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March 6, 2003

FMCSA-2004-17008-1

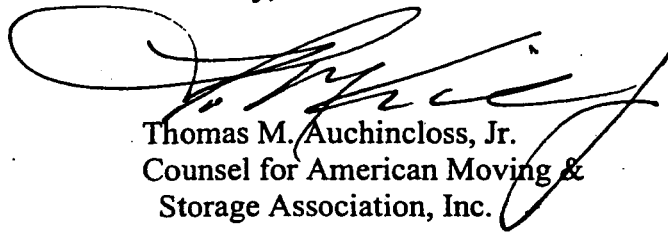
Kirk Van Tine, Esq.  
General Counsel  
Department of Transportation  
400 7<sup>th</sup> Street, SW  
Room 10428  
Washington, DC 20590

Dear Mr. Van Tine:

On behalf of the American Moving & Storage Association, enclosed are the original and one copy of a petition requesting institution of a rulemaking proceeding to formulate regulations affecting brokers of household goods transportation services by motor carrier. Also enclosed, for your information, is a copy of a letter from the President of the Association to Secretary Mineta which explains the need for the proposed proceeding.

Please have the enclosed additional copy of the petition stamped for return by our messenger.

Sincerely,



Thomas M. Auchincloss, Jr.  
Counsel for American Moving &  
Storage Association, Inc.

cc: Mr. Joseph M. Harrison  
President  
American Moving & Storage Association



**JOE HARRISON**  
President

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March 6, 2003

The Honorable Norman Y. Mineta  
Secretary  
United States Department of Transportation  
400 7<sup>th</sup> Street, SW  
Washington, DC 20590

Dear Secretary Mineta:

I am submitting herewith on behalf of the 3,500 members of the American Moving & Storage Association (AMSA) a Petition for Rulemaking seeking the promulgation of regulations governing brokers of household goods transportation services by motor carrier.

Your Department, and particularly the Federal Motor Carrier Safety Administration (FMCSA), is well aware of the large number of complaints it has received from consumers concerning rogue (scam) movers and brokers. Certainly this is confirmed by the recent joint DOJ/DOT criminal enforcement action taken against over 40 rogue movers who have been "ripping off" consumers for the past several years. I heartily congratulate you and your Department on this timely and much needed enforcement action.

Some of the movers named in the recent indictments also operate Internet websites to broker consumers' shipments. Increased use of the Internet by consumers has seriously exacerbated the problems rogue movers and brokers are creating. The ever increasing number of "moving-related" websites hosted by brokers, with or without FMCSA permits, and their questionable practices, including the use of rogue movers, has resulted in countless complaints from consumers who use the Internet to locate movers.

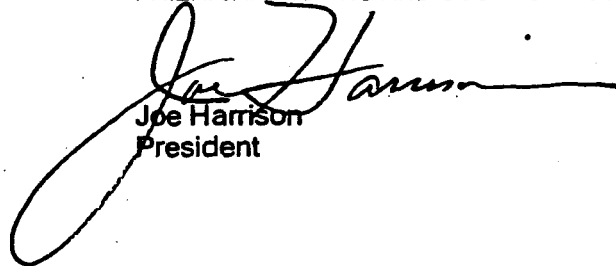
Congressman Thomas Petri introduced a bill, Securing Consumers Assurance in Moving Act of 2003 (SCAM), on March 4, 2003. While certain aspects of his bill are troubling, the proposal does include a requirement that movers and household goods brokers display their FMCSA registration number, the Your Rights and Responsibilities booklet, a list of movers the broker will be using and penalties if the broker gives an estimate of the cost of a move to a consumer before entering into an agreement with a carrier (mover). Rest assured AMSA supports all efforts to educate consumers and these requirements and many other important broker-related requirements are included in the AMSA Petition for Rulemaking.

As early as August 2001, AMSA recognized the problems created for consumers by Internet brokers of household goods transportation services. At that point, AMSA filed a Petition for Declaratory Order requesting DOT (FMCSA) require that brokers of these services include certain consumer related information on their websites. Unfortunately, it took FMCSA thirteen months to deny that Petition on the grounds that requiring notice of DOT's Your Rights and Responsibilities booklet (OCE-100) on broker Internet sites would create confusion among consumer shippers. AMSA was obviously disappointed by that decision and perplexed by the underlying reason for denial. Since 2001, even more broker websites have been established and many more consumers have been "ripped off" because of the absence of regulations and regulatory oversight.

