

TITLE 18 TRANSPORTATION AND HIGHWAYS
CHAPTER 3 MOTOR CARRIER GENERAL PROVISIONS
PART 11 HOUSEHOLD GOODS CARRIERS

18.3.11.1 ISSUING AGENCY: New Mexico Public Regulation Commission (NMPRC).
[18.3.11.1 NMAC - Rp, 18.3.11.1 NMAC, 2-13-15]

18.3.11.2 SCOPE: This rule applies to all household goods carriers (HGCs) and household goods agents subject to the jurisdiction of the commission and is in addition to all other applicable requirements of these rules.
[18.3.11.2 NMAC - Rp, 18.3.11.2 NMAC, 2-13-15]

18.3.11.3 STATUTORY AUTHORITY: Sections 8-8-4, 65-2A-4, 65-2A-25, and 65-2A-26 NMSA 1978.
[18.3.11.3 NMAC - Rp, 18.3.11.3 NMAC, 2-13-15]

18.3.11.4 DURATION: Permanent.
[18.3.11.4 NMAC - Rp, 18.3.11.4 NMAC, 2-13-15]

18.3.11.5 EFFECTIVE DATE: February 13, 2015, unless a later date is cited at the end of a section.
[18.3.11.5 NMAC - Rp, 18.3.11.5 NMAC, 2-13-15]

18.3.11.6 OBJECTIVE: The purpose of this rule is to implement Sections 65-2A-25 and 65-2A-26 NMSA 1978.
[18.3.11.6 NMAC - Rp, 18.3.11.6 NMAC, 2-13-15]

18.3.11.7 DEFINITIONS: In addition to the definitions in Section 65-2A-3 and 18.3.1.7 NMAC as used in this rule.

A. accessorial services means services such as packing, marking, unpacking, and appliance servicing, assembling, and disassembling that the shipper requests to be performed or are necessary because of special circumstances;

B. bill of lading means the receipt for the shipper's household goods and the contract for their transportation;

C. binding estimate means an agreement made in advance between the shipper and the HGC that guarantees the total cost of the move based on the quantities and services shown on the estimate;

D. exclusive use of a vehicle means an agreement that the shipper's shipment will be moved by itself on the HGC's transporting motor vehicle;

E. expedited service means an agreement between the shipper and the HGC to perform transportation by a set date in exchange for a higher charge;

F. guaranteed pickup and delivery service means an agreement between the shipper and the HGC to pick up and deliver the shipment on specified dates that provides for the HGC to reimburse the shipper for delays;

G. inventory means the detailed descriptive list of the shipper's household goods showing the number and condition of each item;

H. non-binding estimate means the carrier's approximation of the cost of the move based on the estimated weight of the shipment and the accessorial services requested; a non-binding estimate is not binding on the carrier and final charges are based on the actual weight and tariff provisions in effect;

I. storage in transit means temporary storage of the shipper's shipment pending further transportation.

[18.3.11.7 NMAC - Rp, 18.3.11.7 NMAC, 2-13-15]

18.3.11.8 COST ESTIMATES: An HGC may provide a cost estimate upon request of a prospective shipper. A cost estimate must be in writing and must clearly describe the shipment and all services requested. The HGC shall provide a copy of the estimate to the shipper.

A. Binding estimates of total cost.

(1) The HGC may charge for providing a binding estimate.

(2) A shipper shall not be required to pay more than the amount of the binding estimate unless the HGC is asked or required to provide more services than those included in the binding estimate.

(3) If the shipper agrees to a binding estimate, the shipper must pay the charges due at the

time of delivery. If the shipper cannot pay at the time the shipment is delivered, the HGC may place the shipment in storage at the shipper's expense until the charges are paid.

(4) Whenever the HGC provides a binding estimate and the shipper elects to use the services offered by the HGC, the HGC shall retain a copy of the binding estimate in the HGC's files for a period of three (3) years.

B. Non-binding estimates of approximate cost.

(1) An HGC shall not charge for providing a non-binding estimate.

(2) If the HGC provides a non-binding estimate, the shipper shall not be required to pay more than the amount of the original estimate, plus ten percent (10%), at the time of delivery. The shipper shall then have thirty (30) days after delivery to pay any remaining charges.

