

## § 375.101

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AUTHORITY: 5 U.S.C. 553; 49 U.S.C. 13102, 13301, 13704, 13707, 14104, 14706, 14708; subtitle B, title IV of Pub. L. 109–59; and 49 CFR 1.73.

SOURCE: 68 FR 35091, June 11, 2003 unless otherwise noted.

### Subpart A—General Requirements

#### § 375.101 Who must follow the regulations in this part?

You, a household goods motor carrier engaged in the interstate transportation of household goods, must follow the regulations in this part when offering your services to individual shippers. You are subject to this part only when you transport household goods for individual shippers by motor vehicle in interstate commerce. Interstate commerce is defined in § 390.5 of this subchapter.

[72 FR 36771, July 5, 2007]

#### § 375.103 What are the definitions of terms used in this part?

Terms used in this part are defined as follows. You may find other terms used in these regulations defined in 49 U.S.C. 13102. The definitions contained in this statute control. If terms are

used in this part and the terms are neither defined here nor in 49 U.S.C. 13102, the terms will have the ordinary practical meaning of such terms.

*Advertisement* means any communication to the public in connection with an offer or sale of any interstate household goods transportation service. This includes written or electronic database listings of your name, address, and telephone number in an on-line database. This excludes listings of your name, address, and telephone number in a telephone directory or similar publication. However, Yellow Pages advertising is included in the definition.

*Cashier's check* means a check that has all four of the following characteristics:

- (1) Drawn on a bank as defined in 12 CFR 229.2.
- (2) Signed by an officer or employee of the bank on behalf of the bank as drawer.
- (3) A direct obligation of the bank.
- (4) Provided to a customer of the bank or acquired from the bank for remittance purposes.

*Certified scale* means any scale inspected and certified by an authorized scale inspection and licensing authority, and designed for weighing motor vehicles, including trailers or semi-trailers not attached to a tractor, or designed as a platform or warehouse type scale.

*Commercial shipper* means any person who is named as the consignor or consignee in a bill of lading contract who is not the owner of the goods being transported but who assumes the responsibility for payment of the transportation and other tariff charges for the account of the beneficial owner of the goods. The beneficial owner of the goods is normally an employee of the consignor and/or consignee. A freight forwarder tendering a shipment to a carrier in furtherance of freight forwarder operations is also a commercial shipper. The Federal government is a government bill of lading shipper, not a commercial shipper.

*Force majeure* means a defense protecting the parties in the event that a part of the contract cannot be performed due to causes which are outside the control of the parties and could not be avoided by exercise of due care.

*Government bill of lading shipper* means any person whose property is transported under the terms and conditions of a government bill of lading issued by any department or agency of the Federal government to the carrier responsible for the transportation of the shipment.

*Household goods*, as used in connection with transportation, means the personal effects or property used, or to be used, in a dwelling, when part of the equipment or supplies of the dwelling. Transportation of the household goods must be arranged and paid for by the individual shipper or by another individual on behalf of the shipper. Household goods includes property moving from a factory or store if purchased with the intent to use in a dwelling and transported at the request of the householder, who also pays the transportation charges.

*Household goods motor carrier* means—

(1) In general, a motor carrier that, in the ordinary course of its business of providing transportation of household goods, offers some or all of the following additional services:

- (i) Binding and nonbinding estimates;
- (ii) Inventorying;
- (iii) Protective packing and unpacking of individual items at personal residences;
- (iv) Loading and unloading at personal residences.

(2) The term includes any person considered to be a household goods motor carrier under regulations, determinations, and decisions of the Federal Motor Carrier Safety Administration in effect on the date of enactment of the Household Goods Mover Oversight Enforcement and Reform Act of 2005 (August 10, 2005).

(3) The term does not include any motor carrier providing transportation of household goods in containers or trailers that are entirely loaded and unloaded by an individual other than an employee or agent of the motor carrier.

*Individual shipper* means any person who—

- (1) Is the shipper, consignor, or consignee of a household goods shipment;
- (2) Is identified as the shipper, consignor, or consignee on the face of the bill of lading;

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(3) Owns the goods being transported; and

(4) Pays his or her own tariff transportation charges

*May* means an option. You may do something, but it is not a requirement.

*Must* means a legal obligation. You must do something.

*Order for service* means a document authorizing you to transport an individual shipper's household goods.

*Reasonable dispatch* means the performance of transportation on the dates, or during the period, agreed upon by you and the individual shipper and shown on the Order For Service/ Bill of Lading. For example, if you deliberately withhold any shipment from delivery after an individual shipper offers to pay the binding estimate or 110 percent of a non-binding estimate, you have not transported the goods with reasonable dispatch. The term "reasonable dispatch" excludes transportation provided under your tariff provisions requiring guaranteed service dates. You will have the defenses of force majeure, *i.e.*, superior or irresistible force, as construed by the courts.

*Should* means a recommendation. We recommend you do something, but it is not a requirement.

*Surface Transportation Board* means an agency within the Department of Transportation. The Surface Transportation Board regulates household goods carrier tariffs among other responsibilities.

*Tariff* means an issuance (in whole or in part) containing rates, rules, regulations, classifications or other provisions related to a motor carrier's transportation services. The Surface Transportation Board requires a tariff contain specific items under §1312.3(a) of this title. These specific items include an accurate description of the services offered to the public and the specific applicable rates (or the basis for calculating the specific applicable rates) and service terms. A tariff must be arranged in a way that allows for the determination of the exact rate(s) and service terms applicable to any given shipment.

*We, us, and our* means the Federal Motor Carrier Safety Administration (FMCSA).

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*You* and *your* means a household goods motor carrier engaged in the interstate transportation of household goods and its household goods agents.

[68 FR 35091, June 11, 2003, as amended at 72 FR 36771, July 5, 2007]

### § 375.105 What are the information collection requirements of this part?

(a) The information collection requirements of this part have been reviewed by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB control number 2126–0025.

(b) The information collection requirements are found in the following sections: Section 375.205, Section 375.207, Section 375.209, Section 375.211, Section 375.213, Section 375.215, Section 375.217, Section 375.303, Section 375.401, Section 375.403, Section 375.405, Section 375.409, Section 375.501, Section 375.503, Section 375.505, Section 375.507, Section 375.515, Section 375.519, Section 375.521, Section 375.605, Section 375.607, Section 375.609, Section 375.803, Section 375.805, and Section 375.807.

[69 FR 10575, Mar. 5, 2004]

## Subpart B—Before Offering Services to My Customers

### LIABILITY CONSIDERATIONS

#### § 375.201 What is my normal liability for loss and damage when I accept goods from an individual shipper?

(a) In general, you are legally liable for loss or damage if it happens during performance of any transportation of household goods and all related services identified on your lawful bill of lading.

(b) Full Value Protection Obligation—In general, your liability is for the household goods that are lost, damaged, destroyed, or otherwise not delivered to the final destination in an amount equal to the replacement value of the household goods. The maximum amount is the declared value of the shipment. The declared value is subject to rules issued by the Surface Transportation Board (STB) and applicable tariffs.