

**BEFORE THE WASHINGTON
UTILITIES AND TRANSPORTATION COMMISSION**

In the Matter of Amending, Adopting,) DOCKET TV-111493
and Repealing Rules in)
) GENERAL ORDER R-565
WAC 480-15)
)
Relating to Household Goods Carriers) ORDER AMENDING, ADOPTING
) AND REPEALING RULES
) PERMANENTLY
.....)

1 **STATUTORY OR OTHER AUTHORITY:** The Washington Utilities and Transportation Commission (Commission) takes this action under Notice WSR # 11-17-140, filed with the Code Reviser on August 24, 2011. The Commission brings this proceeding pursuant to RCW 80.01.040, RCW 81.04.160, and RCW 81.80.075.

2 **STATEMENT OF COMPLIANCE:** This proceeding complies with the Administrative Procedure Act (RCW 34.05), the State Register Act (RCW 34.08), the State Environmental Policy Act of 1971 (RCW 43.21C), and the Regulatory Fairness Act (RCW 19.85).

3 **DATE OF ADOPTION:** The Commission adopts this rule on the date this Order is entered.

4 **CONCISE STATEMENT OF PURPOSE AND EFFECT OF THE RULE:** RCW 34.05.325(6) requires the Commission to prepare and publish a concise explanatory statement about an adopted rule. The statement must identify the Commission's reasons for adopting the rule, describe the differences between the version of the proposed rules published in the register and the rules adopted (other than editing

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| OFFICE OF THE CODE REVISER STATE OF WASHINGTON FILED |
| DATE: June 07, 2012 |
| TIME: 8:06 AM |
| WSR 12-13-007 |

changes), summarize the comments received regarding the proposed rule changes, and state the Commission's responses to the comments reflecting the Commission's consideration of them.

5 The Commission amends, adopts, and repeals the rules regarding entry and fitness standards for household good carriers. Entry standards for household goods carriers are minimal. Applicants must properly complete the application, pay the fee, and provide proof of both liability and cargo insurance. Once these simple steps are completed, UTC grants a permit. The existing rules may be insufficient, perhaps granting permits to companies that are unfit to operate. The amended rules will allow qualified companies to operate and, at the same time, protect the public from unscrupulous, unsafe, or unfit household goods moving companies. There are no differences between the text of the proposed rules as published in the register and the text of the rules as adopted. The Commission designates the discussion in this Order, including appendices, as its concise explanatory statement.

6 **REFERENCE TO AFFECTED RULES:** This Order amends, adopts, or repeals the following sections of the Washington Administrative Code:

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| Amend | WAC 480-15-185 | Types of household goods permits. |
| Amend | WAC 480-15-190 | Service territory. |
| Amend | WAC 480-15-230 | Application fees. |
| Amend | WAC 480-15-340 | Commenting on an application for permanent authority. |
| Adopt | WAC 480-15-186 | Application required. |
| Adopt | WAC 480-15-187 | Transfer of an existing permit. |
| Adopt | WAC 480-15-302 | Provisional authority. |
| Adopt | WAC 480-15-305 | Permanent authority. |
| Repeal | WAC 480-15-270 | Emergency temporary authority. |
| Repeal | WAC 480-15-280 | Temporary authority. |
| Repeal | WAC 480-15-285 | Rejecting or denying an application for temporary authority. |
| Repeal | WAC 480-15-290 | Granting temporary authority. |
| Repeal | WAC 480-15-310 | Commenting on actions regarding temporary authority. |
| Repeal | WAC 480-15-320 | Canceling a temporary permit. |
| Repeal | WAC 480-15-330 | Permanent authority. |

Repeal WAC 480-15-335 Exceptions to permanent authority application process.

7 **PREPROPOSAL STATEMENT OF INQUIRY AND ACTIONS**

THEREUNDER: The Commission filed a Preproposal Statement of Inquiry (CR-101) on August 24, 2011, at WSR # 11-17-140. The statement advised interested persons that the Commission was considering initiating a rulemaking on household goods entry standards. The Commission also informed persons of this inquiry by providing notice of the subject and the CR-101 to everyone on the Commission's list of persons requesting such information pursuant to RCW 34.05.320(3) and by sending notice to all permitted households good companies. The Commission posted the relevant rulemaking information on its Internet website at <http://www.utc.wa.gov/111493>. Pursuant to the notice, the Commission received written comments by September 26, 2011, and hosted a stakeholder workshop on October 11, 2011, to discuss possible rule revisions and receive additional comments. On November 10, 2011, the Commission issued draft rules to all interested persons with a December 9, 2011, deadline for filing comments.

8 **MEETINGS OR WORKSHOPS; ORAL COMMENTS:** The Commission held one workshop on October 11, 2011, at 9:30 a.m. In addition to staff, the following stakeholders attended the workshop: Jim Tutton, Washington Movers' Conference; Dave Jedlicka, Hansen Brothers Transfer; and Matt Kupka, Ed's Moving and Storage. Mr. Tutton suggested, and Mr. Jedlicka and Mr. Kupka agreed, that the Commission should consider additional requirements to entry standards for household goods applicants, as follows:

- 1) Increase levels of cargo insurance.
- 2) Require companies that transport household items packed and loaded by the customer to hold a household goods permit.
- 3) Require companies than move furniture in and out of a home during the course of providing a cleaning service to hold a household goods permit.
- 4) Increase application fee amounts.
- 5) Clarify that receiving a provisional permit does not automatically entitle the applicant to a permanent permit.