(3) If the HGC is asked or required to provide more services than those included in the estimate, the HGC may demand full payment for the added services at the time of delivery.

(4) If the shipper cannot pay the required charges at the time the shipment is delivered, the HGC may place the shipment in storage at the shipper's expense until the charges are paid.

(5) Whenever the HGC provides a non-binding estimate and the shipper elects to use the services offered by the HGC, the HGC shall retain a copy of the non-binding estimate in the HGC's files for a period of three (3) years.

[18.3.11.8 NMAC - Rp, 18.3.11.8 NMAC, 2-13-15]

18.3.11.9 LIMITATIONS ON SERVICE OPTIONS: An HGC may offer the following service options. However, an HGC may not charge for these or any other services unless the charge is included in the HGC's commission-approved tariff.

A. Space reservation. The HGC may not enter into an agreement for the shipper to pay for a minimum number of cubic or linear feet in the HGC's transporting vehicle, regardless of how much space is actually occupied by the shipment, when the shipment completely occupies the transporting vehicle.

B. Expedited service. An HGC may subject shipments weighing less than the minimums specified in this subsection to reasonable delay for consolidation aboard a single vehicle. When a shipper orders expedited service with a specified delivery date and the HGC is unable to consolidate the shipment with other shipments, the HGC may base transportation charges on the specified minimum weights.

(1) Shipments moving zero (0) to fifty (50) miles, three thousand (3,000) pounds minimum;

(2) Shipments moving fifty (50) miles to one hundred (100) miles, five thousand (5,000) pounds minimum;

(3) Shipments moving one hundred one (101) miles to two hundred (200) miles, eight thousand (8,000) pounds minimum;

(4) Shipments moving two hundred one (201) miles to three hundred (300) miles, ten thousand (10,000) pounds minimum;

(5) Shipments moving three hundred one (301) miles and up, twelve thousand (12,000) pounds minimum.

C. Exclusive use of a vehicle.

(1) An HGC may require a minimum charge for exclusive use of a vehicle.

(2) An HGC may not enter into an exclusive use of vehicle agreement with a shipper when the shipment completely occupies the transporting vehicle.

D. Guaranteed pickup and delivery. The liability provided by a guaranteed pickup and delivery agreement is in addition to and shall in no way limit the liability of the HGC otherwise provided by law.

E. Storage in transit.

(1) A shipper may place a shipment that is in transit in storage one or more times for an aggregate of no more than one hundred eighty (180) days.

(2) Upon the expiration of the one hundred eighty (180) day period, the storage facility shall be considered the final destination and all accrued charges shall become due and payable.

(3) The shipper or the shipper's agent may add to or remove goods from storage and the HGC shall adjust the charges to the new weight of the shipment.

F. Accessorial services. An HGC shall clearly describe on the bill of lading each accessorial service provided to a shipper.

G. Advanced charges. The HGC may bill a shipper for services not performed by the HGC but by a third party at the shipper's request only if such services are clearly described on the bill of lading and supported by a copy of the third party's invoice.

[18.3.11.9 NMAC - Rp, 18.3.11.9 NMAC, 2-13-15]

18.3.11.10 BILL OF LADING:

- A. Before accepting household goods for transport, the HGC shall prepare and deliver to the shipper a complete bill of lading for every shipment it will transport.
- B. A copy of the bill of lading should accompany the shipment at all times.
- C. The HGC shall retain a copy of the bill of lading in its files for a period of three (3) years.
- D. All bills of lading shall comply with, be governed by, and have the consequences stated in the Uniform Commercial Code of New Mexico and any other applicable law.

[18.3.11.10 NMAC - Rp, 18.3.11.10 NMAC, 2-13-15]

18.3.11.11 CONTENTS OF THE BILL OF LADING: Use of the uniform bill of lading meets the requirements of this rule. If another form is used, the bill of lading must contain at least the following information:

- A. the number of the bill of lading;
- B. the name, address, telephone number and NMPRC transportation number of the issuing HGC;
- C. the name and address of any other HGCs participating in the shipment, if known;
- D. the date the shipment was received by the HGC;
- E. the name, address and, if available, telephone number of the shipper;
- F. the points of origin and destination;
- G. a description of the items tendered and received for transportation;
- H. the weight, volume, or measurement of the items tendered and received for transportation, if applicable to the rating of the freight;
- I. where applicable, the valuation of the shipment on which the bill of lading was issued;
- J. if known, the amount of charges, method of payment and, if a cash on delivery (COD) shipment, the amount of the COD charges and the name of the person who is to pay the charges;
- K. agreed pick-up and delivery date, if any; and
- L. identification number assigned to the shipment by the HGC, if any.

