DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 375 and 377

[Docket No. FMCSA–97–2979]

RIN 2126–AA32; formerly RIN 2125–AE30

Transportation of Household Goods; Consumer Protection Regulations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: FMCSA is amending its regulations governing the interstate transportation of personal effects or property used, or to be used, in a private residence (household goods). Our regulations specify how motor carriers who transport household goods by motor vehicle in interstate commerce (movers) must assist their individual customers who ship household goods. We are updating the regulations to make them easier to understand and have made several changes designed to assist consumers. We seek additional public comment on the information collection requirements for this interim final rule. We will not enforce the information collection requirements of this interim final rule until we obtain approval for them from the Office of Management and Budget (OMB).

DATES: *Effective Date:* This interim final rule is effective on September 9, 2003.

Compliance Date: Mandatory compliance with this interim final rule must begin on March 1, 2004.

Comment Date: You must submit comments concerning the *information collection requirements* of this interim final rule on or before August 11, 2003.

If you submit copies of your comments to the Office of Management and Budget (OMB) concerning the *information collection requirements* of this document, your comments to OMB will be most useful if received at OMB by July 11, 2003. The OMB prefers to receive them by July 11, 2003, but you can submit them to OMB until August 11, 2003.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–1997–2979 by any of the following methods:

- Web Site: *http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- Fax: 1–202–493–2251.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.
- Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to *http://dms.dot.gov,* including any personal information provided. Please see the Privacy Act heading for further information.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78). This statement is also available at *http://dms.dot.gov.*

Comments to OMB: If you submit copies of comments to the OMB concerning the *information collection requirements* of this document, you should mail, hand deliver, or fax a copy of your comments to: Attention: Desk Officer for the Department of Transportation, Docket Library, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW., Washington, DC 20503, fax: (202) 395–6566.

FOR FURTHER INFORMATION CONTACT: Mr. Nathaniel Jackson, Household Goods Enforcement Team Leader, (202) 385–2423, Insurance Compliance Division (MC-ECI), FMCSA, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024.

SUPPLEMENTARY INFORMATION:

Background

In 1999 Congress authorized FMCSA to regulate household goods carriers engaged in interstate operations for individual shippers in the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106–159, December 9, 1999, 113 Stat. 1749). The Interstate Commerce Commission (ICC) administered household goods regulations from 1940 to 1995. In the ICC Termination Act of 1995 (ICCTA) (Pub. L. 104–88), Congress terminated the ICC and transferred the household goods program to the Federal Highway Administration (FHWA) effective January 1, 1996. The FHWA administered the household goods program through its Office of Motor Carrier and Highway Safety. The regulations governing interstate household goods transportation are in 49 CFR part 375.

The FHWA published a notice of proposed rulemaking (NPRM) on May 15, 1998 (63 FR 27126) requesting comments on its proposal to update the household goods regulations. These regulations set forth regulatory requirements for moving companies who provide transportation for individual shippers. An individual shipper is generally a retired person or someone changing jobs. The individual shipper uses for-hire truck transportation services infrequently and may have little or no information about the regulations movers must follow and how they operate. This information may be essential in enabling a shipper to make informed decisions in selecting a mover and ensuring a satisfactory move.

On March 5, 2001, the General Accounting Office (GAO) released its report to Congressional Committees, ''Consumer Protection: Federal Actions Are Needed to Improve Oversight of the Household Goods Moving Industry,'' No. GAO–01–318. Section 209 of the MCSIA directed that GAO study the effectiveness of DOT's consumer protection activities for the interstate household goods moving industry and identify alternative approaches for providing consumer protection in the industry. A copy of the report is in the docket. The GAO findings on the FMCSA's household goods program included the following: (1) The Department of Transportation has done little to oversee the Household Goods moving industry; (2) Consumer education activities have been minimal; (3) The Department does not know the extent to which it has examined carriers' compliance with Household Goods rules; and (4) The Department

has not determined whether its level of enforcement is appropriate.

These regulations represent FMCSA's effort to provide a reasonable level of protection to consumers of household goods moves. Comments to the NPRM and FMCSA enforcement actions have established the need to address weaknesses in the system for movement of household goods. Given the volume and scope of household goods movements each year, FMCSA acknowledges that it cannot intervene in individual cases to assure consumers their desired result. With these regulations, FMCSA attempts to establish parameters of fair dealing for household goods movers and a reasonable level of protection for consumers. The agency seeks to equip consumers with information adequate to make informed decisions about moving their household goods.

Interim Final Rule: Request for Comments on Information Collection Requirements

When the FHWA published the NPRM on May 15, 1998 (63 FR 27126) requesting comments on its proposal to update the household goods regulations, it failed to send the package separately to OMB for its review of the information collection requirements. Because of this error, it is necessary to publish this document as an Interim Final Rule, rather than a Final Rule, to allow OMB time to complete its review and to allow the public additional time to submit comments on the information collection requirements. As described above under ''**DATES:** *Comment Date:*'' OMB allows 60 days for public comment, but the rule becomes effective September 9, 2003, allowing time for FMCSA and OMB to resolve any concerns about the information collection requirements in this Interim Final Rule. For more information on FMCSA's analysis of the paperwork impact, see ''Paperwork Reduction Act'' later in this preamble.

Docket Comments

In response to the NPRM, the agency received 53 letters from 48 different individuals or entities. Twenty-four (24) letters did not comment on any specific aspect of the NPRM. Each of these 24 letters told of alleged abuses the authors had suffered in past moves of their own household goods. Each supported in general terms the goals of the NPRM to protect individual shippers.

The docket received substantive responses from the following entities:

Action Scale & Weighing Systems, Inc. (Action)
Air Weigh
The American Moving and Storage Association, Inc. (AMSA)
As a combined comment, the Attorneys General of Alabama, Arkansas, Arizona, Florida, Hawaii, Iowa, Idaho, Illinois, Indiana, Kansas, Massachusetts, Maryland, Missouri, New Jersey, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, Tennessee, Washington, Wisconsin, and West Virginia (25AG)
The Attorney General of Connecticut (AGCT)
Cat Scale Company (Cat)
The Commonwealth of Pennsylvania's Department of Agriculture
Deskin Scale Company, Inc. (Deskin)
The National Association of Consumer Agency Administrators (NACAA)
The Oklahoma Corporation Commission (OCC)
Sisson Scale and Equipment Co., Inc. (Sisson)
Starving Students
The State of California's Department of Agriculture
The State of Colorado's Department of Agriculture
The State of Idaho's Department of Agriculture
The State of Michigan's Department of Agriculture
The State of New Hampshire's Department of Agriculture
The State of Oregon's Department of Agriculture
The State of New York's Department of Transportation (NYDOT)
The University of Minnesota's Student Legal Services
Weighing Consultants, Inc. (WCI)

FMCSA will discuss each of the substantive comments in relation to the specific sections they addressed.

Section 375.101 Who Must Follow These Regulations?

AMSA objected to the use of the term ''motor common carrier engaged in the transportation of household goods'' in this section and Appendix A. AMSA notes the ICCTA deleted reference to ''common'' carriers. It refers to section 13102(12) of the ICCTA. AMSA believes the part 375 regulations should reflect the terms used in the ICCTA and we should strike the word ''common'' wherever it appears in connection with ''motor carrier(s).''

Response to Comments

Although the ICCTA no longer includes a definition of ''common carrier,'' FMCSA is still registering household goods carriers subject to these regulations as ''common'' carriers, under the transitional rule of 49 U.S.C. 13902(d). However, FMCSA, in implementing the Uniform Carrier Registration System required by 49 U.S.C. 13908 expects to eventually eliminate the distinction between common and contract carriers in registering motor carriers. Consequently, we are adopting AMSA's suggestion by applying the regulations to for-hire motor carriers engaged in the interstate transportation of household goods for individual shippers.

Section 375.103 What Are the Definitions of Terms Used in this Part?

AMSA comments that the term ''advertisement'' is defined as ''any communication to the public in connection with an offer or sale of any interstate transportation service.'' It believes we should define this term more accurately in the context of part 375 by adding the words ''household goods'' before the word ''transportation.'' The revised definition would read as follows:

''Advertisement'' means any communication to the public in connection with an offer or sale of any interstate household goods transportation service.

The AGCT comments that the proposed definition of ''transportation of household goods'' should include handling of a shipper's goods by the carrier or his agent, while loading at the point of pickup, unloading at the point of delivery, and all handling in between, whether in storage or in transit.

