

VIA FAX

Date Received: August 4, 1998

Docket No.: TV-971477

Company: Amends WAC 480-12, Relating to Household Goods Movers

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WASHINGTON MOVERS CONFERENCE

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Jay Lawley
Managing Director

August 4, 1998

Ms Pat Dutton, Program Manager
Transportation
Washington Utilities and Transportation Commission
P.O. Box 47250
Olympia, WA 98504-7250

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OFFICE OF THE
COMMISSIONER

Dear Pat,

Re: Household Goods Rulemaking Docket No. TV-971477, Draft 4-C dated July 15, 1998.

We and our groups have worked diligently through the Household Goods Rulemaking process and have achieved some consensus along the way that will, to some degree, strengthen the professional, certificated, household goods industry within the State of Washington. Good progress was made in easing entry into the industry and strengthening the Commission's enforcement and compliance criteria. While it was my hope and desire to achieve complete consensus on the issues presented to us through responsible discussion and keeping the best interests of the consumer at the forefront prior to the CR102 Open Meeting before the Commissioners on August 12, 1998, it now appears that will not be the case. The two remaining critical issues, in my opinion, we were not able to reach consensus on are: (1) the use of a "Firm Bid" Binding Estimate and, (2) the Tariff structure for rates and charges.

However, in the interest of continuing our dialog, the following comments, although rushed in preparation because of the short time frame provided by the Commission at the last WUTC hosted Household Goods Rulemaking Open Meeting held July 29, 1998, are submitted as requested. New language is shown by underline.

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Request the last sentence be changed as follows - This includes the transportation over the public highways of the State of Washington for compensation residential customer packed and sealed self-storage type containers when provided by the motor carrier.

"Committed To Excellence"

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Discussion: Personal effects and property picked up at a private residence at the request of the consumer and transported over the public highways for compensation by a motor carrier are, by definition, household goods. The type of container the personal effects or property (HHG) are placed into is inconsequential. They may be placed into boxes, crates, vaults, or specifically designed storage containers, etc.; but once placed onto or into the motor carrier's truck for transportation over the public highways for compensation - the regulated activity is the transportation of household goods over the public highways from a residence to another destination whether temporary or permanent. To apply a different standard for new programs initiated by public storage businesses is unfair.

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Discussion: This additional information should be required by the Commission for effective contact with the permit holder.

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Entire Part 1.3 is weak. Please see previously submitted revision of this Part 1.3 at enclosure 1.

Discussion: Without strong enforcement and compliance procedures in place for the HHG rules developed by the WUTC staff, particularly with the proposed new ease of entry, regulation of the HHG industry by the Commission for the benefit of the consumer will be meaningless.

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Add new (6). Date of issue.

Discussion: Additional information needed to set date of issue of the permit.

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Discussion: To provide the ability to control and maintain an economically stabilized and professional HHG carrier base in these large metropolitan population centers within Washington State.

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L. Line 1166, WAC 480-15-620 What information must I provide to each shipper?

Delete this sentence in its entirety.

Discussion: Both forms of estimates, Binding and Non-Binding, include the language "this estimate includes only the items and services listed herein, any additional items or services not included in the original estimate will be assessed additional charges at lawful tariff rates." Certainly price certainty is an important aspect for all parties involved in any transaction. However, because of the typical changes which occur during the preparation of the household goods move, and the possibilities of changes or complications which often occur during the move, by providing a customer absolute certainty of no change in the final price for the move would be misleading. Many of the issues that are dealt with today by both Commission enforcement staff and professional movers regarding underestimating are a result of unanticipated changes or unforeseen circumstances which occurred during the relocation process. Adjustments for additional services or items shipped must be compensated for. Additionally, many customers moving for the first time perceive that by receiving a "Firm Bid" or Binding Estimate provides concrete assurance their costs for the move are not going to change. Further, this concept has been deceptively used as a sales tool by unscrupulous movers to dupe the customer into believing that they are getting the best possible price for their move. This is not only unfair to the customer but typically results in an unfair pricing tactic against the competition, commonly referred to as "Low Balling".

