vehicle or his or her authorized representative.

(bc) Rates for off-road retrieval associated with a non-consensual tow.

- (I) Except as provided in § 42-4-1809(2)(a) regarding abandoned motor vehicles, this paragraph shall apply to the off-road retrieval of any size vehicle.
- (II) When accompanied by documentation showing starting and ending times of the retrieval, which documentation may include law enforcement incident reports and verification, a towing carrier may charge for off-road retrieval at its hourly rates, a record of which is maintained in compliance with rule 6005.
- (III) Hourly rates for off-road retrieval shall be calculated from the time the towing carrier arrives at the scene and the law enforcement officer approves the retrieval to the time the towing carrier has completed the retrieval and may include time to load and to secure retrieval equipment and the cleanup of the scene. Off-road retrieval time shall not include loading and securing the retrieved motor vehicle to, or onto, the towing vehicle.

(IV) The cost of additional equipment used may be recovered from the motor vehicle owner at the towing carrier's actual costs incurred plus a reasonable administrative fee of not more than twenty-five percent of those actual costs, provided that the actual costs are reasonable by industry standards.

(~~ed~~) Rates and charges for non-consensual tows. Subject to the provisions of this paragraph and except as provided in subparagraph ~~VIII~~VII of this paragraph, the maximum rate that a towing carrier may charge for a non-consensual tow of a motor vehicle with a GVWR of less than 10,000 pounds performed upon the authorization of the property owner is ~~\$138.00~~140.00. Except as provided in paragraphs (~~bc~~), (~~de~~), (~~ef~~), (~~fg~~), (~~gh~~), (~~hi~~), and (~~kl~~) of this rule, this maximum rate shall include, but not be limited to, charges for the following:

(I) all towing services rendered;

(II) hookup;

(III) use of dollies or go-jacks;

~~(IV) storage for the first 24 hours commencing at the time the vehicle is placed in storage;~~

~~(VIV) access to or release of the motor vehicle from storage:~~

~~(A) during normal business hours; and~~

~~(B) pursuant to paragraph 6507(d), for a private property tow, at any time other than normal business hours for the first 48 hours after placing the vehicle in storage;~~

~~(VV) all commissions paid; and~~

~~(VVI) all other services rendered in performing such non-consensual tow.~~

~~(VIIIVII) The maximum rates for a non-consensual tow from storage are as follows:~~

~~(iA) \$~~69.00~~83.00 for one additional hookup;~~

~~(iiB) \$~~69.00~~83.00 per hour waiting time (i.e., directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation); and~~

~~(iiiC) \$~~2.70~~3.45 per mile mileage charges.~~

(~~de~~) Mileage. ~~One-way~~The maximum mileage charges that may be assessed for ~~all~~a non-consensual ~~tows of a motor vehicle with a GVWR of less than 10,000 pounds is at a rate not to exceed \$2.70~~\$3.45 per laden mile.

(~~ef~~) Storage for non-consensual tows.

(I) Generally.

(A) Storage charges shall not exceed the following rates based on a 24-hour period or any portion of a 24-hour period:

(i) ~~\$22.00~~27.00 for motor vehicles having a GVWR of less than 10,000 pounds;

