

**Summary of CR102 Comments
New Household Goods Carriers Rules
Docket Number TV-971477
11/98**

New Chapter 480-15 WAC Household Goods Carriers

Issue	Interested Persons	Comments Received	Staff Position
General	<p>Michael Karp on behalf of Public Counsel; and</p> <p>Regina Cullen on behalf of Consumer Protection Division</p> <p>Scott Creek, Crown Moving Co., Inc., Permitted Carrier</p> <p>Senator Mary Margaret Haugen, 10th Legislative District.</p>	<p>Supports staff's recommendations to easy entry standards to afford consumers more choice; to provide price flexibility in the form of a banded rate set in the interim at 15% above and up to 35% below the existing tariff rate to increase services available to consumers and allow consumers flexibility in negotiating price; and strengthen consumer protection rules including: percentage cap a carrier may charge above a non-binding estimate, and the option of offering a binding estimate to consumers.</p> <p>The proposed changes under consideration were clearly stated by WUTC staff since the process started. Despite comments and rebuttal from those who would be negatively affected by these changes, staff has proceeded with designing their own system based solely on their original plan, utilizing very little input from industry. It is my opinion that the rulemaking process should allow for common interests to be achieved, not merely a formality to accomplish a staff goal.</p> <p>I would like to compliment and thank your staff for their effort in developing these rules. I know many hours were spent with the stakeholders, and a great deal of research was involved. The end product should eliminate barriers to entry, allow for greater pricing competition and increase consumer protection.</p>	<p>Staff agrees and believes the proposed rules accomplish the stated goals while balancing the interests of consumers, the industry and new applicants wishing to enter the household goods moving market.</p> <p>Staff respectfully disagrees. While staff's goals to ease entry, provide for rate flexibility and strengthen consumer protection have not changed through the rulemaking, staff considered and modified draft rules based on input from all stakeholders throughout the process. Staff held public sessions to receive comments and suggestions. Staff values the contributions of the industry. Throughout the rulemaking process, staff has attempted to balance the interests of the permitted carriers, carriers wishing to enter the market, and consumers. The many proposed rule drafts staff circulated is indicative of this process.</p> <p>Staff believes the proposed rules will ease entry restrictions, provide for pricing flexibility, and strengthen consumer protection rules.</p>

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	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>The APA requires the Commission, before it files an adopted rule, to prepare a concise explanatory statement of the rule which must include the reasons for adopting the rule and a summary of all comments received regarding the rule and a response to each comment indicating how the final rule reflects agency consideration of the comments or why it fails to do so.</p>	<p>Staff intends to fully comply with the requirements of APA. This summary of comments and staff's response, as well as the accompanying concise explanatory statement of the rules and attachments, fulfill these requirements.</p>
	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>Staff proceeded on its own perceived mission without regard to statutory limitation.</p>	<p>Staff respectfully disagrees. See response to comments of Scott Creek above. In addition, staff believes the proposed rules are within the Commission's statutory authority.</p>
	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>Staff goals were not related to the stated goals of this rulemaking proceeding and gave little consideration to the Conference's input.</p>	<p>Staff respectfully disagrees. Staff's goals are the same as those stated above. Staff believes the proposed rules fall within the scope of the stated goals and input from all stakeholders was considered. Staff believes the proposed rules strike a balance between consumer interests and industry interests.</p>
	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>The inadequate record brings into question compliance with the APA fair public notice requirements.</p>	<p>Staff believes the public record is more than adequate. In addition, the Commission received many letters sent by interested parties and held several stakeholder and rule drafting sessions held in an open public forum which resulted in several proposed rule draft changes.</p>

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<p>General Cont.</p>	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>Staff has not responded to comments and questions submitted to the Commission. APA requires a response for a rulemaking to be valid.</p>	<p>Staff spent numerous hours discussing comments and concerns with the stakeholders prior to filing the CR-102. In fact, comment summaries were prepared and used for discussion during the stakeholder meetings prior to the August 12, 1998 open meeting. Staff has or will respond to all comments provided to the Commission since the CR-102 was filed, prior to filing the adopted rules as required by the APA.</p>
