

Federal Advisory Committee for Household Goods Consumer Protection

Meeting Minutes for August 15, 2017 3:00pm – 4:00pm EDT

The Federal Advisory Committee for Household Goods (HHG) Consumer Protection was convened for a teleconference at 3:00pm EDT on Tuesday, August 15, 2017.

Working Group Members Present:

Francisco Acuna – President, Household Goods Compliance Solutions, Inc.

Thomas Balzer, CAE – President, Ohio Association of Movers

Thomas J. (TJ) Carney – President, Carney McNicholas Inc

John Ezparza – President & CEO, Texas Trucking Association

Jennifer Gartlan, Esq. – Office of Consumer Affairs & Dispute Resolution Services, Federal Maritime Commission

Margaret McQueen – Safety Programs Manager, FMCSA National Training Center

Gabriel Meyer – Attorney Advisor, US Surface Transportation Board

Scott Michael – President and CEO, American Moving and Storage Association

Heather Paraino (Chairwoman), Esq. – Senior Corporate Counsel, MoveRescue

Jonathon Todd, Esq. – Of Counsel, Benesch Friedlander Coplan & Aronoff LLP

FMCSA Support:

Kenneth Rodgers – Chief, Commercial Enforcement & Investigations Division and DFO, FMCSA

James Dubose – Transportation Specialist, FMCSA

Lawrence Hawthorne – Transportation Specialist, FMCSA

Volpe Support:

Dianne Gunther – Volpe Lead

Erin Lohrenz – Record Minutes

Cassandra Oxley – Volpe Support/Report Editor

Julianne Schwarzer – Facilitator

1. Welcome and Introduction

Julianne Schwarzer, U.S. DOT Volpe Center, called the group to order and welcomed everyone back.

Chairwoman Heather Paraino complimented Volpe for their detailed work on the report, and thanked the group for providing good comments.

2. Report Discussion on Edits

Dianne Gunther, U.S. DOT Volpe Center, shared the current version of the report and began highlighting some of the more significant changes since the last version.

a) Executive Summary

Recommendation table

- Changing the term “*digestible*” to “*understood*” throughout the report for formality.
- Changing the term rogue “*mover*” to rogue “*operator*” throughout.
- Recommendation 2 – clarifying to develop “*online*” education modules
 - Agreement to add “(and other)” to show the impression we are broader than just online

- Recommendation 3 – clarifying that we are assisting the “*moving industry*” as opposed to “*movers*”
- Recommendation 4 –
 - Minor grammatical updates
 - Clarification to provide “*additional*” funding that “*would allow FMCSA to*”
 - Working Group agreed to merge the first two bullets, stated below:
 - *Procure full time, year-round, dedicated resources and personnel (either Federal or contracted) with the expertise needed to implement state-of-the-art education utilizing the internet as a tool.*
 - *Provide dedicated funding exclusively for the purpose of consumer protection education and outreach efforts*
- Recommendation 5 – group agreed to specify that the 2013 version be formally adopted “by rule making” as well as added some minor general clarifications
- Recommendation 6 – continued discussion over whether to provide a revised estimate vs. issuing a new estimate
 - Example referenced where an online estimate is given to the consumer and a different company shows up and gives the shipper an “addendum to the estimate” with a box checked indicating “signed prior to loading”;
 - This makes it difficult for enforcement and often increases the amount the consumer must pay prior to delivery – suggestion to issue a brand new estimate completed prior to the load.
 - Federal Register guidance says you can’t issue a revised estimate but it is not widely understood and needs to be enforced.
 - Due to the large number of specific questions regarding this topic, Heather Paraino and Scott Michael agreed to set up a separate meeting together to discuss these items.
- Working Group pointed out that although they were taking a lot of time on the executive summary, the correct wording for the specific recommendations is most important.
- Recommendation 8 – changing wording to restate that movers are required to do the visual survey regardless of distance
- Recommendation 9 – group agreed that a company can continue to issue an order for service if they choose but it won’t be required or specified in the report
- Recommendation 10 –
 - Group agreed to update the second bullet to specify that the bill of lading should require the carrier’s name and either the “*legal name or trade name registered with FMCSA*”
 - Fourth bullet – specifying that any reference to the order for service should be removed from the bill of lading
 - Last bullet – specifying that a statement should be added that the bill of lading incorporates services “*and charges*” printed on the estimate
 - Group agreed to keep recommendations 9 and 10 separate to stay consistent with the order for service and bill of lading discussions kept separate in the report
- Recommendation 11 – adding minor clarifications
- Recommendation 13 – adding reference to the rulemaking “*published at 79 FR 23306 (4/28/2014)*”
- Recommendation 14 – specifying that the current requirement is for consumers to sign a “*written*” waiver