AMSA, Congress, and consumer groups all agree that consumer education is an important component of the overall effort to steer consumers away from utilizing rogue movers and brokers. Based on the level of complaints generated by Internet broker sites and Congress' interest in this same subject, we respectfully request that DOT expeditiously address the AMSA Petition. An interminable period of time should not elapse before institution of a rulemaking proceeding. AMSA firmly believes that regulatory oversight is a necessary element in the fight against disreputable movers and brokers. Your prompt consideration of this request would be appreciated.

Sincerely,

AMERICAN MOVING AND STORAGE ASSOCIATION



Joe Harrison  
President

- cc: Rep. Thomas Petri
- Rep. John Mica
- Rep. Denis Rehberg
- Rep. William Lipinski
- Rep. Richard Baker
- Rep. Eddie Bernice Johnson
- Rep. Henry Brown
- Rep. Steven LaTourette
- Rep. Michael Honda
- Hon. Annette Sandberg

**BEFORE THE  
U. S. DEPARTMENT OF TRANSPORTATION**

\_\_\_\_\_  
**DOCKET No.** \_\_\_\_\_  
\_\_\_\_\_

**PETITION FOR RULEMAKING**

\_\_\_\_\_  
**JOSEPH M. HARRISON**  
President  
**AMERICAN MOVING AND  
STORAGE ASSOCIATION, INC.**  
1611 Duke Street  
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**DATED AND FILED: MARCH 6, 2003**

**AMSA**  
*American Moving and  
Storage Association*

**BEFORE THE  
U. S. DEPARTMENT OF TRANSPORTATION**

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**DATED AND FILED: MARCH 6, 2003**

**AMSA**  
*American Moving and  
Storage Association*

BEFORE THE  
DEPARTMENT OF TRANSPORTATION

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DOCKET NO. \_\_\_\_\_

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PETITION FOR RULEMAKING

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The American Moving and Storage Association, Inc. (AMSA) hereby petitions the Department of Transportation (DOT) to institute a rulemaking proceeding to promulgate regulations governing brokers of household goods transportation by motor vehicle. The DOT Federal Motor Carrier Safety Administration (FMCSA) is authorized to commence this proceeding pursuant to the Administrative Procedure Act, 5 U.S.C. § 553, and to adopt regulations applicable to brokers for the protection of consumer shippers pursuant to the Interstate Commerce Act, as amended by the ICC Termination Act of 1995, 49 U.S.C. § 13904(c).

In support thereof, AMSA respectfully states as follows:

I.

IDENTITY OF PETITIONER

AMSA is the national trade association of the moving and storage industry. It has approximately 3,500 members worldwide and represents the entire spectrum of the domestic moving and storage industry. The membership includes national van lines, independent regulated carriers, agents of van lines, most of whom are also regulated

carriers in their own right, and international movers. AMSA members operate in every city, town, borough and hamlet in the United States performing interstate, intrastate and local moving and storage services as required by consumers, industry and government.

AMSA members that are engaged in the interstate transportation of household goods operate by virtue of authority issued by the former Interstate Commerce Commission (ICC or Commission) or the former Federal Highway Administration (FHWA) or the FMCSA and conform their operations to the licensing requirements of the Interstate Commerce Act and related FMCSA regulations, and the Consumer Protection Regulations codified at 49 C.F.R. Part 375. A number of AMSA members are also licensed as household goods brokers or are affiliated with licensed brokers.

## II.

### THE NEED FOR REGULATIONS

For better or worse, the Internet has brought significant changes to the moving industry. It has allowed movers and brokers to hold out their services to a much broader base of customers than in the past. With the click of a mouse, a consumer located anywhere in the country can obtain any number of comparative quotes for a move, select a mover, and enter into a contract, all within the confines of his or her home. Undoubtedly due to the vast market of potential customers, coupled with the limited cost of transacting business over the Internet, many of these companies conduct business only through the Internet. A recent search of the Internet revealed no fewer than several hundred websites offering to perform, arrange or manage moving services in one form or another on behalf of consumers. Such sites also provide references to transportation

companies, give online quotations, book shipments, as well as perform variations of all of these services.