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<p>General Cont.</p>	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>Believes the proposed rules concerning applications for temporary and permanent authority are insufficient as they do not provide sufficient public notice or an opportunity to provide meaningful comment upon applications before the Commission make's a decision.</p>	<p>Staff respectfully disagrees. Mr. Coniff is correct that the proposed rules for application for temporary authority do not allow an opportunity to comment on an application before the Commission issues a decision. See proposed WAC 480-15-280 through -320. However, there is an opportunity for meaningful comment after the permit is issued. See WAC 480-15-310. The process under the proposed rules is no different than that set forth under current rules, which have long been in place. See WAC 480-12-033(4). Under the current rules, the Commission staff conducts an internal review and makes recommendations to the Commission. Once the Commission issues a decision, notice of that decision is published in the weekly application docket. The Commission may or may not hold a hearing after receiving a protest against the grant of temporary authority. See WAC 480-12-033(4)(c). Neither the Mover's Conference nor any other party has ever sought to modify this rule. The proposed rules do contain a strong enforcement remedy concerning the grant of temporary authority: The Commission may cancel temporary authority at any time, among other reasons, if it is clear that the grant was based on fraud, misrepresentation, or erroneous information from the applicant. See proposed WAC 480-15-320.</p>
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<p>General Cont.</p>	<p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p>	<p>Cont.</p>	<p>Response to previous comment cont.</p> <p>As to applications for permanent authority, Mr. Coniff is not correct that the proposed rules do not allow for meaningful comment prior to a determination by the Commission. The proposed rules provide that the Commission will publish in its weekly docket the receipt of applications for permanent authority, allowing for comment within 30 days of publication. See proposed WAC 480-15-340. This notice and comment period is exactly the same as under the current rules. See WAC 480-12-045(1),(2)(d). Mr. Coniff is correct that the proposed rules provide that a comment on an application may not cause the application to be set for hearing, and that the Commission has discretion over whether to set a matter for hearing. See proposed WACs 480-15-340(4) and 480-15-350. For example, if a comment indicated support for an application or provided information that did not indicate that an application was contested, the Commission need not set the matter for hearing. Similarly, the current rules provide the Commission “may require a hearing in any proceeding,” but do not require the Commission to hold a hearing on all applications for authority. WAC 480-12-045(5). Whether or not a hearing is held, the Commission is required to, and will make, all necessary findings based on the information before it.</p>
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<p>General Cont.</p>	<p>Jim Tutton, representing Washington Movers Conference</p>	<p>Believes from the very beginning of this household goods movers rulemaking process, it was a one-way venture committed to pushing through new rules developed solely by staff with little consideration to [the permitted movers] input.</p>	<p>Staff respectfully disagrees. See staff response above under General, Scott Creek.</p>
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<p>Definition - Household Goods excludes transportation of customer packed and sealed self-storage type containers where no accessorial services are provided by a motor carrier ...</p>	<p>Brian McCulloch representing the Association of Independent Movers of Washington (AIMwa)</p> <p>David Wiley, Attorney, representing Door to Door Storage.</p> <p>Todd G. Glass, Attorney on behalf of Public Storage Pickup & Delivery, L.P.</p>	<p>Philosophically supports staffs position because it reduces regulation but believes the services fall within the laws requiring regulation.</p> <p>Supports staff recommendation and believes it is in full concert with Governor Locke's Executive Order 97-02.</p> <p>Supports Staff's recommendation for exclusion for the following reasons:</p> <ol style="list-style-type: none"> 1. Maintains the current unregulated status for this type of service; 2. No special handling or accessorial services are provided; 3. Complies with Attorney opinion for the Federal Highway Administration; 4. Meets Governor Locke's Executive Order 97-02. 5. Evidence does not support a need for additional consumer protection measures. 	<p>Staff considers the exclusion in the definition as clarifying language and believes the service is properly classified as freight. Freight is regulated under another chapter of rules.</p> <p>Staff agrees that proposed definition is in compliance with the Executive Order 97-02.</p> <p>Staff agrees with Mr. Glass' position. Based on the opinion of the Commission's Permit Interpretation Committee, the staff currently does not consider the service regulated, but rather considers it the transportation of freight.</p>