AMSA believes that FMCSA should change the regulatory definition ''Transportation of household goods'' by eliminating subparagraph (2), reading ''Another party arranges and pays for the transportation of household goods.'' AMSA believes this recommended change is also consistent with the clear intention of the original 49 CFR part 1056 (1995) regulations that restricted their application to transportation paid for by the householder, specifically referencing 49 CFR 1056.1(b)(1) (1995). AMSA comments that we should change the definition to read as follows:

''Transportation of household goods'' means the householder (an individual shipper) arranges and pays for the transportation of household goods. This may include transportation from a factory or store when the individual shipper purchases the household goods with the intent to use the goods in his or her dwelling.

AMSA comments on the AGCT's comments, stating that it believes that such a change is not necessary. The definition of ''Transportation'' contained in 49 U.S.C. 13102(19) includes each of the services enumerated in the AGCT's recommendation and, for purposes of

these regulations, the statutory definition is controlling.

AMSA also comments about this section's definition of an ''individual shipper or householder,'' contending that it does not correspond to the definition of an individual shipper contained in 49 U.S.C. 13102(10)(A). It provides, in addition to owning the goods being transported, the individual shipper is also the party paying for the move. This ''arranged and paid for by the householder'' provision serves to distinguish moves on behalf of individual shippers from those paid for by national accounts ''corporations'' for their employees as identified in 49 U.S.C. 13102(10)(B). AMSA states that national account shippers differ from individual shippers in that orders for service are not required (purchase orders or other similar documents are frequently issued in lieu of orders for service). National accounts also often have relocation policies that conflict with or supersede certain requirements of the existing regulations. Since this is an important distinction, AMSA believes, it suggests we change the wording of this provision to accurately define an individual shipper as follows:

> ''Individual shipper or householder'' means any person who is the consignor or consignee of a household goods shipment identified as such in the bill of lading contract, who also owns the goods being transported and pays the moving charges.

AMSA believes the agency should modify the definition of ''reasonable dispatch'' to make it clear that shippers are liable for charges related to additional services they request or require, as follows:

> 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, plus the costs for additional services that were performed en route or at destination which were necessary to complete the transportation, you have not transported the goods with reasonable dispatch.

Response to Comments

We agree with AMSA's suggestion to eliminate proposed subparagraph (2) from the definition of ''transportation of household goods.'' In the interim final rule we have combined the definitions for ''household goods'' and ''transportation of household goods.'' This is consistent with 49 U.S.C. 13102(10). We believe the AGCT recommendation regarding ''transportation of household goods'' could have an unintended consequence for many individual shippers. If the agency were to adopt its recommendation, a mover may be able to convince an individual shipper that a mover or its agents, and only a mover or its agents, could handle the shipper's goods for loading at the point of pickup, unloading at the point of delivery, and all handling in between whether in storage or in transit. Depending on how the individual shipper contracts for moving services, other companies or the shipper herself may perform the other services.

Movers and their agents perform many services, including what AMSA states on page 36 of its comments as ''the precise requirements necessary to properly remove the contents of a residence, secure them in an over-the-road vehicle and effect delivery at the new residence'' that ''can result in additional services which, in turn, require the assessment of additional charges.''

The individual shipper may determine he/she wants to perform the additional services or have another party do them. Adopting the AGCT's comments may have the unintended consequence of having a disreputable mover claim to be the only entity that can handle the shipper's goods. FMCSA does not question that reputable movers and their reputable agents perform these extra services with value to the shipper, but the shipper may be on a tight budget, and the shipper may choose not to have the mover perform those ''precise requirements necessary to properly'' effect delivery.

We do not agree with AMSA's suggested change to the definition of ''reasonable dispatch'' because the change would imply that carriers could demand payment for additional services before delivery. Under this interim final rule, the most that a carrier could demand before delivery is 100 percent of a binding estimate or 110 percent of a non-binding estimate.

The agency has adopted AMSA's comments regarding the definition of ''advertisement'' and ''individual shipper.'' We also removed the exclusion of advertisements on radio and television from the definition and clarified that Yellow Pages advertising is included in the definition. FMCSA also has chosen to keep the definitions for ''Commercial shipper'' and ''Government bill of lading shipper'' the same as in the current rules. We are moving the definition of ''Certified scale'' from proposed § 375.507 to this section. Finally, we are adding new definitions to explain the terms ''Tariff'' and ''Surface Transportation Board.''

Section 375.201 What Is My Normal Liability for Loss and Damage When I Accept Goods From an Individual Shipper?

The AGCT recommended the title of the section should be changed from ''loss and damage'' to ''loss or damage'' to clarify the differences between contractually agreed upon increases in the carrier's liability and the availability of insurance coverage. The AGCT believes we should require the carrier to disclose the limits of its liability in a clear, concise manner and preclude a carrier from characterizing contractually agreed upon increases in liability as ''insurance.'' AGCT also believes the rules should provide that a carrier may have additional liability if it sells excess liability insurance. It is unclear to AGCT whether the proposed rule used the term ''excess liability insurance'' as it is normally used in the insurance industry or as a term of art meaning insurance in excess of the carrier's liability as limited by its released rates. If FMCSA intended to define insurance in excess of the carrier's liability as limited by its released rates, AGCT recommends we should simply refer to it as ''liability insurance.''

AMSA believes that the AGCT suggestion that we clarify language in § 375.201 to explain the difference between carrier liability under released rates orders (RRO) and the availability of excess liability insurance is unnecessary. Section 375.201 is directed to movers and AMSA believes we intended to restate the mover's understanding of the parameters of liability. AMSA believes movers do not require additional explanations along these lines to understand their liability.

AMSA comments that paragraph (a) of this section, which states the mover is legally liable for loss or damage occurring during the transportation of household goods, should be modified to eliminate confusion as to the full extent of a mover's liability. Proposed paragraph (a) reads as follows:

(a) In general, you are legally liable for loss or damage if it happens during performance of any one of the following three services identified on your lawful bill of lading:

(1) Transportation of household goods.

(2) Storage-in-transit of household goods, including incidental pickup or delivery service.

(3) Servicing of an appliance or other article, if you or your agent performs the servicing.

AMSA proposes revising paragraph (a) to read as follows:

(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.

AMSA comments that paragraph (c) of this section provides that the mover may incur additional liability if it sells excess liability insurance. AMSA states when a mover arranges for the purchase of insurance and a shipment is transported under separate liability insurance, the mover's liability is specifically limited to 60 cents per pound per article. AMSA believes the regulations provide for no additional coverage by the mover unless the mover fails to issue a copy of the insurance policy or other appropriate evidence of insurance as explained in proposed § 375.303(h). Given these circumstances, AMSA recommends we delete this provision.

Response to Comments

We do not agree with AGCT's suggestion to change ''loss and damage'' in the title of the section to ''loss or damage'' because we believe the words are interchangeable and essentially mean the same thing. We agree with AMSA's comments on paragraph (a). By using the phrase ''and all related services'' we can eliminate subparagraphs (a)(1)–(a)(3). This clarifies that the mover has liability for any services offered in the bill of lading.

We are also adopting the AGCT's comments to change ''excess liability insurance'' to ''liability insurance.'' We agree with AGCT concerning the need for additional explanations regarding carrier liability in this section and have included appropriate language in § 375.201(d). We do not agree with AMSA's comments concerning paragraph (c). Paragraph (c) builds upon proposed § 375.303(h) by noting the full liability the carrier may be subject to if it fails to issue a copy of the insurance policy or other appropriate evidence of insurance as explained in proposed § 375.303(h). Thus, we are keeping the provision, but have added clarifying language concerning § 375.303(h) (§ 375.303(g) in this interim final rule).

In addition, FMCSA is replacing the reference in paragraph (b) to the 1993 released rates order with a more generic reference. This order was recently amended, effective May 12, 2002. Because Surface Transportation Board released rates orders may change over time, the regulations should not be date-specific in referencing such orders.

Section 375.203 What Actions of an Individual Shipper May Limit or Reduce My Normal Liability?

AMSA comments that paragraph (a) provides that the inclusion of perishable household goods in a shipment without notice to the mover relieves the mover of liability. It suggests that to comport with generally applicable tariff provisions that allow the mover to limit liability when perishables are disclosed and accepted for transportation, this provision should be expanded to include reference to hazardous and dangerous articles, as follows:

> If an individual shipper includes perishable, dangerous or hazardous articles in the shipment without your knowledge, you need not assume liability for those articles or for the loss or damage caused by their inclusion in the shipment. If the shipper requests that you accept such articles for transportation, you may elect to limit your liability for any loss or damage by appropriately published tariff provisions.

AMSA believes paragraph (b), by including reference to units of weight and measure in metric terms with the Imperial equivalent expressed parenthetically, will prove unduly confusing to both individual shippers and the moving industry. It recommends that until such time as the metric system is more commonly recognized in the United States, the terms should be reversed, with the metric equivalent shown in parenthesis.