- 6) Require each applicant to document its drug and alcohol testing program.
- 7) Verify that applicants stating they will use temporary workers and do not need a Washington Department of Labor and Industries account are actually using temporary workers.
- 8) Require applicants to have a minimum of \$20,000 in assets.

9 **NOTICE OF PROPOSED RULEMAKING:** The Commission filed a notice of Proposed Rulemaking (CR-102) on March 7, 2012, at WSR # 12-06-077. The Commission scheduled this matter for oral comment and adoption under Notice WSR # 12-06-077 at 1:30 p.m., Thursday, April 26, 2012, in the Commission's Hearing Room, Second Floor, Richard Hemstad Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington. The Notice provided interested persons the opportunity to submit written comments to the Commission.

10 **WRITTEN COMMENTS:** The Commission received written comments in response to the notice of proposed rulemaking from Jim Tutton, representing the Washington Movers' Conference. A summary of Mr. Tutton's written comments and Commission Staff responses are contained in Appendix A, attached to, and made part of, this Order.

11 **RULEMAKING HEARING:** The Commission considered the proposed rules for adoption at a rulemaking hearing on Thursday, April 26, 2012, before Chairman Jeffrey D. Goltz, Commissioner Patrick J. Oshie, and Commissioner Philip B. Jones. The Commission heard oral comments from Jim Tutton, representing the Washington Movers' Conference. No other interested person made oral comments.

12 **SUGGESTIONS FOR CHANGE THAT ARE REJECTED:** Mr. Tutton suggested changing the rules in the same manner as in his written comments as described in Appendix A. The Commission adopts Commission Staff's recommendations and rejects Mr. Tutton's suggested changes to the rules for the reasons described in the Commission Staff Responses in Appendix A.

13 **COMMISSION ACTION:** After considering all of the information regarding this proposal, the Commission finds and concludes that it should amend, adopt, and repeal the rules as proposed in the CR-102 at WSR # 12-06-077.

14 **STATEMENT OF ACTION; STATEMENT OF EFFECTIVE DATE:** After reviewing the entire record, the Commission determines that WAC 480-15-185, WAC 480-15-190, WAC 480-15-230, and WAC 480-15-340 should be amended, WAC 480-15-186, WAC 480-15-187, WAC 480-15-302, and WAC 480-15-305 should be adopted, and WAC 480-15-270, WAC 480-15-280, WAC 480-15-285, WAC 480-15-290, WAC 480-15-310, WAC 480-15-320, WAC 480-15-330, and WAC 480-15-335 should be repealed to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect pursuant to RCW 34.05.380(2) on the thirty-first day after filing with the Code Reviser.

ORDER

15 **THE COMMISSION ORDERS:**

16 WAC 480-15-185, WAC 480-15-190, WAC 480-15-230, and WAC 480-15-340 are amended, WAC 480-15-186, WAC 480-15-187, WAC 480-15-302, and WAC 480-15-305 are adopted, and WAC 480-15-270, WAC 480-15-280, WAC 480-15-285, WAC 480-15-290, WAC 480-15-310, WAC 480-15-320, WAC 480-15-330, and WAC 480-15-335 are repealed to read as set forth in Appendix B, as rules of the Washington Utilities and Transportation Commission, to take effect on the thirty-first day after the date of filing with the Code Reviser pursuant to RCW 34.05.380(2).

17 This Order and the rule set out below, after being recorded in the register of the Washington Utilities and Transportation Commission, shall be forwarded to the Code Reviser for filing pursuant to RCW 80.01 and RCW 34.05 and WAC 1-21.

DATED at Olympia, Washington, June 7, 2012.

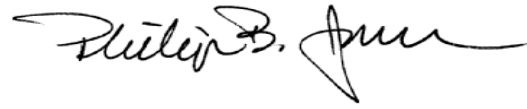
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION



JEFFREY D. GOLTZ, Chairman



PATRICK J. OSHIE, Commissioner

A handwritten signature in black ink, appearing to read "Philip B. Jones". The signature is written in a cursive style with a large, stylized initial "P" and a long, sweeping tail.

PHILIP B. JONES, Commissioner

Note: The following is added at Code Reviser request for statistical purposes:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, amended 0, repealed 0; Federal Rules or Standards: New 0, amended 0, repealed 0; or Recently Enacted State Statutes: New 0, amended 0, repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, amended 0, repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, amended 0, repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 4, amended 4, repealed 8.

Number of Sections Adopted using Negotiated Rule Making: New 0, amended 0, repealed 0; Pilot Rule Making: New 0, amended 0, repealed 0; or Other Alternative Rule Making: New 0, amended 0, repealed 0.