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<p>Definition cont.</p>	<p>J. Lawrence Coniff on behalf of the Washington Movers Conference; and</p> <p>Jim Tutton, representing Washington Movers Conference</p>	<p>Opposed to staff recommendation. Believes the staff's proposed rule improperly excludes customer packed and sealed self storage containers from Commission regulation. Mr. Coniff argues that because household goods are packed in the containers and the containers are transported over public highways to temporary or long term storage that the transportation is clearly within the Commission's regulatory authority. Mr. Tutton restates Mr. Coniff's position.</p>	<p>Staff respectfully disagrees. The proposed rule is intended to formalize staff opinion of the permit interpretation committee that transportation of storage containers without specialized equipment normally used in moving household goods is considered to be the transportation of general commodities. In reaching this position, staff has considered and reviewed opinions and opinion letters concerning the classification of the transportation of storage containers issued by the Federal Highway Administration and several other states including Oregon State. While no final decision has yet been reached in Oregon, staff believes the initial proposed decision is more appropriate than the most recent substituted proposed order. Staff acknowledges that while the containers may contain household goods but does not believe the transportation of storage containers involves the same type of accessorial services normally provided as a part of household goods services. i.e. packing, loading, unloading, unpacking, and access to consumer goods. Nor does staff believe the transportation of storage containers involves the same need for consumer protection as a typical household goods move.</p> <p>xx</p>
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Entry	Brian McCulloch representing the Association of Independent Movers of Washington (AIMwa)	Support new standards for acquiring authority except: opposed to requiring the carrier to provide personal financial information; proposed rules require new entrants to provide substantially more information and at greater cost to the Commission than existing permit holders. Believes shipper support statements are unnecessary.	Staff respectfully disagrees. Staff believes the same level of financial information is required of new entrants as was required of existing permit holders. In addition, such information is necessary to determine if an applicant will offer a viable service. Staff believes overall costs to the applicant and the Commission will be reduced through fewer hearings. Shipper support is a statutory requirement. However, staff's proposed rules expand what the Commission may consider as shipper support.
	Edward Mitchell, Consumer	Opposed to the Commission considering current and future public need and able to provide service criteria when determining whether to grant temporary or permanent authority to a household goods carrier.	Staff respectfully disagrees. Whether an applicant's service will meet a current or future public need and whether an applicant is fit willing and able to provide service are statutory requirements.
	Jim Tutton representing the Washington Movers Conference	Under proposed rules, movers who have not heretofore operated in compliance with Commission rules will be rewarded by liberal issuance of permits without consideration of other fitness or other statutorily mandated considerations. Unlimited entry will flood the market with movers and destabilize the industry.	Staff respectfully disagrees. While relaxing the current barriers to entry, the proposed rules require applicants to show they are fit and safe to provide service, and require the applicant to show there is a public need for the service as well as that the service is in public interest. The proposed rules are not intended to create unlimited entry but rather to allow those carriers who seek to provide service lawfully to lawfully compete. After giving these carriers an opportunity to comply with state law, the Commission can then focus its enforcement efforts on those who truly do not wish to lawfully compete by obtaining a permit.
	Andrew Ward, Consumer	Urges the Commission to give consumers a choice and responsible, motivated entrepreneurs the opportunity to compete.	Staff agrees and believes the proposed rules will provide consumers with more choice and new entrants an opportunity to provide service in this market.

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<p>Entry Cont.</p>	<p>J. Lawrence Coniff on behalf of the Washington Movers Conference; and</p> <p>Jim Tutton, representing Washington Movers Conference</p>	<p>Believes that the proposed rules concerning applications for temporary and permanent authority attempt to ease entry in ways which violate statutory requirements. Mr. Tutton restates Mr. Coniff's concerns.</p>	<p>Staff respectfully disagrees with Mr. Coniff that the standards of RCW 81.80.070 apply to the Commission's determination of whether to issue temporary authority. The statute governing temporary authority specifies that the Commission may issue temporary authority "only after it finds that the issuance of such temporary permits is consistent with public interest." RCW 81.80.170. However, both the current and proposed rules require the Commission to determine whether granting an application for temporary authority is consistent with the public interest, whether there is a need for the service, and whether the applicant is fit to provide service. See WAC 480-12-033(1)(a), (3), and proposed WAC 480-15-280(2)(4)(a).</p> <p>Staff respectfully disagrees with Mr. Coniff that the proposed rules concerning applications for permanent authority conflict with the statutory requirements of RCW 81.80.070 and the statutory purposes stated in RCW 81.80.020. The criteria set forth in the proposed rules for issuing permanent authority require the applicant to show that it is fit, willing, and able to provide service, that the proposed service will be in the public interest, and that the service is needed to satisfy the current or future public convenience and necessity. See proposed WAC 480-15-330(4),(5), (6). In addition, the proposed rules require the applicant to show that the proposed service will promote a viable yet competitive household goods industry. See proposed WAC 480-15-330(5)(a). The Commission does seek to ease entry into a historically closed market, and has proposed to do so within the requirements established by the legislature for regulating motor carriers.</p>