Response to Comments

We have adopted AMSA's comments concerning dangerous and hazardous articles. This change also comports with 49 CFR 175.25 concerning passengers transporting dangerous or hazardous materials in airline baggage and 18 U.S.C. 1716 and U.S. Postal publication number 52, July 1999 (available at *http://www.usps.com/cpim/ftp/pubs/pub52.pdf* and *http://www.usps.com/cpim/ftp/pubs/pub52.htm*) concerning hazardous, restricted, and perishable articles being proper for mailing. We have also placed a warning similar to § 175.25(a)(1) in Appendix A to part 375—Your Rights and Responsibilities When You Move (YRRWYM), noting that the mover may limit its liability for the transportation of such materials in household goods.

The National Institute of Standards and Technology (NIST) has advised FMCSA that we should primarily use SI (metric) measurements. The Omnibus Trade and Competitiveness Act of 1988 cites metric units before inch-pound units where both units appear together and places separate sections containing requirements in metric units before corresponding sections containing requirements in inch-pound units. In some cases, however, trade practice is currently restricted to the use of inch-pound units; therefore, some NIST requirements continue to specify only inch-pound units until the National Conference of Weights and Measures achieves a broad consensus on the permitted metric units. In accord with NIST policy, FMCSA will use trade practice until the National Conference on Weights and Measures achieves a broad consensus on the permitted metric units.

Section 375.205 May I Have Agents?

The AGCT comments that we should require disclosure of any agency relationships to a shipper. AMSA does not object to such a requirement since it is normal industry practice to explain agency relationships. In fact, subpart B of YRRWYM contains an explicit explanation that alerts shippers to the existence of these relationships.

Response to Comments

We note that requiring disclosure of any agency relationships to a shipper would subject us to additional information collection requirements of 5 CFR part 120 for that disclosure. We note the largest motor carriers have agents and transport the most household goods shipments. Since we explain in the YRRWYM that motor carriers may have agents and AMSA believes it is normal industry practice to make such disclosures, we believe it is not necessary to require a separate notice for shippers. We believe shippers have plenty of notice that agency relationships may exist and may ask about them. If a mover transports a shipment that used the services of an agent, and the agent acted upon, or omitted, items in its performance of such transportation, the shipper has the right to file a complaint with us against the motor carrier or the agent.

Section 375.209 How Must I Handle Complaints and Inquiries?

NACAA supports the requirement that movers maintain a procedure for handling complaints. The AGCT requested that FMCSA impose an explicit affirmative requirement upon a mover to respond promptly and appropriately to complaints by a shipper.

AMSA disagrees with the AGCT because:

> * * * as the [AGCT] concedes, the proposed language contemplates that movers maintain internal systems that are responsive to shippers' complaints. The requirement that telephone numbers be furnished to shippers is sufficient to ensure ready access to the mover's system and, obviously, what may constitute an ''appropriate'' response is dependent upon the facts of each situation. This is not a matter that warrants a more explicit attempt to regulate.

Response to Comments

We believe it is sufficient to ensure ready access to the carrier's system by requiring a telephone number. As AMSA points out, what may constitute an ''appropriate'' response, and even a prompt response, is dependent upon the facts of each situation. We do not believe explicit regulation is warranted. We believe shippers are knowledgeable enough, and should be responsible enough, to inquire with better business bureaus and us if they are dissatisfied with a mover's complaint handling. Better business bureaus also monitor the number of and types of complaints businesses receive.

Section 375.211 Must I Have an Arbitration Program?

A majority of household goods complaints we receive involve loss and damage claims. The 24 individual shippers who submitted docket comments generally complain about the handling of their loss and damage claims rather than commenting directly about any particular aspect of the proposed rule or solutions to correct such problems. The ICCTA imposes an arbitration requirement for the handling of most loss and damage claims against interstate movers. *See* 49 U.S.C. 14708. We proposed to amend the former ''information for shippers'' section of the regulations, formerly 49 CFR 375.2 (proposed § 375.213), to replace the required summary of the carrier's dispute settlement program with a summary of its arbitration procedures and results.

As we discussed in the NPRM, Congress established the arbitration system in the ICCTA to afford consumers a forum for resolving loss and damage claims arising from transportation of household goods and to replace the informal dispute resolution functions previously handed by the ICC. The ICC conducted the informal dispute resolution functions under its general authority to regulate movers, but did not have a specific statutory requirement to perform that function. The Congress wanted ''private, commercial disputes to be resolved the way all other commercial disputes are resolved—by the parties.'' *See* H.R. Rep. No. 104–311, at 87–88 (1995). *See also* pages 117 and 121. The MCSIA expanded the availability of arbitration by requiring that carriers provide arbitration, upon shipper request, for claims of up to $5,000 (as opposed to the $1,000 limit in the ICCTA). The GAO report also studied the roles of consumers in preventing and resolving disputes.

NACAA supports having movers maintain an arbitration program for loss and damage claims.

The Consumers Union recommends we require each mover give its arbitration information at the time an estimate is made rather than before executing an order for service.

The OCC believes arbitration should be expanded to include a format for alternative dispute resolution. Arbitration alone limits available dispute resolution means, and inasmuch as alternative dispute resolution enjoys widespread recognition, it would seem illogical to omit it.

The AGCT requests FMCSA require the mover to provide a fair and prompt process that is paid for by the mover. By requiring the mover to bear the cost of the arbitration, the mover has an incentive to resolve claims and arbitration proceedings in a timely manner.

The 25AG suggest modifying proposed § 375.211(a)(2) to include a paragraph (iv) to require conspicuous disclosure of the right to the information contained in § 375.211(a)(3). They believe that § 375.211(a)(2) and (b) are inadequate as disclosure requirements because they provide no guidance as to either the timing or manner of disclosure.

The 25AG also believe consumers need to know of their right to forego arbitration and pursue court action under 49 U.S.C. 14704. They claim that many movers refuse to participate in their own program or do so in a dilatory fashion. They recommend that we require arbitration be provided at a reasonable cost and at a reasonable location, without undue delay before a neutral independent third party. The arbitrator should be empowered to grant whatever relief would be available in court under law or in equity.

In AMSA's view, a requirement that all household goods carriers file annual arbitration reports would likely not be useful to consumers, itself, and the moving industry. AMSA disagrees that such reports would assist us in meeting our statutory responsibility to report to Congress regarding arbitration, and in providing individual consumers with relevant claims information.

Details regarding arbitration and the relative success or failure of the single program that represents virtually all movers are readily available from AMSA, it asserts. To assist us in meeting our statutory reporting requirements, AMSA stated that it sent reports to FHWA containing the results of its arbitration program, both in advance of the June 1997 due date of the FHWA report to Congress and after June 1997.

AMSA believes that the information contained in the periodic AMSA reports is sufficient. It believes we can use its reports to monitor the moving industry under 49 U.S.C. 14708(g). From a consumer standpoint, AMSA is not convinced that the requested claims handling information would provide consumers with meaningful claims data. Furthermore, it also is not convinced that individual consumers are interested in claims data when it comes to their selection of a mover. Consumers are more interested, AMSA believes, in whether the mover is properly licensed, has insurance, has a good professional reputation, and complies with the regulations. AMSA reported the industry has a claims frequency ratio of roughly 21 percent, *i.e.*, only one in every five shipments results in a claim. AMSA interprets this to mean that the proposed report would have no relevance to almost 80 percent of the consumer shippers whose shipments do not sustain loss or damage. It asserts that the incidence of arbitration is even less frequent. AMSA's experience is that less than one percent of all claims result in arbitration; thus more than 99 percent of the shipments transported will not become involved in the arbitration process.

From a technical standpoint, AMSA believes the proposed report only requires the reporting of the total number of shipments transported and the number of claims less than and over the statutory maximum for mandatory arbitration. It believes the meaning of our ''total shipments'' (all household goods shipments; only COD shipments, excluding civilian government, military and national accounts) is unclear, as is the ''number of claims'' (claims filed; claims paid, and so on). AMSA presumes that it would be left to consumers to try to calculate a claims frequency ratio from the data provided and, if they get that far, to compare their particular mover's frequency with that of other movers or with industry average data. Complicating this situation is the fact that some carriers encourage the use of arbitration, while others do not. Therefore, individual carrier data may be entirely misleading, *e.g.*, a high number of arbitration cases could be construed to mean the carrier has an unacceptable claims experience when precisely the opposite may be true since the number of arbitrations may bear no relation to the number of claims.