While access to these services may provide certain benefits to the consuming public, the proliferation of Internet brokers has also resulted in an explosion of complaints fielded by AMSA concerning the abusive and deceptive practices of unscrupulous companies that prey upon the moving public. Although FMCSA is charged with policing these companies, AMSA, as the national trade association of the moving and storage industry, routinely receives complaints apparently because consumers are unable to get relief elsewhere. The mounting number of Internet related complaints received by AMSA makes it obvious that consumers are not well informed on the moving process. They are particularly vulnerable to the consequences of no information, misinformation, or too little information when they deal with brokers, licensed and unlicensed.

As explained in this petition, regulations requiring the posting on Internet sites of important notices to consumers about their rights when arranging a move and at the time of shipment delivery will significantly improve the public's understanding of the legitimate moving process. It is a fact that many Internet brokers are attracting consumers with well-designed websites that prominently display the purported attributes of their service. With the proposed regulations in place, it will become a relatively simple task to determine whether an Internet broker is complying with the notice and other consumer oriented requirements imposed by the proposed regulations. It is only necessary to click on a website and review its contents to determine compliance. Brokers that fail to comply with the FMCSA regulations will be readily detected. Non



compliance also presents the risk of websites losing their prominent accessibility on the Internet. Several Internet Service Providers have responded to complaints about websites containing unlawful or fraudulent advice by removing those sites from their systems. From the standpoint of FMCSA, it is important to note that no significant expenditure of its investigative or enforcement resources will be required to assist consumers by imposing these requirements.

Obviously, AMSA and its members have a substantial interest in protecting and enhancing the industry's reputation. To this end, AMSA maintains and administers its Certified Mover Program under which it investigates complaints against its members and, if necessary, imposes various degrees of sanctions, including expulsion from the Association. However, the complaints AMSA receives are, by and large, directed against nonmembers over which it is powerless to act.<sup>1</sup> Nonetheless, the questionable practices of many Internet brokers, as evidenced by the constant stream of consumer complaints received by AMSA, prompted its Board of Directors to amend the Association's by-laws to deny membership to brokers of household goods. The Board concluded that AMSA should not be aligned with operators that, as a group, employ deceptive practices to attract business, nor should they allow the AMSA logo to be displayed on brokers' websites giving them a measure of credibility they do not deserve.

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<sup>1</sup> In the past 2 years, AMSA has requested FMCSA to address certain related problems involving brokers. By petition filed August 25, 2000, it requested FMCSA to declare that the transportation of used household goods in containers by general freight carriers is subject to the Consumer Protection regulations, 49 C.F.R. Part 375. It declined to do so. On August 30, 2001, AMSA filed a petition requesting FMCSA to declare that household goods brokers are required to issue to customers a copy of the booklet OCE-100, "Yours Rights And Responsibilities When You Move." It declined to do so.

Motor carriers licensed by FMCSA to transport household goods are, of course, subject to the Consumer Protection regulations at 49 C.F.R. Part 375.<sup>2</sup> Adoption of similar consumer protection rules applicable to brokers of household goods transportation services is essential to reign in the practices of unscrupulous broker operators that typically stand in the same shoes as motor carriers when dealing with individual householders. They should therefore be held to the same standards as the carrier furnishing the service. ~~The existing broker regulations at 49 C.F.R. Part 371 do not afford individual consumer householders any protection against deceptive and unlawful practices.~~ They are, in fact, woefully ineffective.

Brokers who hold themselves out on the Internet and engage in deceptive practices present a vexing problem for consumers. Unlike movers who must at some point make a physical appearance to the consumer, Internet brokers can complete an entire transaction, including the collection of money, without meeting or speaking with the customer or furnishing a phone number or address. When a problem arises, they can and many do, just disappear. Websites are removed from the Internet and others take their place.