- Recommendation 15 – clarifying that the visual waiver is scheduled or waived “*by the consumer*” and specifying the name of the brochure.
- Recommendation 17 –
 - Minor grammatical changes
 - Group wants to add a statement that the brochure should fit on a standard desktop screen without scrolling as well have a mobile-friendly version

b) Definition of Terms

Gunther went through the comments in the definitions section. There were recommendations to add some general definitions that are beneficial for consumers such as: claim, containers, delivery, date spreads, etc. These may not be used in the report but are helpful for consumers. The group should go through these on their own and report back if they disagree.

Paraino noted that it is fine to add as many definitions as is necessary for clarity, but we want to be precise but not too formal or complicated. She will review this section and provide suggestions.

- **Freight forwarder** – suggestion to include this definition but we may only use it once;
 - There was a suggestion to merge “freight forwarder” and “broker” but the group agreed to keep these separate since freight forwarder takes liability on shipments as opposed to brokers.
 - Working Group likes the idea to streamline this definition down to core elements.
 - Keeping this definition as-is for now and Working Group members can suggest ways to streamline it.
- **Hostage load** – this definition might be easier to follow with bullet points
 - The regulations require 15% of balance due, not 15% of shipment.
 - One option – say there are detailed limitations on what you can collect upon delivery and if mover doesn’t relinquish, it becomes hostage load.
- **Moving season** – suggestion to remove this (could be used as an excuse to inconvenience clients).
- **“Rogue Mover”** changed to **“Rogue Operator.”**
- **Tariff** – added statement that “they must be published or filed (for non-contiguous domestic trade only).”
 - Gabe wants to give more thought to this addition and will get back to the group.

There were some other terms that were added. The group should review and provide feedback.

3. Next Steps

Gunther highlighted the areas where there was significantly more content added and asked that the group review these sections on their own and provide comments. The revised version from today will be sent out to the group, and the group should provide revised comments Dianne by August 23.

Based on group’s comments, we will either resolve issues offline or schedule another Working Group call if necessary.

Sections that require more specific attention:

- Page 3, Introduction Section 1B – footnote to highlight the point that traditional movers constitute 25% of moves.
- New section added between Brochure and Conclusion titled “*Other Considerations.*”

- Relates to things that didn't fall into any strict definition of what we were supposed to do so we could suggest it but not include in recommendations –
 - This section intends to recognize areas where government might want to take action in the future (not advocating for or against; intended to be neutral).
- Appendix B – Examples of Modular Approach – fairly minor edits but we want to make sure everyone agrees.
- Appendix H – Recommended Brochure Content – minor edits
- Paperwork section – added several new paragraphs
 - Estimate description includes more clarification and detail.
 - Requirements table – expanded to more closely match the table provided by Paraino (with consent from MoveRescue) to emphasize the large number of requirements.
- Section 8 of Part 3 – more discussion added to items considered and rejected and more details added based on conversations on these topics.
 - The goal was to further describe the conversations about the topics that the group did not ultimately end up recommending to demonstrate the level of thought and discussion that went into these decisions.

4. Concluding Remarks

Gunther will send an email reminder for group to send feedback by August 23 and then we will be in touch regarding whether to schedule another call or if we can move forward with the recommendations.

Scott Michael and Heather Paraino will have a follow-up conversation regarding the outstanding issues.

Kenneth Rodgers, DFO, noted that he feels confident in the group's progress and stated that we are heading down the right path and are on time to reach our September projected due date.

Adjournment:

The teleconference for the Federal Advisory Committee for Household Goods Consumer Protection was adjourned at 4:00pm EDT on August 15, 2017.