In addition, AMSA asserts that the language of the proposal makes it clear that FMCSA will be required to process and maintain over 2,000 carrier annual

reports in order to respond to consumer requests for information. Also, FMCSA would be required to allocate resources to answer consumer questions regarding the reports and compile aggregate statistics to be in a position to answer consumer questions regarding the importance and meaning of a given carrier's data. Consumers will be unable to make informed decisions regarding report data unless they know how specific carrier data compares to industry average data. All of this assumes that we have the necessary staff to collect, process, and disseminate more than 2,000 such reports each year to even a fraction of the 600,000 individual shippers who may choose to request a copy. Since experience has shown AMSA that considerably less than 1,000 shippers will request arbitration in any year, any benefits that may be derived from this system will be overshadowed by the time, effort, and money expended preparing, filing, copying, and disseminating such reports.

AMSA also comments that paragraph (a)(3) would require that, upon an individual shipper's request for arbitration, the mover must furnish forms and information necessary to initiate an action to resolve a dispute. It believes the requirement that specific forms be furnished will be unduly burdensome.

Section 14703 of the Code, it argues, requires that movers furnish shippers with written information explaining the availability of their dispute settlement programs. One of the benefits of these programs is that the process (at least the AMSA version of the process) is quite informal and easy to use. No forms are required. Instead, shippers need only submit a written request for arbitration by letter or facsimile. AMSA believes requiring the use of specific forms to initiate the procedure will only serve to unduly complicate a program that has been running effectively without such forms for more than two years. Accordingly, it recommends that the words ''forms and'' should be deleted from paragraph (a)(3).

The AGCT recommends that the cost of arbitration be borne entirely by movers to provide an incentive to resolve claims promptly.

AMSA believes that Congress has addressed this point. Shippers may not be assessed more than one-half the cost of arbitration and arbitrators' decisions may include cost assessments. *See* 49 U.S.C. 14708(b)(5). It argues that Congress no doubt viewed the payment by shippers of a portion of the expense of arbitration as a means to discourage the presentation of frivolous claims. Of course, movers may elect to bear a greater portion or all of these costs if they so elect.

The OCC recommends that arbitration be expanded to include ''Alternative Dispute Resolution,'' arguing that arbitration alone is limiting. AMSA believes that Congress has also addressed this point. The applicable statute, 49 U.S.C. 14708, refers to ''arbitration'' as a means of settling disputes between movers and shippers. That aside, ''Alternative Dispute Resolution'' is a generic term that refers to a wide array of practices which are intended to resolve disagreements at lower cost than would be incurred in litigation and includes arbitration.

The 25AG recommend that the proposed arbitration section should be strengthened in several respects by the addition of requirements for prominent disclosure of consumers' rights at the outset of the transportation transaction and expeditious processing of requests for arbitration by impartial third parties.

AMSA is not opposed to an explicit recitation of mover responsibilities related to disclosure and other aspects of statutorily mandated arbitration programs. However, it argues that the predicate for the 25AG's argument is that if the regulations are not explicit, ''* * * many movers will not participate in arbitration in good faith otherwise.'' Such a proposition is obviously inconsistent, it states.

If a mover is intent on violating the requirements of law, AMSA argues, explicit regulatory language will not act as a deterrent. This is a matter of enforcement. To the extent the 25AG have, as they assert, encountered movers that do not participate in an arbitration program, AMSA argues that those movers should be reported to FMCSA for enforcement action.

Moreover, AMSA notes that the proposed regulation contains no less than 14 explicit directives that will govern all aspects of mover arbitration programs. One of those requirements states that: ''You must produce and distribute a concise, easy-to-read, accurate summary of your arbitration program, including the items in this section.'' § 375.211(b). In addition, paragraph (a)(2) requires that ''Before the household goods are tendered for transport, your arbitration program must provide notice to the individual shipper of the availability of neutral arbitration. * * *'' Thus AMSA believes these and other provisions of the proposed regulations clearly address the 25AG's concerns.

Response to Comments

We agree with AMSA. We believe the annual arbitration report (proposed §§ 375.901–375.907) will not be a benefit to shippers, the industry, or FMCSA. We also believe we should not retain the ICC's annual performance report elements for a combined annual report. Consumers will have to make informed decisions regarding movers' products and services without past performance reports that have been, and most likely would continue to be, inaccurate. FMCSA does not have the necessary staff to collect, process, verify, and disseminate such reports each year to all individual shippers, consumer advocacy organizations, and attorneys general who may choose to request a copy.

AMSA was correct that FMCSA would be required to process and maintain over 4,000 carrier annual reports in order to respond to consumer requests for information. (The NPRM used the figure 2,000 for the number of motor carriers, but we are using 4,000 in this Interim Final Rule, based on the FMCSA Motor Carrier Management Information System and Insurance Division's best estimate in March 2002 of the number of active household goods carriers authorized to operate in interstate commerce.) Also, the agency would have to allocate resources to answer consumer questions regarding the reports and compile aggregate statistics if we were to be in a position to answer consumer questions regarding the importance and meaning of a given carrier's data. Consumers would be unable to make informed decisions regarding report data unless they know how specific carrier data compares to industry average data. All of this would assume that FMCSA would have the necessary staff to collect, process, and disseminate more than 4,000 such reports each year to even a fraction of the 600,000 individual shippers who may choose to request a copy. Any benefits that may be derived from a reporting system would be outweighed by the time, effort, and money expended preparing, filing, copying, and disseminating such reports. FMCSA cannot justify the information collection costs in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). Therefore, FMCSA is withdrawing the proposal to require the filing of an annual arbitration report.

We congratulate AMSA for not needing forms to initiate its arbitration programs. As AMSA points out, however, it does not represent all interstate movers. FMCSA does not want to preclude a mover who finds it

necessary to have a form from requiring that form and we would require the mover provide it upon the individual shipper's request.

We note, in response to comments by NACAA and OCC, that consumers have numerous remedies available to them before entering the arbitration process or if carriers fail to establish and maintain arbitration processes. As the 25AG note, consumers, NACAA, and the OCC should know of the consumer's right to decline from participating in arbitration, and, instead, pursue court action under 49 U.S.C. 14704. We believe it is not necessary to inform movers of this right in part 375 since AMSA has shown through its comments that its members have a good understanding of the statute. FMCSA has added this information to the YRRWYM appendix, though, to be provided to shippers for their benefit.

NACAA should not be surprised about our position regarding our limited role in dispute resolution. The Congress, as the NPRM noted, provided a clear understandable directive against allocating scarce resources to resolve private disputes and indicated that our primary role was to oversee the regulations. The GAO report also noted this Congressional directive.

We are not adopting the NACAA recommendation that the regulations require that other Federal, State, and local agencies retain jurisdiction over movers' acts and practices. This can be accomplished only by statute, not through these regulations.

Section 375.213 What Information Must I Provide to a Prospective Individual Shipper?

NACAA supports requiring movers to provide all prospective customers with the YRRWYM booklet. NACAA further believes movers should be required to insert their prior two years arbitration reports in YRRWYM to enable consumers to examine the claims history of a prospective mover. It believes the expense to movers will be negligible. It also recommends that all movers post annual arbitration reports on the Internet with references to their web site in YRRWYM and that FMCSA audit these arbitration reports.

The AGCT suggests requiring movers to provide a prospective shipper with a copy of a blank uniform bill of lading used by the mover before loading the shipment, to give the shipper an opportunity to review and ask meaningful questions about the terms listed on the form. It also would require movers to provide copies of their tariffs to properly inform the consumer of possible charges that may be levied by the mover.

The Consumers Union recommends that the information required by this section be provided at the time an estimate is given rather than before an order for service is executed.

AMSA believes the AGCT's recommendation that movers be required to provide a blank bill of lading and their tariffs to prospective shippers is unrealistic and burdensome. AMSA alleges that industry data indicates that roughly three shipment surveys are performed for each shipment booked. AMSA did not provide the data for the docket. AMSA believes requiring the distribution of bills of lading and tariffs containing several hundred pages of technical matter to prospective shippers would burden shippers and movers alike. In any event, Congress has addressed this issue by requiring in 49 U.S.C. 13702(c)(1) that movers provide notice of the availability of their tariffs for shippers who would elect to examine tariff provisions related to their move.

Consumers Union strongly urges FMCSA to redraft YRRWYM into even plainer language. As one example it states that subpart K should be at the front of the pamphlet.

AMSA disagrees with the Consumers Union. The proposed YRRWYM publication is a substantial revision of the former ICC publication. AMSA believes it significantly clarifies many points that are important to consumers in language that represents a major improvement over the former ICC language.

Response to Comments

FMCSA will adopt the specific recommendation provided by the Consumers Union by moving Subpart K to the front of the pamphlet.

In the interim final rule, FMCSA has added a paragraph (a)(3) requiring movers to provide notice of the availability of the applicable sections of their tariffs for shippers' examination or have copies sent to them upon request. FMCSA believes this addition provides shippers with adequate information to assist themselves in asking informed questions.