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<p>Entry Cont.</p>	<p>Jim Tutton, representing Washington Movers Conference</p>	<p>Concerned the Commission's issuance of a temporary permit to an illegal carrier is not in concert with the guidelines of TV-980900 (Commission's interpretive statement) which indicated it was to be used for testing proposed new entry requirements prior to any adoption of new rules. It rewards the illegal operator.</p>	<p>Staff believes issuance of the temporary permit to the carrier who had previously been operating without a permit is in keeping with testing new requirements. Staff does not view the permit as a reward, rather it is an opportunity for the carrier to come into full compliance with Commission rules and regulations. The process used to issue the temporary permit has been evaluated based on this permit issuance and others to test the entry process. Staff continues to evaluate the process to fine tune the applications and required new entrant training.</p>
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<p>Rates - Interim Band 15% above and 35% below current tariff rates in effect on date of adoption.</p>	<p>Scott Creek, Crown Moving Co., Inc., Permitted Carrier</p> <p>Brian McCulloch representing the Association of Independent Movers of Washington (AIMwa)</p> <p>Andrew Ward, Consumer</p>	<p>Opposes Interim Banded Rates - I believe that any drastic change to our present methods of pricing or change of regulations could cause irreparable damage to many businesses in our industry because we have been under regulatory control for so long. Uniform tariff pricing is essential. Without uniform pricing, fair and reasonable charges would be arbitrary and the public would again be at the mercy of the unscrupulous operator. Providing these types of services at fair and reasonable rates should continue to be the responsibility of the industry.</p> <p>Qualified Support of staff's recommendation - If rates must be established a maximum makes sense; staff's proposal appears to protect consumers from overcharging. Customers and carriers should be able to negotiate price and conditions freely. Overtime rates should be eliminated in keeping with the reality of the marketplace.</p> <p>Urges the Commission to reform moving rates and regulations. Believes he saved 25% by not using a permitted carrier for his move.</p>	<p>Staff respectfully disagrees. The proposed rules are intended to create greater consumer choice. Pricing flexibility will promote consumer choice and necessary competition leading to greater efficiencies within the industry and will benefit consumers. Uniform pricing prevents incumbent movers and new entrants from effectively responding to consumer demand.</p> <p>Staff respectfully disagrees. Staff supports a minimum and maximum banded rate to protect consumers from being overcharged at the high end and to protect carriers from predatory pricing at the low end. Overtime rates are more appropriately addressed in the tariff proceeding and are still defined and rated in the tariff.</p> <p>Staff believes the proposed rules provide pricing flexibility and consumers will benefit from the rate band proposal.</p>
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<p>Rates Cont.</p>	<p>Edward Nikula, representing Washington Trucking Association</p>	<p>Opposed to 15% and 35% rate band based on the lack of a fully allocated cost study and believes the rate band does not meet the just, fair, reasonable and sufficient statutory requirement. Recommends the lower rate band be reduced from 35% to 15% and the Commission conduct a fully allocated cost study before approving a banded rate.</p>	<p>Staff respectfully disagrees. The fully allocated cost study method of determining rates would not be appropriate for this industry under the proposed rules. The proposed rules will likely restructure and transform this industry from a closed market to an open one. It would be inappropriate to determine costs for a new market structure based on what has been done in the past. Rather staff proposes to establish a new methodology for setting rates (attachment 2, staff memorandum). Staff believes the method sets a band of rates which is fair, just, reasonable and sufficient. The methodology will be developed not later than October of 1999. Staff expects the new market structure to be well enough developed within 18 to 24 months to conduct a cost study and review the rate band.</p>
	<p>Edward Mitchell, Consumer</p>	<p>Supports rates bands at 15% above and 35% below current tariff rates.</p>	<p>Staff agrees. See comments above.</p>

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<p>Rates Cont.</p>	<p>Jim Tutton, representing Washington Movers Conference</p>	<p>Opposed to percentages recommended by staff of 15% above and 35% below the current tariff. Provided a letter describing 1998 hourly costs at \$87.00 per hour for 2-Men and a Truck.</p>	<p>Staff respectfully disagrees. The data Mr. Tutton provided represents average costs under the current market structure. The fact that the costs are averaged indicates a range of costs exist. Staff believes the proposed rules will create a new open market where a greater range of services is offered. Further, staff does not believe a fully allocated cost study is an appropriate method to set rates for a competitive market structure. (Please refer to attachment #2, staff memorandum).</p>