[18.3.11.11 NMAC - Rp, 18.3.11.11 NMAC, 2-13-15]

18.3.11.12 INVENTORY:

- A. **Required.** The household goods carrier (HGC) shall prepare an inventory of each shipment prior to transport.

(1) The inventory shall consist of a description of each article in the shipment, shall list any damage or unusual wear, and shall indicate which containers were packed or crated by the HGC and which were packed or crated by the shipper.

(2) The HGC and the shipper shall each sign the inventory, and the shipper shall then be solely responsible for its accuracy.

(3) At the time the shipment is delivered, the shipper shall be given the opportunity to check the items delivered against the items listed on the inventory. If new damage is discovered, the shipper shall be given the opportunity to record it on the inventory.

(4) The HGC shall retain a legible copy of the inventory in its files for a period of three (3) years.

- B. **Exception.** A shipper may waive in writing the requirement for an inventory if:

- (1) the pickup and delivery points for the shipment are no more than thirty (30) miles apart;
- (2) the shipment is billed at an hourly rate; and
- (3) the shipper has exclusive use of the vehicle.

[18.3.11.12 NMAC - Rp, 18.3.11.12 NMAC, 2-13-15]

18.3.11.13 WEIGHING:

- A. The HGC shall follow weighing practices designed to ensure reasonable accuracy.
- B. Each time a weighing is performed the HGC shall obtain a weight ticket showing the date and place of weighing and the weight obtained. The person who performed the weighing shall sign the ticket.
- C. The weight of a shipment shall be the difference between the tare weight of the vehicle on which the shipment is loaded and the gross weight of the same vehicle after the shipment is loaded.
- D. While weighing, the HGC's vehicle shall have full fuel tanks and shall contain the equipment required to transport the shipment, including pads, dollies and ramps.

- E.** Shipments weighing less than one thousand (1,000) pounds may be weighed separately on a certified scale.
- F.** The shipper or its agent has the right to observe all weighing's.
- G.** A shipper or its agent may request a re-weigh prior to the HGC unloading the shipment. Charges shall be based on the re-weigh.
- H.** No HGC shall charge for weighing or re-weighing.

[18.3.11.13 NMAC - Rp, 18.3.11.13 NMAC, 2-13-15]

18.3.11.14 RECEIPT FOR DELIVERY:

- A.** The HGC shall provide the shipper with a receipt for delivery that includes at a minimum the bill of lading, a copy of the inventory and, if applicable, the weigh tickets.
- B.** No HGC shall require a shipper to sign a receipt that relieves the HGC from all liability for loss or damage to the shipment.

[18.3.11.14 NMAC - Rp, 18.3.11.14 NMAC, 2-13-15]

18.3.11.15 LIABILITY FOR LOSS AND DAMAGE: The HGC is required to assume, at a minimum, liability for the released value of the shipper's goods.

- A. Released value.**
 - (1) The HGC shall not charge for assuming liability for the released value of a shipment.
 - (2) The HGC shall specify in its tariff a rate per pound for released value liability.
 - (3) The HGC shall settle loss or damage claims based on the pound weight of the lost or damaged article multiplied by the tariffed rate.
 - (4) The shipper must declare acceptance of released value liability on the bill of lading.
- B. Declared value.**
 - (1) The HGC shall specify in its tariff a rate per thousand dollars, or fraction thereof, for declared value liability.
 - (2) The shipper must declare a specific dollar amount for the declared value of the shipment.
 - (3) The HGC shall settle loss or damage claims based on the declared value of the lost or damaged items up to the maximum liability for the entire shipment.
 - (4) The shipper must declare acceptance of declared value liability on the bill of lading.
- C. Replacement value.**
 - (1) The HGC shall specify in its tariff a rate per thousand dollars, or fraction thereof, for replacement value liability.
 - (2) The shipper must declare a specific dollar amount for the replacement cost value of the shipment.
 - (3) The HGC shall settle loss or damage claims based on the replacement cost of the lost or damaged items up to the maximum liability for the entire shipment.
 - (4) The shipper must declare acceptance of replacement cost liability on the bill of lading.
- D. Articles of extraordinary value.** The HGC may, but is not required to, assume liability for documents, currency, jewelry, precious stones, accounts, bills, deeds, securities, notes, stamp or coin collections, letters, art, or other articles of peculiar inherent value, if the articles are listed on the bill of lading with a specific value for each article. If the HGC refuses to assume such liability, the HGC shall notify the shipper in writing before accepting such articles for shipment.