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Discussion: For two or more HHG movers to partner together where Mover A does the packing and loading at non-Tariff rates, Mover B provides the transportation from origin to destination at Tariff rates, and possibly Mover C does the unloading and unpacking at destination at non-Tariff rates is a practice attempted to circumvent HHG regulations and the applicable Tariff charges. This practice is illegal!

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Change as follows: ... services must be listed on a supplemental estimate and you must, by signature, accept the supplemental estimate.

Discussion: The use of the phrase, "by signature", properly acknowledges the actions described on the supplemental estimate by the customer.

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Delete this paragraph dealing with "Binding Estimates" whether optional or not.

Discussion: Same as discussion listed at paragraph L.

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Discussion: This description lets the consumer know that this level of protection is at the low end of the scale.

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Change this sentence as follows: You should think carefully before selecting this level of protection.

Discussion: This new wording puts the responsibility of choice with the consumer. There is no "arrangement" between the consumer and the HHG carrier.

T. Lines 1347, WAC 480-15-620 Bill of Lading on Distance Shipments, and 1354, Bill of Lading on time rated shipments.

Change these sentences as follows: the cost for valuation protection; and

Discussion: See discussion for paragraph Q.

U. Line 1413, WAC 480-15-630 Estimates.

Delete the entire paragraph relating to Binding Estimates.

Discussion: See discussion for paragraph L.

V. Line 1456, WAC 480-15-650 Forms of estimates.

Change this sentence as follows: This non-binding estimate covers ...

Discussion: This corrective change clearly describes the estimate.

W. Line 1517, WAC 480-15-700 What are the Commission guidelines in deciding to assess monetary penalties for underestimates?

Change this sentence as follows: On long distance rated moves, the actual total charges exceed the estimated and supplemental estimated charges by ...

Discussion: This change adds the supplemental estimate to the process.

X. Line 1520, WAC 480-15-700 What are the Commission guidelines in deciding to assess monetary penalties for underestimating?

Change this sentence as follows: the actual time charges exceed the estimated and supplemental estimated time charges ...

Discussion: This change adds the supplemental estimate to the process.

Y. Line 1557, WAC 480-15-750 How do I verify the weight of mileage rated shipments of household goods?

Change this sentence as follows: How do I verify the weight of distance rated shipments of household goods?

Discussion: This change clearly identifies the type of shipment.

Z. Line 1637, WAC 480-15-800 What if a shipper is not satisfied with my service?

Add the following: The shipper must pay all legal charges for the relocation move prior to filing a claim for loss or damage.

Discussion: This addition makes it clear when a shipper can file a claim for loss and damage.

AA. Line 1774, WAC 480-15-940 Insurance Requirements.

Add the following to the WAC title: Insurance Requirements for Interstate Carriers

Discussion: This addition clearly identifies the type of carrier this WAC paragraph pertains to.

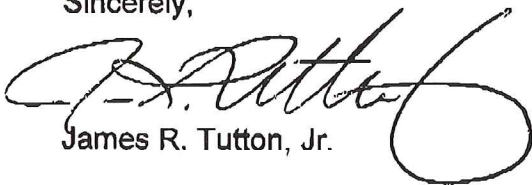
BB. Line 1775, WAC 480-15-940 Insurance Requirements.

Make the following change to this sentence: ... interstate operations must provide evidence ...

Discussion: This corrective change clarifies the requirement.

Should there be an opportunity for additional discussion prior to the August 12, 1998, Hearing before the Commissioners, please give me a call at (800) 732-9019.

Sincerely,


James R. Tutton, Jr.

Enclosure

Enclosure 1

COMPLIANCE AND ENFORCEMENT

Part 1.3 - Compliance and Enforcement

WAC 480-15-xxx What is the Commission's compliance policy?

The legislature has empowered the commission to administer and enforce the laws, rules and regulations relating to the inspection of vehicles, vehicle records and operational logs, business financial records, insurance certificates, billing documents, and shipment files of motor carriers of household goods; and to effectively and expeditiously prosecute violations that are found.

