

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****49 CFR Part 375**

[Docket No. FMCSA-97-2979]

RIN 2126-AA32

Transportation of Household Goods; Consumer Protection Regulations; Corrections**AGENCY:** Federal Motor Carrier Safety Administration, DOT.**ACTION:** Correcting amendments.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) published in the *Federal Register* of June 11, 2003, an interim final rule revising the requirements governing the interstate transportation of household goods (68 FR 35064). On March 5, 2004, at 69 FR 10570, we issued technical amendments to the interim final rule and its appendix, the consumer pamphlet *Your Rights and Responsibilities When You Move*. On April 2, 2004, we issued further technical amendments to the rule and appendix, and established a new compliance date of May 5, 2004, for the rule (69 FR 17313). In subpart E of the amended rule appendix, two paragraphs were not properly updated to reflect the technical changes relating to orders for service and bills of lading. In addition, four sections of the rule appendix published on June 11, 2003, and March 5, 2004, contained an erroneous statutory citation for the provision under which a person may seek judicial redress for alleged loss of or damage to household goods by a carrier. Finally, the introductory sentence to a list of requirements in subpart D of the appendix misstated the number of elements in the list. This document corrects the interim final rule by revising these sections of the appendix.

DATES: Effective on August 5, 2004.**FOR FURTHER INFORMATION CONTACT:** Mr. James Keenan, Office of Commercial Enforcement, (202) 385-2400, Federal Motor Carrier Safety Administration, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024.**SUPPLEMENTARY INFORMATION:** On June 11, 2003, FMCSA published an interim final rule revising the requirements governing the interstate transportation of household goods (68 FR 35064). On March 5, 2004, we issued technical amendments to the interim final rule and its appendix—Appendix A to Part 375, the consumer pamphlet *Your Rights and Responsibilities When You*
Move (69 FR 10570). On April 2, 2004, we issued further technical amendments to the rule and appendix, and established a new compliance date of May 5, 2004, for the rule (69 FR 17313).

In May 2004, attorneys for both Atlas World Group, Inc. and Wheaton Van Lines, Inc. contacted us concerning an incorrect statutory citation in four sections of Appendix A to Part 375. These sections of the consumer pamphlet advise individual shippers of their right to seek restitution for loss of or damage to their household goods by bringing a civil action against the mover. Ms. Marian Weilert Sauvey, General Counsel for Atlas World Group, informed us of the incorrect citation in electronic mail correspondence of May 6, 2004; Mr. James P. Reichert, General Counsel for Wheaton Van Lines, Inc., noted the error in a letter of May 10, 2004.

As Ms. Sauvey and Mr. Reichert stated, it is 49 U.S.C 14706, not section 14704, that establishes carrier liability for loss and damage and sets forth the minimum period for bringing a civil action against a carrier. Section 14704, in contrast, entitles a person to file a civil action against a carrier to enforce an order of the U.S. Department of Transportation or the Surface Transportation Board, or to seek redress for certain regulatory violations. We have corrected Appendix A to Part 375 by replacing each of the four occurrences of “49 U.S.C. 14704” with “49 U.S.C. 14706.” In the last of these revisions (the third paragraph of the section *Do I Have a Right To File a Claim To Recover Money for Property My Mover Lost or Damaged?* under subpart H of the appendix), we also made minor editorial changes to the last two sentences of the paragraph and combined the sentences. The revised sentence reads: “You may also obtain the name of a process agent via the Internet by going to <http://www.fmcsa.dot.gov> and then clicking on Licensing and Insurance (L&I) section.”

In his letter, Mr. Reichert also brought to our attention certain language in subpart E of Appendix A that is not fully consistent with 49 CFR 375.501(h) and 375.505(e), as amended on March 5, 2004. The amended regulations make clear that household goods carriers have the option of placing the Surface Transportation Board’s required released rates valuation statement, and any charges for optional valuation coverage, on either the order for service or the bill of lading. In contrast, subparagraph (10) of the section *Must My Mover Write Up an Order for Service?* and subparagraph (12) of *Must My Mover Write Up a Bill of Lading?*

imply that the carrier must include the released rates valuation statement and any charges for valuation coverage on the order for service as well as on the bill of lading. We have corrected subparagraph (10) of *Must My Mover Write Up an Order for Service?* by adding to the first sentence an introductory clause clarifying that the order for service must include the released rates valuation statement and any valuation coverage charges *only* if the mover has not provided them on the bill of lading. Conversely, a new introductory clause in subparagraph (12) of *Must My Mover Write Up a Bill of Lading?* makes it clear that the bill of lading must include the released rates valuation statement and any valuation coverage charges *only* if these were not provided in the order for service. These corrections ensure that the information provided to consumers on the requirement for the released rates valuation statement is consistent with amended §§ 375.501(h) and 375.505(e).