	<p>Jim Tutton, representing Washington Movers Conference</p>	<p>Believes the proposed temporary rate bands will cause the deterioration of the household goods industry and the service it provides because of :</p> <ol style="list-style-type: none"> 1. A change from a trained, steady work force to the increased use of untrained intermittent, temporary labor; 2. A delay in the normal replacement of motor vehicles and equipment and a concern for the safety of the moving company’s personnel and that of the public with the potential for unsafe vehicles on the roadways; 3. The proper protective packing and handling of the consumers household goods. 	<p>Staff believes the new market structure will provide an opportunity for companies to expand their markets and services and compete based on price and service. This will be of great benefit to consumers who will be able to more effectively negotiate the price of a move. Staff acknowledges that some companies may not be able to make the transition into the new marketplace but others will flourish under a system of greater opportunity (see Attachment #2).</p> <p>Staff believes the industry already uses a significant amount of temporary labor and future use may fluctuate to a greater degree.</p> <p>Proposed rules require compliance with federal safety equipment standards. Staff believes carrier safety standards will not decrease and compliance staff performs safety inspections.</p> <p>Commission rules require the carrier to assume responsibility for the goods they transport and carry cargo insurance to meet these responsibilities.</p>

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<p>Rates Cont.</p>	<p>Jim Tutton, representing Washington Movers Conference</p> <p>Jim Tutton, representing Washington Movers Conference</p> <p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference</p> <p>Jim Tutton, representing Washington Movers Conference</p>	<p>The Washington Movers Conference supports banded rates at 10% above and 10% below with the elimination of Binding Estimates as an option. Mr Tutton states one potential new household goods carrier testified that he did not think he could effectively operate at discounted rates as low as \$55.28 per hour for hourly rated moves (35% discount). This indicates new companies may fail with inexperienced leadership.</p> <p>Mr. Tutton also believes the use of data from the Office of State Procurement (OSP) is unrealistic because state employees moves account for only 1/3 of 1% of household goods moves conducted annually in the state of Washington.</p> <p>Opposed to the banded rates because of failure to perform a fully allocated rate study. Staff's recommendation is not rational and the banded rates do not promote fair competition.</p> <p>Under the proposed rules predatory market activities will prevail.</p>	<p>Staff respectfully disagrees with the banded rate percentages proposed by the Washington Movers Conference. These percentages would not give the industry enough flexibility to fully develop new services. Staff does not expect carriers to charge a rate below their break even point. Staff believes new services will be offered at the lower rate or carriers through increased efficiencies will be able to offer lower rates.</p> <p>The OSP data indicates that discounts of up to 40% off the tariff rate have been offered. Staff believes although the sample is small it shows the carriers may offer lower rates. The banded rates are set at a level that allows the new market structure to define itself without unnecessary restrictions.</p> <p>Staff respectfully disagrees. Staff believes a fully allocated cost study is not appropriate for the new market structure. Staff's explanation is more fully described in Attachment #2. Staff believes the new rate structure will promote fair competition and considerable research and effort has been devoted to this issue.</p> <p>Staff has considered Mr. Tutton's concern regarding predatory pricing. Staff's original proposed rule draft proposed a maximum rate only. Staff added a price floor in response to concerns of predatory pricing. Staff believes the bottom band of 35% below the existing tariff addresses this concern. See Attachment #2, staff memorandum.</p>
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<p>Valuation -</p>	<p>Brian McCulloch representing the Association of Independent Movers of Washington (AIMwa)</p>	<p>Support improved valuation coverage but opposed to charging the customer for coverage.</p>	<p>Staff respectfully disagrees. Valuation costs are addressed in the tariff rather than the rule and do have a cost associated with increased level of coverage. The structure for pricing valuation is based on the level of risk the consumer is comfortable assuming. The less risk the consumer wants to assume the greater the cost to the consumer. Conversely, if a consumer wants to assume greater risk or doesn't believe their property holds great value but has a responsibility to get the goods moved, the consumer may choose the no cost option which would reimburse the consumer at 60 cents, per pound, per item in the case of loss or damage. Staff held a meeting with stakeholder representatives, including an insurance broker who advises the Movers Conference, on this specific issue and received numerous suggestions for improvement and incorporated many of the suggestions of the consumer notice. Staff supports the different valuation levels because they provide a consumer with choice. In part, to address Mr. McCulloch's concerns, staff is proposing in the tariff proceeding that a carrier be allowed to resolve loss and damage claims with their customers without regard to valuation coverage. Staff also believes this tariff item will provide carriers an opportunity to satisfy their customers and consumers will benefit.</p>