A significant number of the complaints received by AMSA involve the same Internet companies, many of which are based in Florida. The fact that they are involved in moves having no connection to Florida as an origin or destination further demonstrates the impact of the Internet on these arrangements and how it is being used to entrap unsuspecting consumers. It is not at all unusual for AMSA to receive a complaint from a consumer who dealt with a Florida-based Internet broker who arranged a move from one

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<sup>2</sup> Those regulations are presently under review for amendment. See Docket No. FMCSA 97-2979, *Transportation of Household Goods, Consumer Protection Regulations*, 65 Fed. Reg. 27126 (1998). Nevertheless, the existing regulations remain in effect while that proceeding is pending.

far removed state to another. Once these brokers snare the consumer by requiring the payment of a deposit of several hundred dollars or more, they fade from the picture leaving the consumer to deal with, in most cases, an unlicensed mover the broker contacted to handle the move. It has become evident that a significant network of unscrupulous brokers and movers is functioning with the sole purpose of bilking the moving public by demanding charges that bear no relation to the legitimate costs of moving or by collecting charges for services that are not performed.

Several examples of actual complaints received by AMSA should serve to illustrate the nature of the problems being experienced by the moving public. Information available to AMSA indicates that many of the complaints it received were also lodged with FMCSA. For purposes of this petition names have been deleted, but AMSA has records of these complaints which can and will be supplied if requested.

Case No. 1

Florida-based broker arranged a move from Colorado to Michigan. Estimated cost \$2,200. Amount demanded by mover \$5,400. At last report the customer's goods were being held by the mover.

Case No. 2

Broker estimated moving cost to be \$2,200 and received a deposit of \$1,100. Mover demanded additional \$2,900 at delivery.

Case No. 3

Florida-based broker quoted a charge of \$1,570. Mover demanded payment of \$3,500.

Case No. 4

Florida-based broker arranged a move from Georgia to Washington. A rental truck arrived for the pickup, moved the goods five miles to a storage facility and demanded twice the amount originally quoted (amount not specified). Customer paid \$2,900 cash to have the goods released from storage.

Case No. 5

Florida-based broker arranged a move from Colorado to West Virginia at a quoted charge of \$1,550 and a deposit of \$775. A rental truck arrived for the move and the driver advised that the move would cost \$5,100. Customer cancelled the move and the broker has refused to refund the \$775 deposit.

Case No. 6

Florida-based broker arranged a move from North Carolina to Pennsylvania and received a deposit of \$1,740. Move cancelled by customer because of personal reasons. Although the broker initially represented that the deposit would be refunded if the move was not performed, it has refused to return the deposit.

Case No. 7

Florida-based broker arranged a move from Texas to Washington. Total moving charges (not specified) were charged on customer's credit card. At the time the customer complained to AMSA the goods were not delivered and neither the broker nor the mover would return the customer's calls.

Case No. 8

A customer arranged a move through a Florida-based broker and paid a deposit of \$1,200. Forty five (45) days before the scheduled pickup the customer cancelled the

move. The broker has refused to refund the deposit notwithstanding its representation the move could be cancelled up to 7 days before the scheduled pickup and a refund would be made.

Case No. 9

An Internet broker arranged a move (points not specified), demanded a deposit by credit card and obtained a contract from the customer. The mover told the customer the move would cost twice the estimated charge. Two weeks after pickup, the customer could not locate the goods, or when they would be delivered, and received different responses from the broker and the mover on the delivery date and the price.

Case No. 10

Florida-based broker arranged a move from New Jersey to Oregon at an estimated charge of \$1,280 and an estimated transit time of 2 weeks. The delivery was made 2-1/2 months later. The cost increased to \$2,720, which the customer paid notwithstanding the presence of an FMCSA field administrator who could not convince the unlicensed carrier to release the goods for the estimated charge.

The above cases are merely typical examples of the tip of an increasingly large iceberg of complaints AMSA continues to receive. They are also illustrative of recent tabloid expose segments on rogue movers and brokers appearing on programs such as NBC's Dateline.

Either for lack of resources, order of priorities, or otherwise, the existing broker regulations are not being enforced and, in any event, are not designed to protect consumer shippers. Indeed, even if they were being enforced, the existing regulations do not directly address consumer protection. What is needed are explicit, narrowly tailored

regulations that cannot be circumvented or ignored. The regulations should be simple to understand and mandatory so that it can be readily determined whether or not a requirement has been met. Regulations that require appropriate notices by brokers to consumers and a paper trail permit prompt determinations of whether brokers are or are not doing what is required.