The commission's policy will be to direct its efforts initially towards voluntary compliance with the laws, rules and regulations relating to motor carriers of household goods through a program which emphasizes remedial education and technical assistance.

WAC 480-15-xxx What is included in the Commission's compliance program?

The commission may authorize staff to perform onsite or roadside compliance audits of motor carriers of household goods. Onsite compliance audits can include inspection of vehicles and equipment, vehicle and equipment records, business financial records, insurance certificates, billing documents, tariffs, and household goods shipment files. Roadside compliance audits can include safety inspection of vehicles and vehicle and driver records.

The commission's compliance program for motor carriers of household goods will consist of:

- Providing educational and technical review assistance;
- Performing customer complaint investigation and informal dispute resolution;
- Conducting informal and formal company complaint investigations;
- Performing vehicle, driver and equipment safety compliance reviews;
- Conducting necessary economic (rates, charges, billing practices, etc.) compliance audits;
- Conducting roadside safety enforcement reviews;
- Initiating and formalizing cooperative agreements with other state agencies for applicable compliance reviews of motor carriers of household goods;
- Assessing necessary monetary penalties;
- Issuing necessary suspensions or cancellations of household goods permit authority, and;

Enforcement of all laws, rules, and regulations pertaining to motor carriers of household goods.

WAC 480-15-xxx Can the Commission issue monetary penalties or suspend or cancel my Household Goods Permit Authority?

The commission may assess monetary penalties under provisions contained in Title 81.04 RCW. Monetary penalties are intended as a tool of enforcement and remediation. The commission may assess monetary penalties upon discovery of violations in a manner that it believes will best assure future compliance with laws, rules and regulations by the violating motor carrier of household goods.

The commission may also suspend or cancel a household goods permit authority. Suspension and cancellation actions are intended for circumstances in which the commission believes previous education and technical assistance and/or assessment of monetary penalties have not been or will not be effective in securing compliance with the laws, rules and regulations pertaining to motor carriers of household goods. Cancellation of a household goods permit authority is mandatory for serious acts including fraud or misrepresentation and willful violation of legal requirements.

No operations may be conducted under a household goods permit authority that has been suspended or canceled.

WAC 480-15-xxx Why would the Commission suspend my Permit Authority

Upon reasonable notification of intent, the commission can suspend your permit authority for cause. Specific causes include, but are not limited to, circumstances in which:

You fail to comply with the laws, rules and regulations applicable to motor carriers of household goods;

You fail to maintain evidence of required cargo and liability insurance coverage for all areas of your operation;

You fail to maintain your household goods tariff and adhere to the rules and rates contained therein;

You fail to perform within safe operating standards that insures protection of the public's health and/or safety.

The commission repeatedly receives complaints from consumers about your household goods packing, loading or protection of goods from loss or damage procedures, estimating process, and/or billing practices.

WAC 480-15-xxx What if my Permit Authority is suspended for cause?

Following a proper investigation of probable cause by commission staff, you will receive notice

of the commission's action to suspend your permit authority. The suspension of permit authority is effective with the service date of the notice.

Suspension action may take place without a hearing when commission staff believes there is imminent danger to the public's health, safety or welfare, and there is insufficient time to conduct a suspension hearing.

You may contest the suspension of your permit authority by requesting a brief adjudication or an adjudicative proceeding.

We may reinstate your suspended permit authority following necessary corrective action of the conditions leading to suspension and payment of the applicable reinstatement fee.

WAC 480-15-xxx Why would the Commission cancel my Permit Authority?

Upon reasonable notification of intent, the commission can cancel your permit authority for cause. Specific causes include, but are not limited to, circumstances in which:

You fail to file your Annual Report or pay the required regulatory fees;

You fail to correct the conditions that led to the suspension of your permit authority within the time frame specified in the suspension order;

You commit or continue to allow existing violations of pertinent requirements of laws, rules or regulations affecting the public's health, safety or welfare when the commission has reason to believe you would not comply following a specified period of suspension;

You repeatedly fail or refuse to comply with applicable laws, rules or regulations pertaining to motor carriers of household goods;

You fail to comply with the commission's request for information or you submit false, misleading, or inaccurate information, necessary to the commission for the performance of its regulatory functions.