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<p>Compliance</p>	<p>Representative Georgia Gardner, 42nd District</p> <p>J. Lawrence Coniff, Attorney on behalf of the Washington Movers Conference; and</p> <p>Jim Tutton, representing Washington Movers Conference</p>	<p>Encourages the Commission to adopt rules that will protect licensed movers, consumers, and workers. Believes failure to take enforcement actions against unlicensed operators will create unfair competition with the permitted carriers, will put consumers at greater risk and will promote unfair treatment for employees by paying employees “under the table” and not providing benefits that they are entitled to get.</p> <p>Believes the Commission will not be able to adequately enforce the proposed rules due to insufficient funding for trained compliance personnel. The Washington Movers Conference has offered to support legislative action to increase funding levels for enforcement.</p>	<p>Staff believes the proposed rules provide a framework that encourages unlicensed carriers to come into compliance and identifies the steps the Commission will take if the carrier fails to do so. The Commission has pursued unlicensed carriers through administrative hearings and the courts and will continue to do so if the evidence warrants such action.</p> <p>Staff respectfully disagrees that the Commission will not be able to adequately enforce the proposed rules. The proposed rules will implement the goals and intent of Governor’s Executive Order 94-07 and state law (See RCW Chapter 43.05) encouraging agencies to promote voluntary compliance with statutes and rules by providing technical assistance. Easing entry standards and allowing those who seek to lawfully transport household goods in compliance with state statutes and rules is staff’s goal. Where persons do not voluntarily comply or do not comply after receiving technical assistance, the Commission believes it is capable of enforcing the proposed rules and underlying statutes. While staffing levels for enforcement have decreased since the early 1990's, the Commission retains sufficient motor vehicle compliance staff to enforce the proposed rules.</p> <p>Of course, staff welcomes and appreciates the Washington Mover’s Conference’s support for increased funding levels to improve the Commission’s enforcement efforts.</p>
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<p>Percentage Limits on Non-Binding Estimates- A carrier may charge a consumer no more than 25% above an estimate for an hourly rated move and no more than 15% above an estimate for a weight and distance rated move.</p>	<p>Senator Mary Margaret Haugen, 10th Legislative District</p> <p>Scott Creek, Crown Moving Co., Inc.</p>	<p>Opposes the 25% cap for hourly rated moves- recommends the cap be reduced to 15% for hourly rated moves.</p> <p>Believes the Commission should say no to heavily discounted banded rates, binding estimates or any sort of rate capping. These are only tools of destructive rate making and deception tactics and can be used to unfairly dupe the consumers into making a wrong choice.</p>	<p>Staff respectfully disagrees. Staff believes a 25% cap on the amount a consumer must pay is appropriate as it conforms with the percentage a carrier may be penalized by the Commission for underestimating. Currently, a carrier may be penalized by the Commission for underestimating (or lowballing) but the consumer must still pay the full amount. There is no protection for the consumer. This percentage cap is a new proposed rule where previously there was no cap on what a carrier could charge above the non-binding estimate.</p> <p>Staff respectfully disagrees. Staff believes the proposed rules include measures that prevent carriers from engaging in deceptive practices. Consumer information will allow consumers to make informed choices.</p>
<p>Binding Estimates Allows carriers the option of offering binding estimates</p>	<p>Jim Tutton, representing Washington Movers Conference; and,</p> <p>Rick Smith, Corporate Moving Systems; and,</p> <p>Scott Creek, Crown Moving Co., Inc.</p>	<p>Believes a binding estimates option has no business being considered in an economically regulated environment where tariff rates must be charged, by law. Believes a binding estimate will lead a consumer to assume the cost of their move will not change and has been used to lead a consumer to believe they are getting the best possible price for their move.</p>	<p>Staff respectfully disagrees. The two concepts are not mutually exclusive as is evidenced by carrier practices at the interstate household goods moving level. Staff believes consumers will benefit from the option of a binding estimate and carriers who choose to offer one can do so within the banded rate in the proposed rules. Staff expects if a consumer does not change the scope of the work to be completed, the binding estimate will not change. However, if a consumer does request additional services a supplemental estimate can be completed which will change the final bill to the consumer. Staff believes a binding estimate will not provide the consumer will the lowest possible cost but will be requested by consumers who are more comfortable with a fixed price for the service.</p>