[18.3.11.15 NMAC - Rp, 18.3.11.15 NMAC, 2-13-15]

18.3.11.16 CLAIMS:

- A.** Upon discovery of a claim for loss, damage, overcharge, or any other matter, the shipper shall immediately notify the HGC in writing and give the HGC a reasonable opportunity to inspect the item that is the basis for the claim and the original package, if any. The claim shall be accompanied by the original or a true copy of the bill of lading.
- B.** The HGC shall not be responsible for loss or damage occurring:
 - (1) after the shipper or the shipper's agent has been given the opportunity to check the items delivered against the items listed on the inventory and has signed the inventory without noting any loss or damage;
 - (2) when the shipper directs the HGC to deliver the shipment to a place where the shipper or the shipper's agent is not present; or
 - (3) when the HGC is directed to load a shipment at a place where the shipper or the shipper's

agent is not present.

C. A HGC shall be responsible for the repair or replacement of a lost or damaged article that is a matched piece or part of a set but shall not be liable for replacing the entire set.

D. When liability is measured by weight of a container or carton, and actual weights are unobtainable, the following items shall be deemed to have the following weights, unless specific evidence is presented to the contrary:

- (1) dish-pack drum, 60 pounds;
- (2) cartons less than 1 1/2 cu. ft., 20 pounds;
- (3) cartons 1 1/2 cu. ft. to less than 3 cu. ft., 25 pounds;
- (4) cartons 3 cu. ft. to less than 4 1/2 cu. ft., 30 pounds;
- (5) cartons 4 1/2 cu. ft. to less than 6 cu. ft., 35 pounds;
- (6) cartons 6 cu. ft. to less than 6 1/2 cu. ft., 45 pounds;
- (7) cartons 6 1/2 cu. ft. and over, 50 pounds;
- (8) wardrobe carton, 50 pounds;
- (9) mattress or box spring carton not exceeding 54" X 75", 60 pounds;
- (10) mattress or box spring carton exceeding 54" X 75", 80 pounds;
- (11) crib mattress carton, 22 pounds;
- (12) cartons containing books, phonograph records, tapes or CDs, 50 pounds;
- (13) cartons containing lampshades, 5 pounds; and
- (14) items not identified on the inventory as to contents will be settled for the heaviest weight

on the schedule for the container.

[18.3.11.16 NMAC - Rp, 18.3.11.16 NMAC, 2-13-15]

18.3.11.17 NOTICE TO PROSPECTIVE SHIPPERS: An HGC shall deliver to every shipper a written notice containing a statement in substantially the following form: "This motor carrier operates pursuant to NMPRC Operating Authority No.(insert operating authority number), issued by the New Mexico public regulation commission, and the tariff approved by the Commission. If you have any questions or problems with the service provided by this company, contact the New Mexico public regulation commission, transportation division, P.O. Box 1269, Santa Fe, New Mexico 87504-1269, 1-800-947-4722."

[18.3.11.17 NMAC - Rp, 18.3.11.17 NMAC, 2-13-15]

18.3.11.18 HOUSEHOLD GOODS AGENTS:

A. Any contract or agreement between an HGC and its agent shall be in writing and shall specify the territory in which the agent is to serve. Each party shall keep a copy of the contract as part of its records at its principal place of business.

B. Each HGC shall file a current, accurate list of its agents and their telephone numbers and physical locations and mailing addresses with its annual report. An HGC shall report any additions or deletions from the list to the commission as they occur.