WAC 480-15-xxx What if my Permit Authority is canceled for cause?

The commission will hold a hearing prior to canceling your permit authority, unless your permit authority is being canceled because you failed to correct the causes of a suspension within the specified time frames contained within the suspension notice.

You may apply to reinstate your permit authority if, within 30 days of the cancellation, you correct the cause(s) of the cancellation and file a reinstatement application along with payment of the non-refundable reinstatement fee. Your reinstatement application will be subject to a commission Docket Hearing.

WAC 480-15-xxx How will the Commission provide enforcement against Household Goods Carriers whose Permit Authority has been canceled?

If, immediately following the cancellation of the motor carrier's household goods permit authority, it is determined by the commission's enforcement officers the motor carrier is continuing to perform in-state household goods operations, the commission will institute expeditious legal action against the carrier in the respective District Court within the State of Washington.

WAC 480-15-xxx How will the Commission provide enforcement against non-Permitted Household Goods Carriers?

Dedicated commission enforcement officers will, upon notification from any responsible individual or party that a motor carrier is performing household goods relocations without a household goods permit authority, contact the non-permitted carrier and provide educational and technical assistance on the laws, rules and regulations that apply to the regulation of motor carriers of household goods within the State of Washington.

Following 30 days of the initial visit to the non-permitted carrier and there is no evidence at the commission offices of a request for household goods temporary permit authority, a follow-up visit will be made to the last or best known location of the non-permitted carrier to determine if the carrier is continuing to operate as a household goods carrier without the required permit authority.

Having been provided the opportunity to obtain a permit authority and yet it is believed the motor carrier is continuing to operate without a permit authority, the commission enforcement officer will so note this fact in his report to the commission. The commission will immediately take action to institute a special proceeding requiring such person or corporation to appear before the commission in accordance with RCW 81.04.510.

If, during the special proceeding mentioned above it is determined the motor carrier is operating as a carrier of household goods without the required household goods permit authority, the commission will issue cease and desist orders to the party(s) involved in the operations or acts.

If, following issuance and receipt of the cease and desist order by the non-permitted carrier, it is determined through proper investigation by the commission there is continued household goods operations requiring a household goods permit authority, the commission will institute all necessary legal action against the non-permitted carrier in the respective District Court within the State of Washington.

WAC 480-15-xxx If I report a law, rule, or regulation violation, will you keep my name and address confidential?

Yes, by your written request, we will keep your name and address confidential when you report a suspected law, rule, or regulation violation by a permitted or non-permitted motor carrier of household goods.

- End of Part 1.3 -



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W. Line 1517, WAC 480-15-700 What are the Commission guidelines in deciding to assess monetary penalties for underestimates?

Change this sentence as follows: On long distance rated moves, the actual total charges exceed the estimated and supplemental estimated charges by ...

Discussion: This change adds the supplemental estimate to the process.

X. Line 1520, WAC 480-15-700 What are the Commission guidelines in deciding to assess monetary penalties for underestimating?

Change this sentence as follows: the actual time charges exceed the estimated and supplemental estimated time charges ...

Discussion: This change adds the supplemental estimate to the process.

Y. Line 1557, WAC 480-15-750 How do I verify the weight of mileage rated shipments of household goods?

Change this sentence as follows: How do I verify the weight of distance rated shipments of household goods?

Discussion: This change clearly identifies the type of shipment.

Z. Line 1637, WAC 480-15-800 What if a shipper is not satisfied with my service?

Add the following: The shipper must pay all legal charges for the relocation move prior to filing a claim for loss or damage.

Discussion: This addition makes it clear when a shipper can file a claim for loss and damage.

AA. Line 1774, WAC 480-15-940 Insurance Requirements.

Add the following to the WAC title: Insurance Requirements for Interstate Carriers

Discussion: This addition clearly identifies the type of carrier this WAC paragraph pertains to.