To require significant additional consumer information be provided by carriers, as recommended by some commenters (arbitration reports, blank bills of lading, complete copies of tariff) at the time an estimate is given, would add significant burdens on carriers beyond anything proposed in the NPRM. Since shippers frequently obtain more than one estimate, the additional burden on carriers could be multiplied several times. Also, because most tariffs are voluminous documents, FMCSA believes that it is beneficial to both shippers and carriers to limit the additional requirements in paragraph (a)(3) to the applicable sections of the tariff.

Section 375.215 How Must I Collect Charges?

The OCC recommends the option of pre-payment be made available at the shipper's election, especially for weight-based shipments. The mover would insure an accurate weight before shipping to protect its weight-based revenues. The shipper, in turn, would have more confidence in the weight and pre-payment of freight charges would eliminate unexpected destination or other charges.

AMSA questions whether OCC's recommendation would serve the interests of shippers. Section 375.401(a)(1) of the proposed regulations provides a mechanism for guaranteed charges. Shippers have the option of electing to tender their goods under a binding estimate and, in fact, many exercise that option. AMSA states that its data indicates that 47.2 percent of all COD consumer shipments were transported under binding estimate tariff provisions in 1996. (AMSA did not provide this data for the docket.) AMSA believes that authorizing payment of transportation charges in advance of the actual delivery of goods could provide unscrupulous movers with the opportunity to deceive shippers. As a case in point, it notes the experience of Ms. Josephine Meany, whose complaint is included in the NACAA comments. Unfortunately, Ms. Meany paid thousands of dollars to an unlicensed mover for what amounted to essentially no service. Her son's goods were not transported to the intended destination and she was forced to hire and pay a second mover to transport the goods. AMSA urges that we reject the OCC recommendation.

Response to Comments

FMCSA agrees with AMSA. The shipper may not know at the time he or she contracts for transportation whether circumstances related to the move may cause additional freight charges beyond those agreed upon at origin. The mover should not be held accountable for poor planning on the shipper's part. FMCSA, however, has added regulatory text to the interim final rule that specifies that all rates and charges for the transportation and services rendered must be in accordance with the mover's applicable tariff in effect, including the method of payment.

Section 375.217 How Must I Collect Charges Upon Delivery?

NACAA requests a modification stating that the mover ''may specify two forms of payment acceptable, only one being cash or a cash equivalent.''

The AGCT suggested FMCSA establish nondiscriminatory rules governing cash-on-delivery (COD) service and collection of COD funds rather than allowing movers to develop their own procedures in the tariff. It suggested modifying paragraph (b) to require movers to relinquish possession of a shipment upon payment by the consumer of an amount substantially less than the binding or non-binding estimate. This provides the consumer with some leverage over the mover in the event of a dispute. The mover would have to pursue a claim against the consumer rather than requiring full payment by the consumer and forcing the consumer to pursue the mover. Such a burden shift provides greater protection for the consumer.

AMSA comments that the NACAA proposal, if adopted, would limit the options available to movers and their customers to effect the payment of transportation charges. The generally applicable options for payment are cash, certified check, traveler's check, or bank check (drawn by a bank and signed by a bank officer). *See* HGB Tariff 400–M, Item 29. In addition, the existing credit regulations in § 377.215, the household goods regulations in § 375.19, and proposed § 375.221, authorize the credit card option for payment and provide specific requirements related to the use of credit. Taken as a whole, AMSA believes these provisions adequately address the concerns expressed by NACAA.

AMSA believes the AGCT proposal for adopting nondiscriminatory rules for the collection of transportation charges in this proceeding is addressed in the preceding paragraph. Additionally, AMSA asserts that the AGCT has apparently neglected to consider the discussion at page 27128 of the NPRM that outlines the FHWA response to the moving industry's request for amendment of the existing credit regulations. AMSA states ''obviously, household goods movers are not at liberty to fashion payment and/or extension of credit tariff provisions that would violate the existing or proposed FHWA regulations.''

The 25AG argue that the form of payment issue is directly related to consumer overcharge complaints. The 25AG therefore propose that § 375.221 require that, if a mover agrees to accept a credit card at the beginning of the shipment transaction, the credit card should be accepted at delivery. They also propose a related amendment to § 375.503(b)(9) dealing with bill of lading contents, which would require disclosure of the form of payment required upon delivery if it is different from that agreed to at the outset of the transaction.

In a similar vein, the AGCT is opposed to permitting movers to treat the reversal of a credit card transaction as an involuntary extension of credit. It argues that consumers should be authorized to treat a mover's failure to pay a claim for delay or loss/damage as an ''involuntary extension of the shipper's credit to the mover,'' thus subjecting the mover to the same financial penalties as the consumer bears under the credit regulations at § 375.807.

AMSA asserts that each of these proposals is fraught with the potential for endless controversies between movers and shippers. More importantly, it believes, they reflect a misunderstanding of Congressional intent. Section 13707 provides that a motor carrier ''* * * shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.'' Since the extension of credit by movers is permissive, it would be foolhardy to adopt regulations that would attempt to address these issues since they cannot adequately anticipate the many circumstances that occur when drivers and consumers settle accounts at the time of delivery. AMSA argues that accepting a credit card at origin, for example, provides the consumer with sufficient time to seek alternative means of payment should the charge amount be declined by the card issuer. If a driver delivers on weekends or after hours and the mover's credit/collection department is closed, the driver cannot call in the charges and the mover will not be in a position to make certain that the card issuer will accept the charge. Dealing with a credit card at delivery may also cause unnecessary delays. If the charge is declined, the consumer must seek alternative means of payment that could unnecessarily delay delivery. In the meantime, the mover must wait, which could result in additional charges, vehicle detention, or storage-in-transit. These proposals could have the unfortunate result of forcing movers to limit the payment alternatives that are presently offered to shippers.

AMSA strongly opposes the AGCT proposal that movers should be required to relinquish possession of a shipment upon payment of an amount ''substantially less than the binding or non-binding estimate'' in order to provide consumers with ''leverage'' in the event a dispute arises. AMSA believes it obviously ignores the requirements of 49 U.S.C. 13707 and the important requirement contained in 49 U.S.C. 13702(a)(2) that:

> The mover may not charge or receive a different compensation for the transportation or service than the rate specified in the tariff, whether by returning a part of that rate to a person, giving a person a privilege, allowing the use of a facility that affects the value of that transportation or service, or another device.

AMSA believes the 25AG have approached this and a number of other issues as if the regulations to be promulgated should be treated in a vacuum with no consideration given to underlying statutory directives or restraints. They also ignore the fact that movers have a lien on the goods they transport and may refuse to deliver until their charges are paid or guaranteed. *Illinois Steel Co.* v. *Baltimore & Ohio Railroad Co.,* 320 U.S. 508 (1944).

Response to Comments

FMCSA appreciates the comments received regarding this section and has incorporated the recommendation that we require the mover to specify the form of payment when the mover prepares the estimate. The mover and its agents must honor the form of payment at delivery, except when a shipper agrees to a change. The mover must include the same information on the order for service and bill of lading. It is important to state in the rule that the carrier must accept the method of payment originally agreed in order to avoid unnecessarily burdening the shipper, who may not be prepared to make an alternative form of payment. For example, in a case where a cashier's check is the agreed payment and the carrier demands cash on a Saturday evening when the bank is closed, a serious problem would be created for the shipper, most likely resulting in the driver leaving without unloading the shipment.

FMCSA has also added another requirement to the interim final rule. If the mover or its agent agrees to accept a charge or credit card payment as the method to pay for receipt of goods at delivery, then the mover must arrange for delivery during the time the mover's credit/collection department is open to seek approval of payment by card issuer, unless the vehicle is equipped to process credit card payments.

Section 375.221 May I Use a Charge or Credit Card Plan for Payments?

The OCC believes the term ''cashier's check'' should not supplant the term ''money order.'' A loss of an open money order that does not denote a payee can result in a stop payment of the same. No stop payment is available for the loss of cash. A shipper may hesitate to carry a large sum of cash and may want to go to a convenience store and convert the cash into consecutive money orders. AMSA agrees that both terms should be used.

The 25AG believe the regulations should mandate that the mover's payment policy be the same at all stages of the transaction. If charge or credit cards are permitted at the order for service, the cards should be allowed at the time of delivery. They suggest that carriers should inform consumers of their payment policies.