C. The HGC's agent shall operate under the trade name of the HGC it represents, shall display the trade name of the HGC prominently in its advertising and shall, in all representations to the public, prominently display the name of the HGC and the fact that the agent is acting as the HGC's agent.

D. The HGC's agent shall prominently display the trade name of the HGC principal on all vehicles owned by the agent and used in the pick-up and delivery of intrastate shipments.

E. The HGC's agent shall maintain at its place of business for inspection by the public copies of the tariffs under which the HGC operates.

F. The HGC's agent shall retain as part of its records for a period of three (3) years all documents relating to every shipment that it negotiates or handles, including but not limited to all estimates, contracts, bills of lading, waybills, and freight bills.

[18.3.11.18 NMAC - Rp, 18.3.11.18 NMAC, 2-13-15]

18.3.11.19 JOINT TRANSPORTATION BETWEEN HGCS:

A. No HGC shall arrange any shipment to, from, or between points it is not authorized to serve.

B. An HGC may share in the revenue from a shipment only if it has authority to haul it. All charges for joint transportation shall be collected by the HGC domiciled in New Mexico who booked or transported it and that HGC shall account to all participating HGCS for their share of the charges.

C. Each bill of lading, route manifest, and freight bill shall bear the name of every HGC participating

in the transportation of the shipment.
[18.3.11.19 NMAC - Rp, 18.3.11.19 NMAC, 2-13-15]

18.3.11.20 PROVISIONS REGARDING SPECIFIC TYPES OF ARTICLES:

A. Hazardous matter. The HGC shall not accept or transport hazardous matter or articles that cannot be taken from the premises without damaging the articles or the premises. When the HGC reasonably believes articles or contents of packages must be inspected for compliance with this rule, the HGC shall make or cause such inspection, and may subsequently require sufficient evidence to determine the actual character of the articles. The shipper shall reimburse the HGC according to labor rates published in the HGC's tariff.

B. Perishable articles. The HGC shall not accept perishable articles or articles requiring refrigeration. The HGC may, in its discretion, accept frozen foods under the following conditions:

- (1) the food is contained in a regular food freezer and is frozen solid at the time of loading;
- (2) both the point of origin and the destination of the shipment are within New Mexico;
- (3) no storage or delay is required in transit;
- (4) delivery may be accomplished within twenty four (24) hours of the time of loading; and
- (5) notwithstanding any other provision of this rule, the HGC shall in no case be liable for

the condition or flavor of the food.
[18.3.11.20 NMAC - Rp, 18.3.11.20 NMAC, 2-13-15]

18.3.11.21 IMPRACTICABLE OPERATIONS AND SERVICE: No HGC shall be required to perform any service at a place which is inaccessible, or where the operation of motor vehicles or presence of personnel would subject either to unreasonable risk, loss or damage such as, but not limited to, road conditions, buildings, riots, strikes, war, civil disturbances, and all other hazards.

A. When, due to inaccessibility or otherwise, a HGC cannot perform pickup, delivery, or other services, the HGC will make the motor vehicle available at the nearest accessible point deemed reasonably safe for its operation and personnel.

B. When an HGC, due to inaccessibility or otherwise, cannot operate its motor vehicle to the point of pick-up or delivery, upon permission of the shipper or consignee the HGC may utilize smaller equipment and more labor to continue the move and may charge additionally as provided in the HGC's tariff.

C. When a shipper will not accept delivery at the nearest point of safe approach, the HGC may place the shipment in the nearest public warehouse or storage facility. At that time, the shipment shall be deemed delivered and all charges shall be due and payable immediately. For the purpose of applying this rule, transportation charges shall be computed from origination to the point where the shipment was originally tendered for delivery, and from there to the public warehouse or storage facility, on a continuous mileage or hourly basis, whichever is applicable.

[18.3.11.21 NMAC - Rp, 18.3.11.21 NMAC, 2-13-15]

18.3.11.22 MISCELLANEOUS PROVISIONS:

A. Packing and marking. The HGC shall properly pack fragile or breakable articles and mark the fragile character of the contents on the containers in distinct letters.

B. Minimum shipment charge. Unless otherwise provided, shipments moving on a weight or time basis shall be subject to a minimum charge based on one thousand (1,000) pounds or one (1) hour, at rates provided in the HGC's tariff.