- (ii) ~~\$28.00~~\$34.00 for motor vehicles having a GVWR of 10,000 pounds or more;
 - (iii) in lieu of subparagraphs (A)(i) and (ii), and at the option of the towing carrier, storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at ~~\$1.40~~\$1.35 per foot or portion thereof.
- (B) Storage charges shall not be charged, collected, or retained for any day in which garage keeper's liability insurance coverage is not kept in force.
- (II) Storage charges for a non-consensual tow shall not commence until the expiration of the first 24-hour period of storage (see subparagraph (e)(IV)) may commence upon placing the motor vehicle in storage.
- (III) Maximum accumulated charges for abandoned motor vehicles. Unless a hold order has been placed on the motor vehicle by a court, district attorney, or law enforcement agency, or unless extenuating circumstances have prevented a towing carrier from complying with the notice requirements of § 42-4-2103, C.R.S., storage charges after the tow and storage of an abandoned motor vehicle shall not be accumulated beyond 60 days after the mailing date of the report required by § 42-4-2103(4), C.R.S.
- (IV) Exemption for municipal or county contracts. Notwithstanding any other provision of these rules, this paragraph shall not apply to any storage of a towed motor vehicle performed under a contract with a municipal, county, state, or federal agency.
- (fg) For a non-consensual tow, the maximum charge for release of a motor vehicle from storage or access to a motor vehicle in storage at any time other than normal business hours is ~~\$50.00~~\$60.00. ~~For a private property tow, this charge shall not be applied until after the first 48 hours of storage.~~
- (gh) Additional charges in mountain areas for non-consensual tows and storage.
 - (I) When a motor vehicle is towed between points in the mountain area, the towing carrier may add an additional amount not to exceed 12 percent of the towing charges provided in paragraphs (ab), (ed), and (ee) and subparagraph (IV)(A) of paragraph (kl).
 - (II) When a motor vehicle is towed into or out of the mountain area, the towing carrier may add an additional amount not to exceed 12 percent of the towing charges, provided that the mileage charge is prorated for, and applied only to, mileage actually traveled within the mountain area.
 - (III) The towing carrier may add an additional amount not to exceed 12 percent of the storage charges provided in subparagraph (I)(A) of paragraph (ef).
- (hi) Notifications. The charges for notification(s) to the owner and the lien holder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1804(6)(a) and 42-4-2103(3)(c)(I), C.R.S., and the rules of the Colorado Department of Revenue.
- (hj) Consequences of failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804(6)(b) and 42-4-2103(3)(c)(II), C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall release the motor vehicle immediately to the owner, lien holder, or their agents without charging, collecting, or retaining storage fees.

- (jk) Sale of an abandoned motor vehicle to cover the outstanding towing and storage charges must be done in accordance with the notice and procedural requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.
- (kl) Additional costs that may be charged when a stored motor vehicle is sold.
 - (I) When a stored motor vehicle is sold, a towing carrier may charge the costs of maintaining that motor vehicle while in storage in accordance with § 38-20-109, C.R.S.
 - (II) When a stored motor vehicle that does not come within the provisions of § 38-20-109, C.R.S., is sold, a towing carrier may charge the costs of maintaining that motor vehicle, to a maximum of \$90.00.
 - (III) "Cost of maintaining a motor vehicle" means a documented cost that is incurred by the towing carrier and that keeps a motor vehicle in safe or operable condition.
 - (IV) Certified VIN verification procedure.
 - (A) When an abandoned motor vehicle that is less than five model years old and that the Colorado Department of Revenue cannot find in its records must be sold, the maximum rates that may be charged for a certified vehicle identification number (VIN) verification are as follows:
 - (i) ~~\$69.00~~\$83.00 for one additional hookup;
 - (ii) ~~\$69.00~~\$83.00 per hour waiting time while waiting for inspection; and
 - (iii) ~~\$2.70~~\$3.45 per mile mileage charges.
 - (B) In addition, the towing carrier may charge for all other documented expenses of obtaining the VIN verification.

(m) Except as provided in subparagraph (d)(III) of rule 6507, upon payment of the towing and storage charges in cash or another form of payment accepted by the towing carrier, the towing carrier shall immediately accept payment and release the motor vehicle to:

- (I) the motor vehicle owner, authorized operator, or authorized agent of the owner of the motor vehicle;
- (II) the lienholder or agent of the lienholder of the motor vehicle; or
- (III) the insurance company or agent of the insurance company providing coverage on the motor vehicle.

* * *

6513. Towing Violations and Civil Penalty Assessments.

- (a) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$1,100.00 for each violation:
 - (I) § 40-13-103(1), C.R.S.; or rule 6502.

(II) subparagraph (eb)(I) or (II)(B) of rule 6508.

(III) paragraph (ec) of rule 6508.

(b) A violation of paragraph (ab), (ed), (ee), (fg), (gh), or subparagraph (ef)(I)(A) or (kl)(IV)(A) of rule 6511 may result in the assessment of a civil penalty as follows for each violation:

(I) Up to \$275.00 for an overcharge \$25.00 or less.

(II) Up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$50.00.

(III) Up to \$1,100.00 for an overcharge greater than \$50.00.

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