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<p>Supplemental Rates - Carriers must charge the same rate to a consumer on a supplemental estimate as was given on the original estimate</p>	<p>Jim Tutton, representing Washington Movers Conference</p>	<p>Believes this rule does not provide an exception to the carrier when the cause of the supplemental estimate is the fault of the consumer.</p>	<p>Staff acknowledges there is no exception for the carrier. Staff added this clarifying rule when Mr. Tutton described the way an unscrupulous carrier could give an estimate at the low end of the hourly rate band knowing it could jack up the price by using a supplemental estimate at a higher hourly rate. Staff believes the benefit to the consumer outweighs the cost to the carrier. A carrier may decline to provide more services than are included on the estimate or can provide, using a supplemental, the additional services requested by the consumer at the same hourly rate as was quoted on the original estimate.</p>
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<p>Permit Devaluation</p>	<p>J. Lawrence Coniff on behalf of the Washington Movers Conference</p>	<p>Believes household goods permits will be devalued because of staff’s proposed rules. The economist who included a discussion of permit devaluation in the Small Business Economic Impact Statement (SBEIS) is flawed because:</p> <ol style="list-style-type: none"> 1. The “real value of the permits was based on permit sales which occurred prior to deregulation of motor freight in 1980. No effort is made to segregate pre-1980 and post-1980 permit sales. No data is presented to support the statement that “primary permit value was reduced to only a small function of the business of household goods movers because of deregulation of motor freight and office moving services. This argument acknowledges that there is value in a permit, but fails to quantify it. Contemporary evidence refutes this argument (see Tutton comments.) 2. No value is ascribed to a permit as an investment even though the carrier paid for an existing permit. This is <u>non sequitur</u>. Because the Commission does not recognize a permit as an investment for rulemaking does not bear on the question of whether a permit has market value. 3. The Commission does not allow inclusion of the cost of an existing permit to be included in development of tariff rates for household goods movers. Thus it is argued that the permit has no value. This argument ignores the reality of the marketplace and the past practice of the Commission which recognizes, in other contexts, the fact that permits have real economic value, e.g. approval of assignments. 4. The Commission’s obligation to regulate the business of moving household goods “in the public interest” and only issue permits when justified by “public convenience and necessity” means, <u>in economic terms</u>, that the permit has no value. 	<p>Staff acknowledges permits may be devalued on the open market. The proposed rules are adopted similarly to what happened after the Federal Aviation Administration Act of 1994 which deregulated commercial moves, and the ICC Termination Act of 1995 which redefined household goods. The comments in the SBEIS were provided by an economist, hired by the Commission, who stated his views as an economist. However, SBEIS requirements do not include measuring the effect of permit value or devalue due to rule changes. The Commission is required to measure the administrative costs of complying with rule changes. Whether or not household goods permit authority will be devalued is not an administrative cost of complying with the proposed rules. Further, since the Commission assigns no value to a permit, data is not available to determine the value of these permits on the open market. Mr. Tutton supplied written comments that changed the value from \$20,000 - \$25,000 to \$40,000. However, one member of the conference stated, under the current structure given the number of illegal carriers who did not follow the same rules and regulations as regulated carriers, his permit had no value.</p>
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Permit Devaluation Cont.	Edward Nikula representing the Washington Trucking Association	Household moving permits have been sold or transferred for value since federal deregulation of interstate transportation of general commodities in 1980. This statement is accurate even though WUTC, for rulemaking purposes, does not recognize investment value in household moving permits.	Although permit transfers have been approved by the Commission and will continue to be approved under the proposed rules, market value assigned by the carriers holding the permit was never a consideration. The authority to transfer a household goods permit is based on fitness of the applicant and other considerations.
Waiver of Rules	Jim Tutton, representing Washington Movers Conference	Opposes the “Waiver of Rules” proposed rule (WAC 480-15-030) because guidelines or standards regarding when the Commission would grant a waiver of rule is not stated.	Staff believes standards are stated as follows: ... when doing so is consistent with the public interest, the purposes underlying regulation, and sound public policy, and is consistent with applicable statutes. Further, a comparable rule exists in other industry rules regulated by the Commission.

