

Readopt with amendment Saf-C 4600, effective 8-2-17 (Doc. #12358), to read as follows:

CHAPTER Saf-C 4600 CARRIAGE OF HOUSEHOLD GOODS BY MOTOR VEHICLES

Statutory Authority: RSA 21-P:14, II(w); RSA 359-T:5, IV and V; RSA 359-T:13, II; and RSA 359-T:14, II

PART Saf-C 4601 DEFINITIONS

Saf-C 4601.01 "Able" in the context of "~~fit,~~willing and able" means the applicant possesses financial resources, equipment whether leased or owned, personnel, and a lawful place of business, that support the authority for which application is made.

Saf-C 4601.02 "Bureau" means the New Hampshire department of safety, division of administration, bureau of road toll.

Saf-C 4601.03 "Certificate" means "certificate" as described in RSA ~~375-A:2~~359-T:2.

Saf-C 4601.04 "Commissioner" shall mean the commissioner of the department of safety as defined in RSA 359-T:1, IV or the commissioner's designee.

Saf-C 4601.0[4]5 "Compensation" means a return in money, property, or anything of value for services rendered in transporting household goods by motor vehicle over public highways, whether paid, received, or realized directly or indirectly, and specifically includes any profit in money, goods, or things realized on the delivered price of household goods.

~~Saf-C 4601.05 "Fit" in the context of "fit, willing and able" means of sufficient education, knowledge, experience, or other special qualifications, as necessary, to enable the operations manager of the applicant to recognize the type of handling or services needed by its customers at any given time and to know whether the applicant can legally provide them.~~

Saf-C 4601.06 "Household goods carrier" means "household goods carrier" as defined in RSA ~~375-A:3~~359-T:1, II and III.

Saf-C 4601.07 "Permit" means "permit" as described in RSA ~~375-A:4~~359-T:4.

~~Saf-C 4601.08 "Tariff" means a schedule of rates and charges for transportation or for any service in connection therewith.~~

Saf-C 4601.098 "Willing" in the context of "~~fit,~~willing and able" means an applicant intends to comply with the applicable statutes, rules, and federal regulations, for the duration of the certificate or permit.

PART Saf-C 4602 REQUIREMENTS FOR CERTIFICATE OR PERMIT HOLDERS

Saf-C 4602.01 Use of Trade Names. Household goods carriers governed by these rules shall not conduct business under any trade name until a copy of the certificate of registration of trade name by the secretary of state pursuant to the provisions of RSA 349 has been filed with the bureau.

Saf-C 4602.02 Certificate of Insurance.

(a) Pursuant to RSA ~~375-A:3~~359-T:8, a prerequisite to operation by household goods carriers shall be the filing of insurance issued by an insurance company licensed to do business in New Hampshire, indicating a cargo insurance policy or indemnity bond is in force.

(b) The insurance policy or indemnity bond required in (a) above shall have an amount of coverage not less than \$.60 per pound of registered load carrying capacity of any vehicle used in the applicant's business.

Saf-C 4602.03 Change of Address. Household goods carriers governed by these rules shall notify the bureau in writing of any change of address within 10 days of such change.

Saf-C 4602.04 Leasing Equipment.

(a) Any household goods carrier who holds a certificate or permit issued by the bureau may lease equipment ~~from another carrier~~ by executing a written lease agreement for a specified period of no less than one year, signed by the parties involved.

(b) All leased equipment shall have placards with the name of the lessee as provided in Saf-C 4602.05(a).

(c) Each lease described in (a) above shall:

- (1) Describe the type of vehicle, its registration number, and the company vehicle number assigned;
- (2) Provide for the exclusive possession, control, and use of the equipment and provide for the complete assumption of responsibility for the goods by the lessee for the duration of the lease;
- (3) Provide that the drivers of leased equipment shall not be employees under the control of the lessor, except to the extent necessary to deliver or pick up a leased vehicle;
- (4) Specify the date the lease begins and ends;
- (5) Not permit a lessee to operate under the lessor's certificate(s) or permit(s);
- (6) Be carried in the vehicle at all times; and
- (7) Be produced on demand for inspection by any law enforcement officer or an authorized representative of the bureau.