C. Failure to make delivery. When, through no fault of its own, the HGC is unable to locate a consignee at the address furnished by the shipper, or if the consignee is unable to accept or declines delivery, the HGC shall mail, telephone, or fax notification of failure to make delivery to the shipper or consignee and shall place the shipment in storage. If the shipper requests subsequent delivery, the HGC may assess charges for delivery from storage to the destination in addition to the transportation and storage charges already accrued.

D. Pickup or delivery at warehouses and docks. If a shipper orders pickup or delivery at a warehouse, dock or other point which charges a fee for pick up or delivery, the shipper will pay such fee in addition to paying the HGC's rates for loading or unloading at the warehouse dock, door, or other point accessible to the HGC's vehicle.

E. Reasonable dispatch. Each HGC accepting shipments of household goods shall transport the shipment with reasonable dispatch, within the time specified in the bill of lading. The HGC shall notify the shipper of any delay as soon as it becomes apparent to the HGC that it will be unable to comply with the anticipated delivery date.

[18.3.11.22 NMAC - Rp, 18.3.11.22 NMAC, 2-13-15]

18.3.11.23 HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT PROGRAM: A shipper may avail himself or herself of the commission's dispute settlement program by filing an informal complaint with the director of the commission's consumer relations division or the director's designee, as described in 1.2.2.14 NMAC.

A. Upon receipt of the informal complaint, the director of the consumer relations division or the director's designee shall request that the HGC submit a response to the informal complaint. The director of the consumer relations division or the director's designee may request any other information from the shipper or the HGC that he or she believes is relevant to the dispute. The director of the consumer relations division or the director's designee shall submit a written decision on the dispute to the shipper and the HGC.

B. The decision shall become binding on the parties ten (10) days after it is served on them. If either party disagrees with the decision, it may appeal the decision by filing an "appeal of dispute settlement program decision" with the commission within ten days after the decision has been served on it. The appeal filing shall contain:

- (1) a copy of the written decision of the director of the consumer relations division;
- (2) a clear and concise statement of the relief sought;
- (3) a statement of any facts or legal principles that the appellant alleges the director of the consumer relations division misconstrued;
- (4) the mailing address and exact legal and "doing business as"(DBA) name of the HGC; and
- (5) the name and mailing address of the shipper.

[18.3.11.23 NMAC - N, 2-13-15]

18.3.11.24 HOUSEHOLD GOODS CARRIERS MAXIMUM TARIFF: The maximum tariff for an HGC pursuant to Section 65-2A-4(A)(10) NMSA 1978 shall be the tariff that the HGC had in effect on July 1, 2014, plus a thirty three percent (33%) increase to every rate contained in that tariff.

[18.3.11.24 NMAC - N, 2-13-15]

HISTORY OF 18.3.11 NMAC

Pre-NMAC history. The material in this rule was previously filed with the State Records Center as: SCC 68-16, N.M. Motor Carrier Act, Rules and Regulations, effective Sept. 1, 1967, filed on 3-14-68; SCC 71-6, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1971, filed on 9-21-71; SCC 73-1, N.M. Motor Carrier Act, Rules and Regulations, filed on 6-14-73; SCC 74-1, N.M. Motor Carrier Act, Rules and Regulations, effective July 1, 1973, filed on 2-5-74; SCC 75-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1975, filed on 4-17-75; SCC 75-3, N.M. Motor Carrier Act, Rules and Regulations (Rev.), effective Jan. 1, 1975, filed on 9-19-75; SCC 76-1, N.M. Motor Carrier Act, Rules and Regulations, effective April 1, 1976, filed on 4-15-76; SCC 77-1, N.M. Motor Carrier Act, Rules and Regulations, effective Jan. 1, 1977, filed on 1-25-77; SCC Rule 262, Bills of Lading and Route Manifests, filed on 1-5-93; SCC Rule 268, Household Goods Carriers, filed on 1-5-93.

HISTORY OF REPEALED MATERIAL:

SCC Rule 262, Bills of Lading and Route Manifests, filed on 1-5-93;
SCC Rule 268, Household Goods Carriers, filed on 1-5-93.
18.3.11 NMAC, Motor Carrier General Provisions - Household Good Carriers, filed 12-10-02, repealed 2-13-15.