The AGCT suggests the regulations should not allow carriers to treat reversal of credit card transactions as an involuntary extension of credit. This is not consumer protection, it believes. If carriers suffer financial loss due to actions of the consumer, carriers should be required to rely on the same avenues of dispute resolution that are available to the shipper. It further recommends that FMCSA should allow a consumer to treat a carrier's failure to pay a claim for untimely shipments or damage or loss as an involuntary extension of the shipper's credit to the carrier, subjecting the carrier to the same financial penalties as the consumer listed in § 375.807.

Response to Comments

FMCSA has added money orders as a form of acceptable payment in the interim final rule. If a mover accepts money orders as an acceptable form of payment, the mover must include the provision in its tariff.

FMCSA has also added language to § 375.221(a) to make it clear that a carrier is bound by the payment provisions in its tariff from the time it gives an estimate until completion of any transaction that results from that estimate, unless otherwise agreed with a shipper under § 375.217(a).

FMCSA has retained the rule language that allows a carrier to treat a reversal of a credit card transaction as an involuntary extension of credit because the use of a credit card is considered an alternative to payment in cash, certified check, money order, or cashiers check, which are payment methods that cannot be reversed.

However, FMCSA has not added a provision allowing a consumer to treat an unpaid claim against a carrier as an involuntary extension of credit. Adding such a provision would be beyond the scope of the NPRM. Resolution of a claim that may be in dispute is traditionally resolved in a State court.

Section 375.301 What Service Options May I Provide?

The AGCT recommends that the regulations should require carriers to have liability insurance covering casualty losses resulting from the actions of the carrier.

AMSA comments that the rationale underlying the AGCT recommendation is not clear. AMSA states that carriers are liable for cargo loss and damage under 49 U.S.C. 14706 and must provide evidence of insurance pursuant to 49 U.S.C. 13906(a)(3). As a general proposition, casualty insurance coverage contemplates personal injury losses, a subject that is not related to this proceeding. In any event, carriers are also required by statute to maintain liability insurance in amounts prescribed by the Secretary covering bodily injury, etc. *See* 49 U.S.C. 13906(a)(1).

Response to Comments

FMCSA agrees with AMSA. The AGCT's recommendation appears to contemplate requiring personal injury loss coverage in these regulations. This is not within the scope of this rulemaking and is already required by statute and regulation.

Section 375.303 If I Sell Liability Insurance Coverage, What Must I Do?

The 25AG recommend requiring clear and conspicuous disclosure to consumers of all limitations on liability coverage and any inventory requirements needed for valuation of their shipments, as well as requiring disclosure, at the time of delivery, of whether any agents were used during the move and whether the consumer's goods were stored during the shipment. They further recommend that upon the consumer's request, carriers should provide numerous pieces of information. Such information would include the agents or subcontractors used during the move, liability coverage for that move, identification of all storage facilities used, and liability coverage attendant to that storage. They also suggest development of regulations that will sharply limit the use of disreputable tactics by some carriers to avoid legitimate liability coverage obligations.

The AGCT suggested the regulations require carriers to procure insurance on behalf of the shipper. If a carrier sells or offers to sell liability insurance to the shipper, the carrier must comply with any applicable licensing requirements of a State insurance regulatory body. If the carrier sells or procures insurance on behalf of the consumer, the consumer must be the named insured on the policy and the carrier must provide the consumer with a copy of the policy and a certificate of insurance indicating the period of coverage.

AMSA comments that the language proposed in § 375.303(a)(1) and (2) is unclear in establishing the conditions under which carriers may sell or procure insurance coverage for cargo loss or damage. As written, paragraph (a) provides that insurance may be procured only under the two conditions set out in paragraphs (a)(1) and (2). However, those paragraphs are not connected with the conjunctive ''and'' or the disjunctive ''or.'' Moreover, AMSA believes the language in paragraph (a)(2) is confusing. It describes a situation where the shipper fails to declare a valuation of $1.25 per pound and pays or agrees to pay the carrier for assuming liability equal to ''the declared value.'' This condition is at odds with itself.

AMSA points out that under the outstanding Surface Transportation Board released rates order (RRO), the failure to declare a lump sum value or valuation of $1.25 per pound will result in the shipment being deemed to have been released to a declared lump sum value of $1.25 per pound times the weight of the shipment. *See* 9 I.C.C. 2d 523.

In any event, AMSA believes paragraph (a)(2) can be eliminated as unnecessary. Historically, carriers were authorized to sell or procure excess insurance only when the shipment was released to a value not exceeding 60 cents per pound. Although current § 375.11(a) contains the additional condition that ''the shipper does not declare a valuation of $1.25 or more,'' it is clear that the latter condition is superfluous. Although stated as two conditions, they are actually the same. If a shipper releases a shipment at 60 cents per pound, he could not declare a valuation at $1.25 per pound or more. Conversely, if he declares a valuation at $1.25 or more, he could not release the shipment at 60 cents per pound. This mutual exclusivity is made clear in the RRO giving rise to this language. *See* RRO No. MC–505, Released Rates of Motor Common Carriers of Household Goods, June 7, 1966, and Released Rates Decision No. MC–999, 9 ICC. 2d 523 (1993). AMSA therefore recommends that paragraph (a)(2) be deleted.

AMSA further argues that paragraphs (b) and (c) are duplicative to some extent. Current § 375.11(a) is limited to insurance for loss and damage just as appears in proposed paragraph (c). It therefore recommends that paragraph (b) be deleted, paragraph (c) be redesignated as (b), and the remaining paragraphs be redesignated accordingly.

With respect to the 25AG recommendation that more explicit language should be employed to preclude carrier avoidance of payment of loss or damage claims, AMSA believes that proposed § 375.303 is not intended to deal with this issue. Carriers, it asserts, are required to process claims for loss or damage in accordance with the regulations contained in 49 CFR part 370. If, as the 25AG argue, they encounter situations in which they believe carriers have violated part 370, a complaint can be made to FMCSA.

AMSA believes that the AGCT recommendation that carriers be required to procure insurance on behalf of shippers and, if appropriate, comply with any applicable State licensing requirements, confuses the carrier's role in procuring insurance. Carriers do not sell insurance, but may procure insurance on behalf of a shipper from an insurance entity that is authorized to issue a policy under applicable State law.

Response to Comments

In response to the 25AG, we believe that the carrier, its employees, and agents are essentially one and the same, in that the carrier is responsible for the acts of both the employees and agents. Therefore, the authorized carrier named in the bill of lading would be primarily responsible for any activity involving the move, including the selling of insurance and providing the shipper with a policy from the insurance carrier. If the authorized carrier used an owner-operator under lease agreement, the carrier would be fully liable for the move.

The Surface Transportation Board's revised RRO states that unless the shipper expressly releases the shipment to a value not exceeding 60 cents per pound per article, the carrier's maximum liability for loss and damage shall be either the lump sum value declared by the shipper or an amount equal to $4.00 times the actual weight of the shipment, whichever is greater. Additionally, the shipper may purchase additional liability insurance coverage from the carrier. The revised RRO provides that the $4.00 rate may be increased annually by the carrier based on the Department of Commerce's Cost of Living Adjustment.

As we noted in our response to § 375.201, we have added regulatory text to § 375.201 concerning the full liability to which the carrier may be subject if it fails to issue a copy of the insurance policy or other appropriate evidence of insurance. Also, we have adopted AMSA's recommendation to delete proposed paragraphs (a)(2) and (b) in § 375.303.

Section 375.401 Must I Estimate Charges?

NACAA supports estimates being given in writing. The AGCT suggests changing ''binding estimate'' everywhere in the proposed regulations to ''guaranteed delivery price.'' It believes that the term ''estimate'' implies approximation rather than a fixed price. It further suggests changing paragraph (b) to reflect the fact that the final charges will be based on the actual weight ''or volume'' because this is consistent with estimates to be given based on weight or volume.

Starving Students has a deep concern about requiring written estimates. It states that a written estimate requires a personal visit to the shipper's residence, which is costly. It estimates that requiring a prior written estimate would add $250 or more to the cost of the move and believes adding such costs would discourage many shippers from hiring a mover for small moves.

Starving Students also believes that there is not enough advance time to perform a visual inspection for a written estimate. Shippers often schedule moves with very short notice, which does not permit a prior visual inspection to be performed. The majority of Starving Students' bookings are booked within seven days of the scheduled move.

Starving Students also notes that numerous moves occur from locations where movers do not have a local office in the vicinity. A prior visual inspection will be impossible in these cases. The consumer would have to select a mover not based on price or service, but on the proximity of a field estimator. Small movers offer low cost, no frills alternatives to the large van lines. It argues that excluding small movers, like Starving Students, from interstate moves based on a lack of a national network of estimators is an unfair restraint of trade. In summary, Starving Students believes that shippers and carriers want the same thing, *i.e.*, for the consumer to pay, and the carrier to receive, a reasonable price for the transportation of household goods across state lines.