Saf-C 4602.05 Name of Carrier.

(a) Any vehicle registered with the bureau as a household goods carrier shall display in a conspicuous place on both sides of each vehicle the name of the carrier that appears on the certificate or permit.

(b) The identifying letters on the vehicle shall be large enough to be legible at a distance of 50 feet.

Saf-C 4602.06 Transfer or Assignment of Certificates or Permits.

(a) A carrier wishing to ~~sell, assign, or~~ transfer its certificate or permit shall notify the bureau in writing of the proposed transaction and the name of the prospective transferee.

(b) Within 30 days of receipt of the written notice, as specified in (a) above, the bureau shall ~~schedule a hearing to consider~~ request a transfer application (Form DSAD 5-HT, "Transfer of Household Goods Carrier Operations", (rev. X/XX), from the prospective transferee in order to evaluate the proposed transfer or assignment.

(c) The scope of the ~~hearing~~ evaluation shall be limited to the following issues:

- (1) Whether the transferee is ~~fit,~~willing, and able; and
- (2) Whether the transferee has complied with relevant statutes and these rules.

Saf-C 4602.07 Access to Records. Pursuant to RSA ~~375-A~~359-T:13, III, all records, accounts and documents shall be accessible for inspection by the bureau or any authorized representative of the bureau, during business hours.

PART Saf-C 4603 ~~TARIFFS~~ESTIMATES AND BILLING

~~Saf C 4603.01~~ Filing and Form.

~~(a) Each household goods carrier filing a tariff or Supplement shall file an original and one copy. Tariff filings that conform to requirements of the United States Department of Transportation, federal motor carrier safety administration shall be accepted by the bureau.~~

~~(b) Each tariff shall have a title page that includes:~~

- ~~(1) The name of the company, firm, partnership, or corporation;~~
- ~~(2) The name of the individual or agency responsible for the tariff; and~~
- ~~(3) The address of the carrier.~~

~~(c) Each tariff page or supplement page shall be designated by an individual number located in the upper right corner of the page preceded by the abbreviation NHDOS CC progressing from the last filed number by the same party or, in the case of a new series, from the number "1". Each revised page shall show the issue date and the effective date.~~

~~(d) When a new tariff is issued canceling a previous tariff in proper numerical sequence, it shall be identified first, followed by the word "cancels" and then followed by the previous tariff numbering, as follows:~~

~~"NHDOS CC No. ___ cancels NHDOS CC No. ___"~~

~~(e) When a supplement is issued to a tariff it shall identify the proper numerical sequence by stating the supplement number followed by the tariff number, as follows:~~

~~"Supplement No. ___ To NHDOS CC No. ___"~~

~~(f) No tariff shall be continued in effect for more than 50 supplements. Each supplement shall indicate which previously issued supplements remain in effect.~~

~~(g) Each tariff shall specify the basis of all charges to be made and all applicable rules and other details necessary for a complete description of the charges stated.~~

Saf-C 4603.01 Written Estimate of Costs.

(a) Upon the request of any shipper, a household goods carrier shall provide a written estimate of costs in advance of performing any service for the shipper.

(b) A written estimate of costs shall contain the following:

- (1) For shipments transported at hourly rates:
 - a. The name and address of the carrier to perform the services;

- b. The name and title of the person preparing the estimate;
- c. The origin and destination of the proposed transport and the mileage between such points;
- d. The rate to be applied;
- e. An itemized statement of all accessorial services to be performed and the applicable charges; and
- f. An estimate of the total of all charges;

(2) For shipments transported on weight and mileage rates:

- a. The information required (1)a.- f. above;
- b. A list of the articles upon which the estimate is based and the applicable estimated cubic footage for each article listed; and
- c. The estimated total weight of the shipment, based upon a conversion formula of no less than 7 pounds per cubic foot; and

(3) A statement that the carrier shall not charge the customer any amount which exceeds the written estimate by 10 percent without the customer's written consent.

Saf-C 4603.02 Rates.

