

§ 375.401

(5) Your failure to issue a policy, or other appropriate evidence of insurance purchased, to an individual shipper will subject you to full liability for any claims to recover loss or damage attributed to you.

(6) You must provide in your tariff for the provision of selling, offering to sell, or procuring liability insurance coverage. The tariff must also provide for the base transportation charge, including your assumption of full liability for the value of the shipment. This would be in the event you fail to issue a policy or other appropriate evidence of insurance to the individual shipper at the time of purchase.

[69 FR 10575, Mar. 5, 2004]

Subpart D—Estimating Charges

§ 375.401 Must I estimate charges?

(a) Before you execute an order for service for a shipment of household goods for an individual shipper, you must estimate the total charges in writing. The written estimate must be one of the following two types:

(1) A *binding estimate*, an agreement made in advance with your individual shipper. It guarantees the total cost of the move based upon the quantities and services shown on your estimate.

(2) A *non-binding estimate*, what you believe the total cost will be for the move, based upon the estimated weight or volume of the shipment and the accessorial services requested. A non-binding estimate is not binding on you. You will base the final charges upon the actual weight of the individual shipper's shipment and the tariff provisions in effect.

(b) You must specify the form of payment you and your agent will honor at delivery. Payment forms may include, but are not limited to, cash, a certified check, a money order, a cashier's check, a specific charge card such as American Express™, a specific credit card such as Visa™, or your credit as allowed by § 375.807.

(c) For non-binding estimates, you must provide your reasonably accurate estimate of the approximate costs the individual shipper should expect to pay for the transportation and services of such shipments. If you provide an inac-

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curately low estimate, you may be limiting the amount you will collect at the time of delivery as provided in § 375.407.

(d) If you provide a shipper with an estimate based on volume that will later be converted to a weight-based rate, you must provide the shipper an explanation in writing of the formula used to calculate the conversion to weight. You must specify the final charges will be based on actual weight and services subject to the 110 percent rule at delivery.

(e) You must determine charges for any accessorial services such as elevators, long carries, etc., before preparing the order for service and the bill of lading for binding or non-binding estimates. If you fail to ask the shipper about such charges and fail to determine such charges before preparing the order for service and the bill of lading, you must deliver the goods and bill the shipper after 30 days for the additional charges.

(f) You and the individual shipper must sign the estimate of charges. You must provide a dated copy of the estimate of charges to the individual shipper at the time you sign the estimate.

(g) Before loading a household goods shipment, and upon mutual agreement of both you and the individual shipper, you may amend an estimate of charges. You may not amend the estimate after loading the shipment.

§ 375.403 How must I provide a binding estimate?

(a) You may provide a guaranteed binding estimate of the total shipment charges to the individual shipper, so long as it is provided for in your tariff. The individual shipper must pay the amount for the services included in your estimate. You must comply with the following nine requirements:

(1) You must provide a binding estimate in writing to the individual shipper or other person responsible for payment of the freight charges.

(2) You must retain a copy of each binding estimate as an attachment to be made an integral part of the bill of lading contract.

(3) You must clearly indicate upon each binding estimate's face the estimate is binding upon you and the individual shipper. Each binding estimate must also clearly indicate on its face the charges shown are the charges being assessed for only those services specifically identified in the estimate.

(4) You must clearly describe binding estimate shipments and all services you are providing.

(5) If it appears an individual shipper has tendered additional household goods or requires additional services not identified in the binding estimate, you are not required to honor the estimate. If an agreement cannot be reached as to the price or service requirements for the additional goods or services, you are not required to service the shipment. However, if you do service the shipment, before loading the shipment, you must do one of the following three things:

(i) Reaffirm your binding estimate.

(ii) Negotiate a revised written binding estimate listing the additional household goods or services.

(iii) Agree with the individual shipper, in writing, that both of you will consider the original binding estimate as a non-binding estimate subject to § 375.405.

(6) Once you load a shipment, failure to execute a new binding estimate or a non-binding estimate signifies you have reaffirmed the original binding estimate. You may not collect more than the amount of the original binding estimate.

(7) If you believe additional services are necessary to properly service a shipment after the household goods are in transit, you must inform the individual shipper what the additional services are before performing those services. You must allow the shipper at least one hour to determine whether he or she wants the additional services performed. If the individual shipper agrees to pay for the additional services, you must execute a written attachment to be made an integral part of the bill of lading contract and have the individual shipper sign the written attachment. This may be done through fax transmissions; e-mail; overnight courier; or certified mail, return receipt requested. You must bill the indi-

vidual shipper for the additional services after 30 days from delivery. If the individual shipper does not agree to pay the additional services, the carrier should perform only those additional services as are required to complete the delivery, and bill the individual shipper for the additional services after 30 days from delivery.

(8) If the individual shipper requests additional services after the household goods are in transit, you must inform the individual shipper of the additional charges that will be billed. You must require full payment at destination of the original binding estimate only. You must bill for the payment of the balance of any remaining charges for additional services no sooner than 30 days after the date of delivery. For example, if your binding estimate to an individual shipper estimated total charges at delivery as \$1,000, but your actual charges at destination are \$1,500, you must deliver the shipment upon payment of \$1,000. You must then issue freight or expense bills no sooner than 30 days after the date of delivery for the remaining \$500.

(9) Failure to relinquish possession of a shipment upon an individual shipper's offer to pay the binding estimate amount constitutes a failure to transport a shipment with "reasonable dispatch" and subjects you to cargo delay claims pursuant to part 370 of this chapter.

(b) If you do not provide a binding estimate to an individual shipper, you must provide a non-binding estimate to the individual shipper in accordance with § 375.405.

(c) You must retain a copy of the binding estimate for each move you perform for at least one year from the date you made the estimate and keep it as an attachment to be made an integral part of the bill of lading contract.

[68 FR 35091, June 11, 2003, as amended at 69 FR 10575, Mar. 5, 2004; 69 FR 17317, May 5, 2004]

§ 375.405 How must I provide a non-binding estimate?

(a) If you do not provide a binding estimate to an individual shipper in accordance with § 375.403, you must provide a non-binding written estimate to the individual shipper.