### III.

#### REGULATIONS SHOULD BE ADOPTED

There is no valid justification for subjecting motor carriers of household goods to Consumer Protection regulations, but not offering the public the same degree of protection when brokers are involved in the transportation of household goods on behalf of consumers. Congress envisioned the need for such oversight in directing the Secretary that regulations applicable to brokers shall provide for the protection of shippers by motor vehicle. 49 U.S.C. § 13904(c). The existing broker regulations at 49 C.F.R. Part 371 do not provide any realistic measure of protection for consumer shippers of household goods.

AMSA proposes the appended regulations that would apply specifically to brokers of household goods in addition to the more generalized rules presently applicable to all property brokers. The proposed regulations are easily understood, straightforward and designed to address the types of complaints received by AMSA and FMCSA. They are well within the Secretary's authority to protect shippers and are narrowly tailored to apply only to brokers of household goods in their dealings with individual householders.

The primary concept underlying the proposed regulations is disclosure. Based upon the many complaints that AMSA routinely receives, much of the present problem

stems from inadequate information, lack of explanation, and/or deliberate deception and concealment. Because Internet transactions are typically covered by the cloak of anonymity, consumers often do not know with whom they are dealing, in what capacity, or how to communicate with an actual person representing the Internet broker. This environment is undoubtedly fostered by the lack of regulations requiring brokers to furnish the same information that carriers are required to give to consumers. By hiding behind this regulatory void, brokers are able to engage in all sorts of deceptive practices so long as they meet the minimal requirements of the existing regulations. To comply, one need only maintain its records and not misrepresent its broker status when holding out its services. However, the regulations impose no affirmative duties on the broker to ensure protection of the shipper.

The proposed regulations are designed to fill the existing regulatory gap. The current regulations are passive whereas the proposed regulations would require brokers to act affirmatively by making specified disclosures to consumers. Importantly, the regulations would apply regardless of the medium through which services are held out and therefore ensure that the Internet is not used as a device to avoid regulation.

The following summarizes the proposed regulations contained in the Attachment hereto.

Proposed Definitions in Present Section 371.2

The existing definitions would be amended to add paragraphs (e) and (f) defining "household goods broker" and "individual shipper". These definitions are designed to mirror the definitions of "household goods" and "brokers" contained in the statute and "shipper" in the Consumer Protection regulations applicable to motor carriers of

household goods. Paragraph (c) would be amended to explicitly include the transportation of household goods within the definition of brokerage service.

Proposed Section 371.14

A new subsection 14 would be added as a separate category of brokers, viz., household goods brokers.

Proposed paragraph (a)

This paragraph makes clear that household goods brokers are subject to both the existing and the new regulations.

Proposed paragraph (b)

The broker would be required to identify itself, the capacity in which it holds itself out, and reveal its locations and a telephone number so that customers can communicate with a person. This is designed to remove the cloak of anonymity.

Proposed paragraph (c)

In an effort to eliminate or reduce the use of unauthorized carriers, the regulations would require brokers to use only licensed motor carriers. This will help to ensure that the carrier performing service is insured, offers arbitration, is a responsible entity in the event of a dispute, and otherwise is held to the requirements of the Consumer Protection regulations.

Proposed paragraph (d)

At the initial point of contact by the householder, it is appropriate that the broker provide information concerning the shipper's rights and responsibilities, explain carrier liability for loss or damage and the options available, and advise of the availability of arbitration. Carriers are presently required to furnish this information, but oftentimes it is



not provided. The overlapping requirement would serve to provide a safety net for consumers to ensure that they receive this important information.

Proposed paragraphs (e), (f), (g) and (h)

A persistent source of disputes involves estimates of shipment charges. Some are simply inaccurate, others are deliberately deceptive. This is often the case on Internet quotes given solely on the basis of a customer's oral or electronic description of the goods to be transported without an actual physical shipment survey. Disputes also arise when the customer is not informed that the estimate was not binding and that the actual weight of the shipment determines the charges, or that the estimate was binding but does not cover unanticipated services at delivery. Often the customer is simply given an oral quotation that is subsequently disavowed.

Many disputes can be resolved by requiring full written disclosure in advance of the move. If all of the factors that may vary the customer's charges are disclosed at the outset of the transaction, the customer should not claim surprise or bait and switch. On the other hand, if the broker does not disclose that the actual charges may differ from the quote and the reasons therefor, the carrier should not be authorized to collect a higher amount.