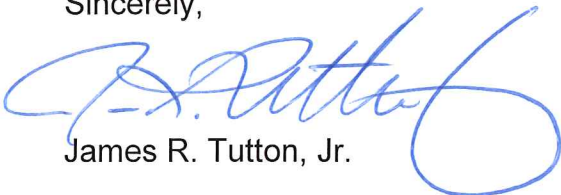
BB. Line 1775, WAC 480-15-940 Insurance Requirements.

Make the following change to this sentence: ... interstate operations must provide evidence ...

Discussion: This corrective change clarifies the requirement.

Should there be an opportunity for additional discussion prior to the August 12, 1998, Hearing before the Commissioners, please give me a call at (800) 732-9019.

Sincerely,



James R. Tutton, Jr.

Enclosure

COMPLIANCE AND ENFORCEMENT

Part 1.3 - Compliance and Enforcement

WAC 480-15-xxx What is the Commission's compliance policy?

The legislature has empowered the commission to administer and enforce the laws, rules and regulations relating to the inspection of vehicles, vehicle records and operational logs, business financial records, insurance certificates, billing documents, and shipment files of motor carriers of household goods; and to effectively and expeditiously prosecute violations that are found.

The commission's policy will be to direct its efforts initially towards voluntary compliance with the laws, rules and regulations relating to motor carriers of household goods through a program which emphasizes remedial education and technical assistance.

WAC 480-15-xxx What is included in the Commission's compliance program?

The commission may authorize staff to perform onsite or roadside compliance audits of motor carriers of household goods. Onsite compliance audits can include inspection of vehicles and equipment, vehicle and equipment records, business financial records, insurance certificates, billing documents, tariffs, and household goods shipment files. Roadside compliance audits can include safety inspection of vehicles and vehicle and driver records.

The commission's compliance program for motor carriers of household goods will consist of:

- Providing educational and technical review assistance;
- Performing customer complaint investigation and informal dispute resolution;
- Conducting informal and formal company complaint investigations;
- Performing vehicle, driver and equipment safety compliance reviews;
- Conducting necessary economic (rates, charges, billing practices, etc.) compliance audits;
- Conducting roadside safety enforcement reviews;
- Initiating and formalizing cooperative agreements with other state agencies for applicable compliance reviews of motor carriers of household goods;
- Assessing necessary monetary penalties;
- Issuing necessary suspensions or cancellations of household goods permit authority, and;

Enforcement of all laws, rules, and regulations pertaining to motor carriers of household goods.

WAC 480-15-xxx Can the Commission issue monetary penalties or suspend or cancel my Household Goods Permit Authority?

The commission may assess monetary penalties under provisions contained in Title 81.04 RCW. Monetary penalties are intended as a tool of enforcement and remediation. The commission may assess monetary penalties upon discovery of violations in a manner that it believes will best assure future compliance with laws, rules and regulations by the violating motor carrier of household goods.

The commission may also suspend or cancel a household goods permit authority. Suspension and cancellation actions are intended for circumstances in which the commission believes previous education and technical assistance and/or assessment of monetary penalties have not been or will not be effective in securing compliance with the laws, rules and regulations pertaining to motor carriers of household goods. Cancellation of a household goods permit authority is mandatory for serious acts including fraud or misrepresentation and willful violation of legal requirements.

No operations may be conducted under a household goods permit authority that has been suspended or canceled.

WAC 480-15-xxx Why would the Commission suspend my Permit Authority

Upon reasonable notification of intent, the commission can suspend your permit authority for cause. Specific causes include, but are not limited to, circumstances in which:

You fail to comply with the laws, rules and regulations applicable to motor carriers of household goods;

You fail to maintain evidence of required cargo and liability insurance coverage for all areas of your operation;

You fail to maintain your household goods tariff and adhere to the rules and rates contained therein;

You fail to perform within safe operating standards that insures protection of the public's health and/or safety.