AMSA believes this section provides that individual shippers must be given a written estimate before an order for service is executed and commends FMCSA for including these provisions in the proposed regulations. Providing as many written estimates as possible will certainly serve to reduce shipper complaints and misunderstandings over final charges. However, AMSA believes there are certain aspects of this requirement that should be considered further.

AMSA believes that most moves are booked at least two weeks in advance with the majority booked a month or more in advance. However, situations arise when moves are booked on much less than two weeks' notice or sudden last-minute changes make the preparation of a written estimate in advance of the move impossible. Situations brought about by unusual circumstances such as unexpected employment changes, domestic disputes, evictions, foreclosures, or emergency evacuations do not always permit much in the way of advance notice. AMSA believes that requiring a written estimate, which is, in turn, subject to the 110 percent rule, will cause some movers to refuse short notice shipments to avoid being held to the 110 percent payment provision because there is no opportunity to perform a visual inspection. Shippers will then be left with fewer options to accommodate their requirements, *e.g.*, move on their own or use unlicensed movers who ignore FMCSA regulations.

AMSA recommends that an alternative procedure be adopted for short notice shipments. Shippers would be given the opportunity to waive the requirement for a written estimate (or to waive the 110 percent rule) in short notice situations. The shipper will nonetheless receive service from a licensed professional mover subject to all of the other protections provided by the proposed regulations, it believes. It suggests that paragraph (a)(2) should be amended by revising paragraph (a) and adding a new paragraph (e), as follows:

(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, except as provided in paragraph (e) below. The written estimate must be in one of the following two types:

* * * * *

(e) Waiver—Signatures Required. Subject to the shipper's agreement to waive the requirement for a written binding or non-binding estimate, pursuant to the provisions of § 375.407, you may provide a price quotation which shall be your reasonably accurate estimate of the approximate costs the individual shipper can expect to pay. The

shipper's agreement to waive the written estimate requirement must also include collection or credit arrangements acceptable to the shipper for payment of the total charges. The waiver agreement must be in writing and signed by the shipper before the shipment is loaded, and a copy must be retained as an addendum to the bill of lading.

AMSA believes for situations other than short-notice shipments, the provisions of § 375.407 that have been designed to deal with ''hostage shipments'' are a welcome addition to the proposed regulations. AMSA routinely receives complaints from desperate shippers whose shipments are being held by unscrupulous movers to be exchanged for the payment of charges in excess of the 110 percent maximum. If the government enforces these provisions, AMSA asserts, many complaints of this nature will be eliminated.

In response to AGCT's suggestion that the term ''guaranteed delivery price'' be used in this section and throughout in lieu of ''binding estimate,'' AMSA notes the term ''binding estimate'' is rooted in the underlying statute, 49 U.S.C. 13704(a)(1).

Response to Comments

We did not require that a personal visit had to be made to execute the written estimate when we proposed the section regarding written estimates. We believe a written estimate could be executed after any telephone interview with a prospective shipper. Whatever the estimator estimates the total to be and communicates it to the shipper, the estimator would follow it up in writing.

We believe that the requirement to provide a written non-binding estimate, subject to the 110 percent rule, would cause some movers to make more accurate estimates for short notice shipments. This is because the incentive to add charges for additional services should be less when a carrier would not have to be paid for at least 30 days after delivery, and when the additional charges could be disputed by the shipper. This should provide shippers with a more accurate estimate to compare to other movers. Shippers would then be in a better position to compare and pay a more realistic amount than what some movers have allowed their agents to estimate.

In the interim final rule, we have added a requirement that the mover provide each shipper with an explanation in writing of the formula used when an estimate is given in terms of volume and then converted to weight. We have added a requirement that the mover specify the final charges will be based on actual weight and services, subject to the 110 percent rule at delivery.

We have also added a requirement that the mover must determine charges for any accessorial services such as elevators, long carries, *etc.,* before preparing the order for service and the bill of lading. If the mover fails to ask the shipper about such charges and fails to determine such charges before preparing the order for service and the bill of lading, the mover must deliver the goods and bill the shipper after 30 days for the additional charges.

In addition the interim final rule contains a new paragraph (b) specifying that, at the time the estimate is presented, the mover must specify the form of payment that it will accept at delivery.

To clarify the role of household goods brokers in the estimating process, FMCSA has added a new § 375.409, discussed below.

Section 375.403 How Must I Provide a Binding Estimate?

The AGCT suggests requiring all carriers include a binding estimate provision in their tariffs and to provide a binding estimate if requested by the consumer. It suggests the rules should not allow carriers to unilaterally refuse to honor the binding estimate and carriers should be required to provide the service as originally agreed on. It recommends that carriers be permitted to negotiate with the consumer for any additional services requested at the time of pickup, either as a binding or non-binding estimate, and that the rules should affirmatively require carriers to inquire of site conditions at the destination or other matters which may result in the imposition of additional charges at the delivery point. If the carrier fails to ask whether there are any long flights of stairs, AGCT states, the carrier should ''not be permitted to charge for any additional services at the destination which may have reasonably been anticipated and not listed as an additional charge in its estimate. This is reasonable, since the carrier has experience in this area, and knows such services often require additional charges.''

The AGCT believes carriers should be required to relinquish possession and bill the consumer for such additional services rather than demand immediate payment at the time of delivery.

AMSA comments about paragraph (a)(5), which provides three options for the carrier if the shipper tenders additional household goods or requests additional services that were not included in the original binding estimate. While the first three options will cover most situations, AMSA writes, other circumstances may result in a failure between the mover and the shipper to agree to a price for the additional services. Therefore, AMSA believes it is appropriate to include a fourth option to address this situation as follows:

(iv) If an agreement cannot be reached as to the price and/or service requirements for the additional goods or services, you are not required to service the shipment.

Paragraph (a)(7) provides that the carrier may require full payment for additional services requested by the shipper or required to be performed at destination (such as stair carry, long carry, storage, etc.). AMSA notes that during a typical moving scenario, the shipper may also request additional services while a shipment is en-route, such as a diversion with an extra pick-up or delivery to a friend or relative at an intermediate point. AMSA believes that the proposed language should be clarified to accommodate such requests as follows:

(7) If the individual shipper adds or requires additional services en-route or at destination to complete the transportation, and the services fail to appear on your estimate, you may require full payment at the time of delivery for such added services.

AMSA states that AGCT's proposal that carriers be required to include a binding estimate provision in their tariffs conflicts with the permissive authority conferred by 49 U.S.C. 13704(a) (1) and 14104(b)(l), which provide that carriers ''may'' provide binding estimates of charges.

AMSA believes that the AGCT's suggestions reflect a failure to understand the operational conditions carriers often confront in order to properly service shipments. During a typical move, additional services may be required to complete the move or the shipper may request additional services while the shipment is en-route or before delivery. Since the transportation of household goods is a labor intensive process, the failure of the shipper to properly inform the carrier of the precise requirements necessary to properly remove the contents of a residence, secure them in an over-the-road vehicle and effect delivery at the new residence, can result in additional services which, in turn, require the assessment of additional charges.

AMSA asserts that owner-operators perform the majority of the labor services that are required to load, transport, and unload household goods shipments. These individuals cannot, nor should they be expected to, perform their services without compensation or

for compensation that is less than is necessary to attract their services. AMSA believes that it should be apparent that the fact that the costs and related charges incurred to perform a move may not agree with an estimate of charges is not the exclusive result of carrier misfeasance or deception as certain arguments suggest.

For example, AMSA notes, NACAA proposes that, by paying an additional 10 percent, the shipper is not admitting the legitimacy of the expense or waiving any rights to bring a private action under State or local law. NACAA also proposes that the regulations state that it is an unfair, misleading or deceptive act or practice for a mover to fail to deliver the goods after an offer to pay 110 percent is made.

In response to the AGCT's recommendation that consumers be allowed to reduce the amount they must pay for a carrier to relinquish a COD shipment to ''substantially'' less than 100 percent of the estimate, and that they be allowed to offset any damages from the balance of any remaining charges owed to the carrier, AMSA states that certain AMSA testimony in 1998 before the U.S. House of Representatives Subcommittee on Surface Transportation of the Committee on Transportation and Infrastructure warrants repeating:

> The overwhelming majority of all movers are reputable, regulated businesses. They perform an essential public service by complying with the consumer and other regulations that govern our business and were put in place by the former ICC. * * *
>
> In its evaluation of this situation, and in its consideration of possible legislative solutions, we urge Congress not to lose sight of the fact that the moving industry performs 1.3 million interstate moves each year, the vast majority of which are accomplished without incidence and to the customer's satisfaction. It is the exceptional, out of the norm ''horror story'' that attracts media attention and portrays the industry in a bad light. No attention is paid to the hundreds of thousands of incident-free moves that take place each year. [footnote omitted] This is somewhat understandable since the media concentrates on the exception rather than the rule in its attempt to alert the public to what it perceives to be potential problems. My industry understands that motivation. In fact, we also firmly believe the public should be encouraged to make certain they are selecting a licensed, reputable mover when they require moving services. My point is, given the existing, somewhat negative climate the moving industry is dealing with, Congress should not react in a manner that will unduly burden the industry by imposing regulatory obstacles that translate into less efficient, more costly service to the public. (Testimony of Joseph M, Harrison, President, AMSA, delivered August 5, 1998.)