- (a) Rates shall be stated in dollars and cents, whether calculated per pound, per mile, per package, or per hour.
- (b) Rates and commodity descriptions shall be clear so the applicable rate is easily determined.
- (c) Whenever conflicting provisions exist relative to the application of rates, the provision or rate that results in a lower total charge shall be assessed.

~~Saf C 4603.03 Rates Based on Mileage or Point to Point Basis.~~

- ~~—— (a) Rates shall be on a mileage basis or on a point to point basis. If on a mileage basis, rates shall be stated as a rate per mile or for varying blocks of mileage.~~
- ~~—— (b) Carriers publishing mileage rates shall indicate in the tariff the mileage governing the rates based on the mileage over the carrier's published route or shall refer to a governing mileage table.~~
- ~~—— (c) Point to point rates shall be stated as applying from or to a destination, in which case rates shall apply only in one direction.~~
- ~~—— (d) When the intention is to limit the application of rates to less than the city or town limits, the limits shall be described in the tariff covering application of rates.~~

~~Saf C 4603.04 Bids and Estimates.~~

- ~~—— (a) Whenever a prospective shipper requests a bid from a carrier, the carrier shall inform the prospective shipper of the following:~~
 - ~~(1) All requests for bids shall be considered an estimate; and~~

~~(2) The final billing shall show the actual charges according to the filed tariff.~~

~~————(b) An estimate of charges may be given verbally by a carrier, either in person or by telephone, or in writing, if requested by the prospective shipper.~~

~~(c) A written estimate shall contain the following:~~

~~(1) For shipments transported at hourly rates:~~

~~a. The name and address of the carrier to perform the services;~~

~~b. The name and title of the person preparing the estimate;~~

~~c. The origin and destination of the proposed transport, and the mileage between such points;~~

~~d. The rate to be applied;~~

~~e. An itemized statement of all accessorial services to be performed and the applicable charges; and~~

~~f. An estimate of the total of all charges;~~

~~(2) For shipments transported on weight and mileage rates:~~

~~a. The information required (1)a. f. above;~~

~~b. A list of the articles upon which the estimate is based and the applicable estimated cubic footage for each article listed; and~~

~~c. The estimated total weight of the shipment, based upon a conversion formula of no less than 7 pounds per cubic foot; and~~

~~(3) A printed statement on the face of the estimate that states "This estimate covers only the articles and services listed. It is not a warranty or representation that the actual charges will not exceed the amount of the estimate. Household goods carriers are required by law to collect transportation and other incidental charges computed on the basis of rates shown in their lawfully published tariffs, regardless of prior rate quotations or estimates made by the carrier or its agents."~~

Saf-C 4603.053 Bills.

(a) Bills submitted for services rendered shall contain the following:

(1) The name and address of the carrier;

(2) The name and address of the shipper;

(3) The date or dates the service was performed;

(4) The points between which the service was rendered; and

(5) Each item for which a rate is applied, as well as in accordance with its tariff provision the corresponding rate applied.

PART Saf-C 4604 COMPLAINTS AND HEARINGS

Saf-C 4604.01 Complaints.

(a) Pursuant to RSA ~~375-A:359-T~~:15, complaints regarding carriers of household goods shall be filed with the bureau in writing.

(b) The complainant shall state:

- (1) The nature of the complaint; and
- (2) All information available to support the complaint.

(c) All complaints shall be processed pursuant to Saf-C 203.01.

Saf-C 4604.02 Conduct of Hearings. All hearings shall be conducted pursuant to Saf-C 200.

Saf-C 4604.03 Revocation. After notice, hearing, and a finding of failure to comply with RSA ~~375-A:359-T~~ or these rules, a certificate or permit shall be revoked.

Saf-C 4604.04 Voluntary Suspensions.

(a) A carrier may request, in writing, to the bureau, that its certificate or permit be suspended.

(b) The written request shall contain:

- (1) The reason for the request;
- (2) The effective date of the suspension; and
- (3) The duration of the suspension.

(c) The duration of the suspension requested in (b) above shall not exceed one year.

(d) No later than 30 days after the end of the suspension period, the carrier shall request the bureau, in writing, to either reinstate or revoke the authority.