Proposed paragraph (i)

A frequent complaint raised by consumers concerns deposits required to secure broker service. Presently, there is no prohibition against requiring a deposit. Inasmuch as an Internet customer can disappear as readily as an unscrupulous broker, it may be prudent to permit a deposit from a customer to secure the transportation service. By the same token, if the request for service is cancelled prior to the move, the deposit should be

refundable, perhaps in varying amounts depending on how close or far in advance notice of cancellation is given. In any case, the terms governing deposits and forfeitures should be fully disclosed before a deposit can be demanded.

Proposed paragraph (j)

Due to the nature of their business, unscrupulous brokers are able to "close shop" and disappear, leaving shippers and carriers without recourse. The requirement that brokers have a bond or trust agreement is designed as a protective measure for shippers and carriers in such an event. See *Property Broker Security For Protection of Public*, 4 I.C.C.2d 358 (1988). The proposed regulation would require disclosure of the existence of the bond or trust agreement so that the consumer is aware that there is a potential avenue for recourse.

Proposed paragraph (k)

Many consumers are unaware of their rights and the responsibilities of service providers as prescribed by the federal government. The proposed regulation serves to make consumers aware of where they can research these requirements.

Proposed paragraph (l)

This regulation is designed to enhance enforcement of federal regulations. Some consumers who are subjected to the unlawful practices of carriers that fail to comply with or violate the existing household goods Consumer Protection regulations do not know where or to whom such violations should be reported. Since brokers are typically the only independent point of contact a consumer may have with the service provider, it is appropriate to require the broker to report violations to the FMCSA in an effort to improve the system available to the consuming public.

Proposed paragraph (m)

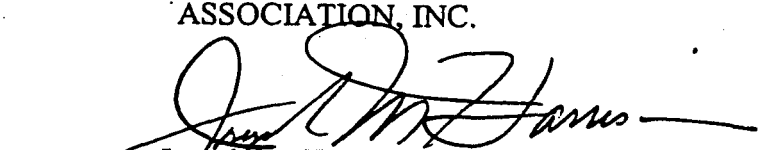
Prior to their revision in 1980, the broker regulations imposed an affirmative duty on brokers to fairly protect the interests of their shipper customers and prohibited misrepresentations and false promises. Former 49 C.F.R. § 1045.10 (1978). Given the practices described herein, and Congress' directive to protect shippers, this paragraph revives the former prohibition against misleading and deceptive practices.

CONCLUSION

For all of the foregoing reasons, AMSA respectfully requests the Department of Transportation to expeditiously publish notice in the *Federal Register* instituting a rulemaking proceeding and soliciting public comment on the adoption of the regulations proposed herein. Any delay in addressing the problems being encountered by consumers as a result of the practices of brokers will surely exacerbate what has become a major regulatory deficiency.

Respectfully submitted,

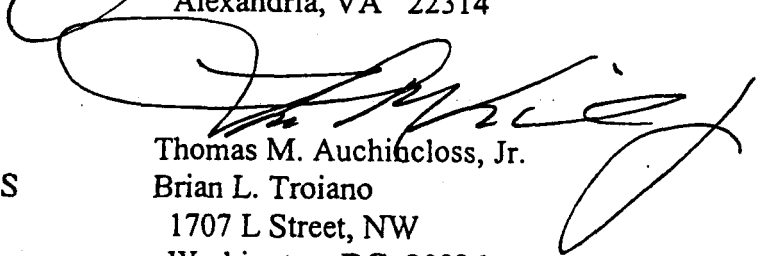
AMERICAN MOVING & STORAGE  
ASSOCIATION, INC.



Joseph M. Harrison, President  
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Thomas M. Auchincloss, Jr.  
Brian L. Troiano  
1707 L Street, NW  
Washington, DC 20036

Dated: March 6, 2003

Counsel for American Moving &  
Storage Association, Inc.