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<p>Other: Permit Expiration Date</p>	<p>Edward Mitchell, Consumer</p>	<p>Expressed concern that permanent household goods permit authority is granted without an expiration date and there is no requirement to renew.</p>	<p>Staff believes a permit expiration date is not needed in this industry. The Commission does have the authority to cancel permit authority for statute or rule violations. Further, through the annual report process, the Commission does have the ability to ask for any information necessary to review company activities on an annual basis or on demand. Statutory authority requires the Commission to grant permanent permit authority until it is canceled for cause. The proposed temporary permit process is designed to review carrier competency before granting permanent authority.</p>
<p>Competency Training</p>	<p>Edward Mitchell, Consumer</p>	<p>Indicates there is a need for competency training.</p>	<p>Staff believes the need for competency training is accomplished through the Commission's technical assistance program which includes education and training in all aspects of statute and rule requirements and also includes portions of Title 49 of the Code of Federal Regulations, which have been adopted by the Commission and contain equipment safety, driver safety, and mandatory driver drug testing programs.</p>

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Consumer Protection Enhancements	Edward Mitchell, Consumer	<p>Suggests several enhancements to the Commission’s brochure, “Rights and Responsibilities of a Moving Company Customer” including:</p> <ol style="list-style-type: none"> 1. Review the military brochure, “It’s Your Move” for ideas on how to improve WUTC’s brochure. 2. Include the Commission’s URL Internet address in the brochure. 3. Review the State of Illinois’s Consumer Guide for ideas on how to improve WUTC’s brochure. 4. Include language that notifies the consumer that “moving may increase the risk of damage and loss to your property,” and “your driver should also sign the bill of lading acknowledging that he has delivered the goods to the destination.” 5. Use a code to identify box contents, videotape the load and unload process, etc. 	<p>Staff agrees that Mr. Mitchell has offered good suggestions for improving information provided to consumers. The proposed rules refer to the minimum information that must be in the guide and allows the Commission to add information to the guide and present information in any format that increases readability and consumer information. Staff believes Mr. Mitchell’s suggestions can be accomplished without changes to the proposed rules and has encouraged the Commission’s brochure writers to incorporate his suggestions in the brochure. Staff has also requested copies of the documents he refers to.</p>
Cash Payment	Edward Mitchell, Consumer	<p>Believes cash payments to workers in the household goods moving industry may be used to circumvent taxes and worker accountability.</p>	<p>Staff contacted the WMC and asked if cash payments to workers was commonplace. Mr. Tutton responded that it was not a common practice in the industry. Anecdotal information received by the Commission indicates it may occur but does not appear to be commonplace. Staff believes the form of wage payment and other issues between the employer and employee is governed by other state and federal agencies. However, the proposed rules require a carrier to comply with other federal and state statutes and rules. Further, the application for new entrants will require applicants to sign a declaration that they are in compliance with other state and federal laws and rules.</p>

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<p>Establish a mechanism to collect and report service reliability and quality.</p>	<p>Edward Mitchell, Consumer</p>	<p>Suggests collecting loss and damage statistics and making that information available to the public, including publishing on the Internet.</p>	<p>Staff agrees Mr. Mitchell's suggestion is a good idea and would provide consumers with valuable information. Staff believes these suggestions can be accomplished outside the rulemaking and will be considered with the next annual report revision. Publishing on the Internet is in keeping with the Commission's strategic technology plan and will be considered outside the rulemaking.</p>
	<p>Edward Mitchell, Consumer</p>	<p>Suggests requiring carrier pack and load employees to identify themselves on the bill of lading. He believes this measure would increase accountability.</p>	<p>Staff considered this suggestion and considered an alternate rule that would require carriers to be able to identify specific employees who worked on a specific move if requested by the Commission or a law enforcement agency. Ultimately, staff believes a rule such as this would not be consistent with rules the Commission has for other regulated industries and such a rule would not be consistent with Governor Locke's Executive Order 97-02. Staff believes Mr. Mitchell's suggestion could be incorporated into the consumer brochure as a question to be asked of potential carriers. Staff believes the responsibility and accountability for the goods to be moved is the carriers and proposed rules already require that responsibility.</p>