~~PART Saf-C 4605 PUBLIC CONVENIENCE, NECESSITY AND INTEREST~~

~~Saf-C 4605.01 Public Convenience and Necessity.~~

~~(a) In determining public convenience and necessity as required by RSA 375-A:3 or 375-A:4-a, the bureau shall consider equally the following criteria:~~

- ~~(1) Whether there is a real or actual public need for the service;~~
- ~~(2) Whether the new operation shall serve a useful purpose responsive to public demand or need;~~
- ~~(3) Whether the existing carriers can adequately meet this need;~~
- ~~(4) Whether the existing carriers have had an opportunity to transport property economically and efficiently;~~
- ~~(5) Whether the entry of the proposed service shall endanger or impair the operations of existing carriers contrary to the public convenience;~~
- ~~(6) Whether the entry of the proposed service shall lead to a wasteful duplication of service;~~

~~(7) Whether the entry of the proposed service shall endanger or impair the investment of the existing carriers in their facilities to the detriment of the public;~~

~~(8) Whether the entry of a new competitive service shall be in the public convenience by securing the benefits of improved service through competition without being unduly injurious or detrimental to existing service by existing carriers; and~~

~~(9) Whether the entry of the proposed service shall lead to unnecessary competition.~~

~~(b) The applicant shall present evidence of (a)(1) through (9) above, at the hearing.~~

~~Saf C 4605.02 Public Interest.~~

~~(a) In determining public interest as required by RSA 375 A:3 or 375 A:4 a, the bureau shall consider equally the following criteria:~~

~~(1) The number of shippers to be served by the applicant;~~

~~(2) The nature of the service proposed including the:~~

~~a. Transportation service sought to be authorized;~~

~~b. Identity of the goods that shall be shipped and received;~~

~~c. Points from which and to which the property shall be transported; and~~

~~d. Proposed frequency of the use of the service;~~

~~(3) The effect the granting of the permit would have upon the services of the protesting carriers, if any;~~

~~(4) The effect of the denial on the applicant and the supporting shippers; and~~

~~(5) The changing character of the shippers' requirements, including:~~

~~a. Recognition of technological improvements;~~

~~b. Changing commercial conditions;~~

~~c. The quality of the human environment;~~

~~d. Public health, safety and general welfare of the community; and~~

~~e. Any other significant trend bearing on the proposed service.~~

~~(b) The applicant shall present evidence of (a)(1) through (5) above, at the hearing.~~

PART Saf-C 46065 FORMS

Saf-C 46065.01 Application Form.

~~(a) Each applicant for a permit or certificate pursuant to RSA 375 A:359-T shall furnish the following on complete and submit form DSAD 5-H, "New Household Goods Carrier Operations", (rev. X/XX);, along with the application fee required by RSA 359-T:5, III and RSA 359-T:18, I(a).~~

~~(1) Name, address, and telephone number;~~

~~(2) Whether the applicant is a natural person, partnership, or corporation;~~

~~(3) If a partnership, the names of all partners;~~

~~(4) If owned in part or controlled by out of state interests, the name, address, and type of business of each;~~

~~(5) If a corporation, the date, and state of incorporation;~~

~~(6b) The applicant shall attach a copy of the certificate of registration filed with the secretary of state pursuant to the provisions of RSA 349:1;~~

~~(7) Whether authority is sought as a common or contract carrier;~~

~~(8) Whether authority is sought to transport passengers, household goods or property;~~

~~(9) If seeking regular route common carrier authority, a description of the routes to be served, listing the terminal and intermediate points to be served, including highway route numbers and street names, if possible;~~

~~(10) If seeking irregular route common carrier authority, a detailed description of the territory proposed to be served and the exact nature of the operation;~~

~~(11) A full description of any commodities to be handled;~~

~~(12) A schedule of proposed fares and charges;~~

~~(13) A statement of assets and liabilities as of the date of the application, unless the applicant is a certificate or permit holder;~~

~~(14) A clear and concise statement of why the service covered by the application is currently or shall be required by the future public convenience and necessity or the public interest;~~

~~(15) The names of all motor carriers, known to the applicant, with whose service the operations described are or will be directly competitive;~~