Finally, we have corrected an error in the introductory sentence to a list of requirements in the section *Non-Binding Estimates* under subpart D of the appendix. The sentence described the list as containing 9 elements, when in fact it includes 10.

Section 375.213 requires movers to furnish the information in the rule appendix to prospective customers as the consumer pamphlet *Your Rights and Responsibilities When You Move*. For movers with Internet access, printing copies of the amended rule appendix need not be burdensome. The corrections have been incorporated in the electronic version Appendix A—*Your Rights and Responsibilities When You Move* posted on FMCSA’s Web site at <http://www.fmcsa.dot.gov/>, where it can be downloaded and printed.

List of Subjects in 49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Highways and roads, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements.

■ Accordingly, 49 CFR part 375 is corrected by making the following correcting amendments:

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE; CONSUMER PROTECTION REGULATIONS

■ 1. The authority citation for part 375 continues to read as follows:

Authority: 5 U.S.C. 553; 49 U.S.C. 13301, 13704, 13707, 14104, 14706; and 49 CFR 1.73.

■ 2. In Appendix A to Part 375, amend subpart B by revising the third paragraph of the section *How Must My Mover Handle Complaints and Inquiries?* and revising the first paragraph of the section *Must My Mover Have an Arbitration Program?* to read as follows:

Appendix A to Part 375—Your Rights and Responsibilities When You Move

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Subpart B—Before Requesting Services From Any Mover

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How Must My Mover Handle Complaints and Inquiries?

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Interstate movers are also required to offer neutral arbitration as a means of resolving consumer loss or damage disputes involving loss of or damage to household goods. Your mover is required to provide you with information regarding its arbitration program. You have the right to pursue court action under 49 U.S.C. 14706 to seek judicial redress directly rather than participate in your mover's arbitration program.

* * * * *

Must My Mover Have an Arbitration Program?

Your mover must have an arbitration program for your use in resolving disputes concerning loss or damage to your household goods. You have the right not to participate in the arbitration program. You may pursue court action under 49 U.S.C. 14706 to seek judicial remedies directly. Your mover must establish and maintain an arbitration program with the following 11 minimum elements:

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■ 3. In Appendix A to Part 375, amend subpart D by revising the fifth paragraph of the section *Non-Binding Estimates* to read as follows:

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Subpart D—Estimating Charges

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How Must My Mover Estimate Charges Under the Regulations?

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Non-Binding Estimates

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Other requirements of non-binding estimates include the following 10 elements:

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■ 4. In Appendix A to Part 375, amend subpart E by revising paragraph (10) of the section *Must My Mover Write Up an Order for Service?* and revising paragraph (12) of the section *Must My Mover Write Up a Bill of Lading?* to read as follows:

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Subpart E—Pickup of My Shipment of Household Goods

Must My Mover Write Up an Order for Service?

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(10) If not provided in the bill of lading, the Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage. The STB's required released rates may be increased annually by your mover based on the U.S. Department of Commerce's Cost of Living Adjustment.

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Must My Mover Write Up a Bill of Lading?

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(12) If not provided in the order for service, the Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage. The Board's required released rates may be increased annually by your mover based on the U.S. Department of Commerce's Cost of Living Adjustment.

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■ 5. In Appendix A to Part 375, amend subpart F by revising the eighth paragraph of the section *Must My Mover Transport the Shipment in a Timely Manner?* to read as follows:

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Subpart F—Transportation of My Shipment

Must My Mover Transport the Shipment in a Timely Manner?

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If your mover fails to pick up and deliver your shipment on the date entered on the bill of lading and you have expenses you otherwise would not have had, you may be able to recover those expenses from your mover. This is what is called an inconvenience or delay claim. Should your mover refuse to honor such a claim and you continue to believe you are entitled to be paid damages, you may take your mover to court under 49 U.S.C. 14706. *The Federal Motor Carrier Safety Administration (FMCSA) has no authority to order your mover to pay such claims.*

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■ 6. In Appendix A to Part 375, amend subpart H by revising the third paragraph of *Do I Have a Right To File a Claim To Recover Money for Property My Mover Lost or Damaged?* to read as follows:

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Subpart H—Collection of Charges

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Do I Have a Right To File a Claim To Recover Money for Property My Mover Lost or Damaged?

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While the Federal Government maintains regulations governing the processing of loss and damage claims (49 CFR part 370), it cannot resolve those claims. If you cannot settle a claim with the mover, you may file a civil action to recover your claim in court under 49 U.S.C. 14706. You may obtain the name and address of the mover's agent for service of legal process in your state by contacting the Federal Motor Carrier Safety Administration. You may also obtain the name of a process agent via the Internet by going to <http://www.fmcsa.dot.gov> and then clicking on Licensing and Insurance (L&I) section.

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Issued on: July 30, 2004.

Annette M. Sandberg,
Administrator.

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