## ATTACHMENT

### PROPOSED REGULATIONS

#### Definitions

(1) Add to definitions at 49 C.F.R. § 371.2:

(e) "Household goods broker" means a person who, for compensation, offers for sale, or makes or holds himself out to make any contract, agreement, or arrangement to provide, procure, furnish, or arrange the transportation by motor carrier of household goods and/or any related service as defined in 49 U.S.C. 13102(10)(A) and (19); provided, however, that motor carriers, their employees, or their bona fide agents are not household goods brokers within the meaning of this section when they arrange the transportation of shipments which they are authorized to transport and which they have accepted and legally bound themselves to transport.

(2) Amend definition of brokerage service in paragraph (c) to include the transportation of household goods by adding after the word "property" the phrase "or of household goods".

(3) Add to definitions:

(f) "Individual shipper" means any person who is the consignor or consignee of a household goods shipment, is identified as such in the bill of lading contract or other similar contract, owns the goods being or to be transported, and pays for their transportation.

Add the following section: § 371.14. Transportation of Household Goods.

(a) Applicability. In addition to the foregoing requirements, the following rules also apply to household goods brokers in their dealings with and on behalf of individual shippers.

(b) In any transaction subject to this part, each household goods broker shall disclose its capacity as a broker, that it is licensed by the FMCSA, its registration number, the name in which its registration is issued, its current address and telephone number.

(c) In any transaction subject to this part, no household goods broker shall procure, arrange, furnish, or refer the services of a motor carrier that is not authorized by the FMCSA to provide or participate in the transportation of household goods at or between the places where service will be performed. The broker shall disclose the name and FMCSA registration number of each carrier participating in the shipment or referred to the shipper.

(d) Prior to the execution of any agreement by an individual shipper, each household goods broker shall furnish to such shipper the following information either in written form or electronic form that can be reproduced in printed form:

(1) the contents of Publication OCE-100, Yours Rights And Responsibilities When You Move;

(2) an explanation of any carrier limitations of liability for loss or damage that may or will govern the shipment; and

(3) an explanation of the availability of arbitration to resolve certain disputes with respect to shipment loss or damage.

(e) Every estimate or statement of charges submitted to an individual shipper shall be in writing, shall separately itemize the charges for linehaul transportation, packing, unpacking, valuation and storage, and shall confirm that a FMCSA registered motor carrier has agreed to provide the services required by the shipper for the estimated amount. The broker shall identify the FMCSA registered motor carrier. If a commission is paid by an individual shipper or by a carrier to the broker, the commission shall also be stated separately. The estimate or statement of charges may be furnished in an electronic form that can be reproduced in a printed form.

(f) Any estimate of charges that is given to an individual shipper without a physical survey of the goods shall recite that no survey has been performed and shall only be given following an express waiver by the shipper of a physical survey.

(g) If an estimate of charges is provided to an individual shipper that is non-binding, the household goods broker shall advise the shipper that the carrier's actual charges may be higher than the estimate based upon the actual weight of the shipment, but that the carrier may not demand payment in excess of 110 percent of the estimated charges at delivery. The broker shall explain to the shipper the terms governing the extension of credit and that the shipper remains liable for the payment of all carrier charges.

(h) If a guaranteed binding estimate of shipment charges is provided to an individual shipper, the household goods broker shall specify in writing the services to be performed by the carrier and that the charges are binding on the carrier and the shipper.

(i) Any household goods broker who requires payment of a deposit or any other sum of money in advance of performance of the transportation service shall provide a

written statement identifying the party(s) to whom such monies are distributed and the circumstances in which any such payments may be forfeited in whole or in part. The statement shall also explain the procedure for obtaining refunds in cases where the request for service is cancelled. Refunds shall be issued promptly and in no case later than 30 days from the date the shipper gives appropriate notice of cancellation.

(j) Every household goods broker shall disclose to shippers and carriers the existence of its surety bond or trust agreement required by law.

(k) Every household goods broker shall identify and disclose to individual shippers the regulations in this part.

(l) If a dispute arises between a shipper and a carrier procured or referred by a household goods broker under this Part as a result of the carrier's violation of the regulations contained in Part 375 of this Title, the broker shall give notice of such violation to the Federal Motor Carrier Safety Administration.

(m) Every household goods broker shall fairly protect the interests of any individual shipper employing its service and shall assist such shippers in resolving disputes with the motor carrier providing the transportation service. A broker shall not misrepresent, make false promises, or engage in unfair or deceptive practices at any stage of a transaction with a shipper or carrier.