~~(16) A statement of the experience of the applicant or officers of the applicant company, and any other facts relevant to the ability of the applicant to properly perform the service covered by the application, including, but not limited to:~~

~~a. Any special licenses held; and~~

~~b. Any special equipment to be employed;~~

~~(17c) The applicant shall attach a certificate of insurance that is compliant with Saf-C 4602.02;~~
~~and.~~

~~(18d) The signature of applicant shall sign the application form under the penalty of unsworn falsification pursuant to RSA 641:3 and by doing so shall certify that the applicant is authorized to file the application and the exhibits attached thereto, that all of the application and exhibits are true and correct to the best of the applicant's knowledge and belief, and that the applicant shall comply with all rules prescribed by the bureau of road toll operations and the state's motor carrier safety rules.~~

Saf-C 4605.02 Application for Transfer or Assignment Form.

(a) Each applicant for a transfer of permit or certificate pursuant to RSA 359-T shall complete and submit form DSAD 5-HT, “Transfer of Household Goods Carrier Operations”, (rev. X/XX), along with the application fee required by RSA 359-T:18, I(a).

(b) The applicant shall attach a copy of the certificate of registration filed with the secretary of state pursuant to the provisions of RSA 349:1.

(c) The applicant shall attach a certificate of insurance that is compliant with Saf-C 4602.02.

(d) The applicant shall sign the application form under the penalty of unsworn falsification pursuant to RSA 641:3 and by doing so shall certify that the applicant is authorized to file the application and the exhibits attached thereto, that all of the application and exhibits are true and correct to the best of the applicant’s knowledge and belief, and that the applicant shall comply with all rules prescribed by the bureau of road toll operations and the state’s motor carrier safety rules.

Saf-C 4605.03 Annual Report Form.

(a) Each Household Goods Carrier with an active permit or certificate pursuant to RSA 359-T shall complete and submit form DSAD 5-HAR, “Household Goods Carrier Annual Report”, (rev. X/XX), annually by July first.

(b) The applicant shall attach a copy of the certificate of registration filed with the secretary of state pursuant to the provisions of RSA 349:1.

(c) The applicant shall attach a certificate of insurance that is compliant with Saf-C 4602.02.

(d) The applicant shall sign the application form under the penalty of unsworn falsification pursuant to RSA 641:3

PART Saf-C 4606 HOUSEHOLD GOODS CARRIER VEHICLE REGISTRATION

Saf-C 4606.01 Annual Household Goods Carrier Registration. Each household goods carrier with an active permit or certificate pursuant to RSA 359-T shall register with the division of motor vehicles each vehicle used in the performance of service as a household goods carrier vehicle annually, pursuant to RSA 359-T:17, RSA 359-T:18, I(b), and Saf-C 505.

APPENDIX

Rule	Statute
Saf-C 4601.01	RSA 21-P:14, II(w); RSA 359-T:3; RSA 359-T:4; RSA 359-T:5, IV and V; RSA 359-T:13, II; RSA 359-T:14, II; RSA 541-A:7
Saf-C 4601.02	RSA 541-A:7
Saf-C 4601.03	RSA 359-T:2
Saf-C 4601.04	RSA 21-P:6, IX; RSA 541-A:7
Saf-C 4601.05	RSA 541-A:7
Saf-C 4601.06	RSA 359-T:1, II, III
Saf-C 4601.07	RSA 359-T:4

Saf-C 4601.08	RSA 359-T:3; RSA 359-T:4; RSA 541-A:7
Saf-C 4602.01	RSA 359-T:2
Saf-C 4602.02	RSA 359-T:8
Saf-C 4602.03-4602.05	RSA 359-T:4
Saf-C 4602.06	RSA 359-T:4; RSA 359-T:7
Saf-C 4602.07	RSA 359-T:13, III
Saf-C 4603.01-4603.03	RSA 359-T:9; RSA 359-T:11
Saf-C 4604.01-4604.04	RSA 359-T:6; RSA 359-T:15
Saf-C 4605.01-4605.03	RSA 359-T:5; RSA 359-T:4; RSA 359-T:7; RSA 359-T:8; RSA 359-T:13, I(a)