The commission repeatedly receives complaints from consumers about your household goods packing, loading or protection of goods from loss or damage procedures, estimating process, and/or billing practices.

WAC 480-15-xxx What if my Permit Authority is suspended for cause?

Following a proper investigation of probable cause by commission staff, you will receive notice

of the commission's action to suspend your permit authority. The suspension of permit authority is effective with the service date of the notice.

Suspension action may take place without a hearing when commission staff believes there is imminent danger to the public's health, safety or welfare, and there is insufficient time to conduct a suspension hearing.

You may contest the suspension of your permit authority by requesting a brief adjudication or an adjudicative proceeding.

We may reinstate your suspended permit authority following necessary corrective action of the conditions leading to suspension and payment of the applicable reinstatement fee.

WAC 480-15-xxx Why would the Commission cancel my Permit Authority?

Upon reasonable notification of intent, the commission can cancel your permit authority for cause. Specific causes include, but are not limited to, circumstances in which:

You fail to file your Annual Report or pay the required regulatory fees;

You fail to correct the conditions that led to the suspension of your permit authority within the time frame specified in the suspension order;

You commit or continue to allow existing violations of pertinent requirements of laws, rules or regulations affecting the public's health, safety or welfare when the commission has reason to believe you would not comply following a specified period of suspension;

You repeatedly fail or refuse to comply with applicable laws, rules or regulations pertaining to motor carriers of household goods;

You fail to comply with the commission's request for information or you submit false, misleading, or inaccurate information, necessary to the commission for the performance of its regulatory functions.

WAC 480-15-xxx What if my Permit Authority is canceled for cause?

The commission will hold a hearing prior to canceling your permit authority, unless your permit authority is being canceled because you failed to correct the causes of a suspension within the specified time frames contained within the suspension notice.

You may apply to reinstate your permit authority if, within 30 days of the cancellation, you correct the cause(s) of the cancellation and file a reinstatement application along with payment of the non-refundable reinstatement fee. Your reinstatement application will be subject to a commission Docket Hearing.

WAC 480-15-xxx How will the Commission provide enforcement against Household Goods Carriers whose Permit Authority has been canceled?

If, immediately following the cancellation of the motor carrier's household goods permit authority, it is determined by the commission's enforcement officers the motor carrier is continuing to perform in-state household goods operations, the commission will institute expeditious legal action against the carrier in the respective District Court within the State of Washington.

WAC 480-15-xxx How will the Commission provide enforcement against non-Permitted Household Goods Carriers?

Dedicated commission enforcement officers will, upon notification from any responsible individual or party that a motor carrier is performing household goods relocations without a household goods permit authority, contact the non-permitted carrier and provide educational and technical assistance on the laws, rules and regulations that apply to the regulation of motor carriers of household goods within the State of Washington.

Following 30 days of the initial visit to the non-permitted carrier and there is no evidence at the commission offices of a request for household goods temporary permit authority, a follow-up visit will be made to the last or best known location of the non-permitted carrier to determine if the carrier is continuing to operate as a household goods carrier without the required permit authority.

Having been provided the opportunity to obtain a permit authority and yet it is believed the motor carrier is continuing to operate without a permit authority, the commission enforcement officer will so note this fact in his report to the commission. The commission will immediately take action to institute a special proceeding requiring such person or corporation to appear before the commission in accordance with RCW 81.04.510.

If, during the special proceeding mentioned above it is determined the motor carrier is operating as a carrier of household goods without the required household goods permit authority, the commission will issue cease and desist orders to the party(s) involved in the operations or acts.

If, following issuance and receipt of the cease and desist order by the non-permitted carrier, it is determined through proper investigation by the commission there is continued household goods operations requiring a household goods permit authority, the commission will institute all necessary legal action against the non-permitted carrier in the respective District Court within the State of Washington.

WAC 480-15-xxx If I report a law, rule, or regulation violation, will you keep my name and address confidential?

Yes, by your written request, we will keep your name and address confidential when you report a suspected law, rule, or regulation violation by a permitted or non-permitted motor carrier of household goods.

- End of Part 1.3 -