APPENDIX A
RULEMAKING: Entry and Fitness Standards for Household Goods Carriers, DOCKET TV-111493
Comment Matrix

| Rule | Washington Movers Conference (WMC) Suggested Edits and Comments | Staff Response |
|---|---|--|
| <p>New Section WAC 480-15-302 Provisional authority. The commission will grant provisional authority to any applicant that meets the following criteria:</p> <p>(1) The applicant has properly completed the household goods moving company permit application.</p> <p>(2) The application does not contain any indication of fraud, misrepresentation, or erroneous information.</p> <p>(3) The applicant has provided a copy of a valid Washington state driver's license for each person named in the application associated with the proposed moving company.</p> <p>(4) The applicant has provided evidence that the applicant possesses sufficient financial resources to operate a moving company. The commission will accept as evidence the completed financial statement form included in the household goods moving company permit application or the alternative documents listed on the financial statement form.</p> <p>(5) The applicant has met the liability and cargo insurance requirements of WAC 480-15-530 and 480-15-550.</p> <p>(6) The applicant has provided evidence of compliance with state tax, labor,</p> | <p>WMC suggests adding the following two paragraphs:</p> <p>(1) “If the applicant’s application for Provisional Authority shows no account opened with the State Department of Labor and Industries or the State Employment Security Department and the applicant intends to use temporary workers in his/her business, the applicant must certify that it will maintain records for three years that describe the date(s) worked, names of temporary worker(s) and the source from where the temporary worker(s) were obtained.”</p> <p>WMC gives the following reasons to support this language:</p> <ul style="list-style-type: none"> • Many new applicants state they do not have an account with other agencies because they have no employees on payroll. The lack of accounts should be a red flag that a company is not aware, or at least is not complying with, payroll requirements. • Legally permitted and professionally | <p>(1) Staff recommends the commission reject WMC’s suggestion in paragraph (1) for two reasons. First, this requirement is not applicable to entry standards. This requirement pertains to the records a company is required to keep once it starts business. Second, adding the suggested language to the rules would impose requirements on new applicants that do not apply to currently permitted companies. A company that obtains a permit after the effective date of the rules would be required to keep records for temporary workers. No currently permitted company has or would have a similar requirement.</p> <p>(2) Staff recommends the commission reject WMC’s suggestion in paragraph (2). Currently, an applicant receives a provisional permit for a minimum of six months. The applicant remains provisional until it has met all requirements for permanent authority. A review of the records for 2010 shows the UTC received 28 applications for household goods authority. For 20 of</p> |

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| <p>employment, business, and vehicle licensing laws and rules. The commission will accept valid account numbers that staff can verify, showing the applicant has established accounts with other state agencies, as evidence.</p> <p>(7) The applicant has provided evidence of its enrollment in a drug and alcohol testing program, or evidence that it has in place its own drug and alcohol testing program, if required by WAC 480-15-570. The commission will accept proof of enrollment in a program, or a detailed description of the applicant's own program, as evidence.</p> <p>(8) Commission staff has completed a criminal background check on each person named in the application associated with the proposed moving company. The commission will not grant provisional authority if any named person has, within the past five years, been convicted of any crime involving theft, burglary, sexual misconduct, identity theft, fraud, false statements, or the manufacture, sale, or distribution of a controlled substance.</p> <p>(9) The applicant owns or leases the equipment necessary to provide household goods moving services.</p> <p>(10) The commission has not denied a household goods moving company permit application within the previous six months filed by the same applicant or by any other person named on the application.</p> <p>(11) The commission has not canceled, for cause, a permit held by the applicant, or by</p> | <p>operated existing companies already keep information on temporary workers. This requirement should apply to all companies.</p> <p>(2) “The provisional application review period shall not be less than six months. One additional period of six months for review work by staff may be granted when supported by justified need for staff to evaluate the applicant, complete applicable required audits, or complete any needed applicant training. If, following the second six-month evaluation period, the application process is still incomplete; the application will be voided and returned to the applicant with comment.”</p> <p>WMC gives the following reasons to support this language:</p> <ul style="list-style-type: none"> • 12 months is sufficient time to complete an accurate assessment of an applicant’s ability to operate. There are 14 provisional permits still out there from 2010. • A provisional permit allows a company full access to operate. If the commission has not determined the company is fit, qualified, and safe to operate, then the company should not be operating. | <p>those applications, staff closed the file within an average of 10 months. Ten were granted and ten were canceled. Eight additional are still pending, primarily because the companies have not conducted enough intrastate moves on which to complete a compliance review. In other cases, it may take more than the average of 10 months for staff to get the carrier into compliance with UTC rules. Staff’s goal is to work with a new company on a cooperative basis to gain voluntary compliance. Staff does not recommend changing this approach.</p> |
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| <p>any other person named on the application, within the previous one year.</p> <p>(12) The applicant has filed with the application at least three completed statements of support for the proposed service.</p> <p>(13) No other circumstances exist that cause the commission to deny the application.</p> | | |
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APPENDIX B

**WAC 480-15 – Household Goods Carriers
Amended, Adopted, and Repealed Rules**