Attached to Mr. Harrison's testimony were copies of a small sampling of congratulatory letters AMSA members received from customers expressing their satisfaction with the carrier's service. AMSA noted those letters reflect the high level of service all reputable movers strive to achieve. AMSA also noted no publicity was paid to the customer's laudatory comments.

AMSA comments that in the context of estimates of charges versus actual lawful charges, changes in service requirements usually occur either because the shipper requested the changes or because the mover determined they were necessary to properly service a shipment. AMSA argues that one needs merely to review carrier tariffs to understand the many services carriers must perform that may result in changes in estimates of charges. These include vehicle detention, distance and stair carries, impracticable operations, pickup or delivery on Saturdays, Sundays or Holidays, stop-offs, appliance service, shuttle service, and storage-in-transit. Available industry statistics obtained from the AMSA Continuing Traffic Study for COD shipments transported in 1995 indicate the following:

11.7 percent of COD shipments required either an extra pick-up, an extra delivery, or both;

14.2 percent required long carry service or elevator service;

14.0 percent required stair carries; and

2.8 percent required shuttle service to complete pickup or delivery at inaccessible locations or waiting time to accommodate shippers' schedules when accomplishing delivery.

In the aggregate, 56.8 percent of the COD shipments required these or other additional services either at the shippers' specific request or because such service was required to accomplish delivery.

AMSA also believes it is appropriate to consider the former ICC's analysis of the difficulties associated with estimating. In concluding that 10 percent above estimated charges is the appropriate margin for collection by carriers at delivery, the Commission stated:

> In doing so, we recognize that carriers should be permitted some leeway in estimating charges. Calculating approximately the weights of various items of household goods, arriving at an opinion of the total weight of a shipment, and working out the probable costs of accessorial services at origin and destination, all coupled with the element of human error, should not be the bases for establishing the amount beyond which the carrier should be required to extend credit to the shipper. We therefore conclude that a 10 percent margin should be allowed to the carrier in arriving at its reasoned judgment of total charges, and that such a variation will not be an unreasonable burden to the shipper. *Practices of Motor Common Carriers of Household Goods,* 111 M.C.C. 427, 468 (1970). See also *Practices of Motor Common Carriers of Household Goods,* 132 M.C.C. 599, 609 (1981).

Response to Comments

FMCSA agrees with the AGCT that, at the time of pickup, movers should inquire of site conditions at the destination or other circumstances which may result in the imposition of additional charges at the delivery point. If the mover fails to ask whether there are any long flights of stairs, for example, the mover would relinquish possession and bill the shipper for such additional services rather than demand immediate payment at the time of delivery. We have added appropriate language to the interim final rule to incorporate these comments.

In addition, FMCSA requires in § 375.403(a)(8) in the interim final rule that if a shipper asks for additional services after the goods are in-transit, the mover must inform the shipper additional money must be paid. If a mover believes additional services are necessary to properly service a shipment after goods are in-transit, the mover must inform the shipper what the additional services are before performing those services. The mover must allow the shipper at least one hour to determine whether he/she wants the additional services performed. If the shipper agrees to pay for the additional services, the mover must execute a written attachment to the bill of lading and have the shipper sign the written attachment. This could be accomplished through faxes between the parties.

If the additional services are not acceptable by the shipper and the shipment is in transit, the carrier should deliver for the amount of the original estimate and bill for any remainder after 30 days.

FMCSA believes it is the carrier's responsibility to ask and determine at origin if the conditions at the destination require additional services (*i.e.*, shuttle, long carry, elevator, stairs, and other accessorial services) to effect delivery, and to advise the shipper of the cost of such additional services, as well as method of payment for the services at the time of delivery. If the shipper refuses to pay for additional services at origin and before loading, the carrier has the option to accept or deny the shipment. *See* § 375.403(a)(5) in the interim final rule. If the shipper refuses to pay for additional services at the

destination when the carrier arrives for delivery, then the carrier can attempt to negotiate different payment terms for the cost of additional services; however, the carrier must deliver the shipment.

We disagree with AMSA that when the individual shipper adds or requires additional services en-route or at destination to complete the transportation, and the services failed to appear on the mover's binding estimate, the mover may require full payment at the time of delivery for such added services. We believe the better approach is to allow the binding estimate to be paid on delivery and the additional charges be billed at least 30 days after delivery. By requiring the mover to determine the appropriate accessorial charges before loading the shipment and permitting the carrier to refuse servicing the shipment before loading, the problem of inaccurate estimates because of surprise charges and services at destination will be minimized. If new charges or services do occur, we will require the individual shipper to pay them, but only after a period when the individual shipper has had the opportunity to establish his or her financial relationships in the new community. Requiring an individual shipper to raise hundreds, if not thousands, of dollars at the destination in a very short time can cause a severe hardship.

Section 375.405 How Must I Provide a Non-Binding Estimate?

NACAA supports movers retaining shipping records, including written cost estimates, for a period of one year. The Consumers Union believes the rules should require that carriers give consumers a maximum price with a non-binding estimate. The Union suggests allowing a carrier to self-determine how it provides the maximum price, whether through a simplified tariff schedule handed to the consumer, or by calculating a maximum price above the estimate. It asserts that information about a maximum price enhances the consumer's ability to compare carriers.

AMSA believes consistency requires expanding proposed paragraph (b) to address the circumstances presented when changes occur in the services required to transport a shipment that moves on a non-binding estimate just as is provided by § 375.403(a)(5), (6), and (7) for binding estimate shipments. AMSA recommends adding the following similarly worded paragraphs to paragraph (b):

(7) If it appears, before loading, that an individual shipper has tendered additional household goods or requires additional services not identified in the non-binding estimate, you are not required to honor that estimate. However, before loading the shipment, you must do one of the following three things:

(i) Reaffirm your initial non-binding estimate;

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

(iii) If an agreement cannot be reached as to price and/or service requirements for the additional goods or services, you are not required to service the shipment.

(8) Once you load a shipment, failure to execute a new non-binding estimate signifies you have reaffirmed the original non-binding estimate. You may not collect at delivery more than 110 percent of the amount of the original non-binding estimate, plus the full payment for additional services that were performed en-route or at destination that do not appear on your non-binding estimate.

AMSA believes the same additions should be made to the Your Rights and Responsibilities When You Move publication, under the explanation of Non-Binding Estimates.

AMSA also believes the words ''best estimate'' contained in paragraph (b) should be changed to ''reasonably accurate estimate'' because estimates are just that and accuracy is the goal, not best or worst or some other misnomer.

AMSA believes that the proposed requirement that movers retain records of all non-binding estimates of charges for at least one year from the date the estimate was prepared will be unnecessarily burdensome. As part of the normal course of arranging for a move, shippers are encouraged to obtain multiple estimates before their move. As a result, most movers perform many more estimates than moves. AMSA believes that the intent of paragraph (c) is to ensure that estimates are preserved only for the moves that are actually performed. Thus, AMSA suggests deleting paragraph (c) and adding the 1-year retention requirement paragraph (b)(4), as follows:

(4) You must retain a copy of the non-binding estimate for each move you perform for at least one year from the date you made the estimate as an addendum to the bill of lading.

AMSA also recommends that § 375.403(c) and § 375.407(d) should be amended to incorporate these recommended changes.

AMSA comments that the Consumers Union proposal to require carriers to give consumers a maximum price with a non-binding estimate has been addressed by Congress in 49 U.S.C. 14104(b), which does not mandate binding estimates. According to AMSA, a requirement that carriers furnish maximum prices would be tantamount to a mandated binding estimate and inconsistent with the statute.

Response to Comments

FMCSA believes that whether a mover provides an estimate via telephone or a personal visit, the estimate must be in writing. The carrier should provide an estimate that is reasonably accurate and include all services to be provided. The estimate should also be based on the carrier's applicable tariff. This would not be a new burden, as the carriers are already required to do this. The estimate must clearly note the shipper is only required to pay 110 percent of the non-binding estimate at time of delivery. We have added the following provisions to the interim final rule to clarify how to handle changes to non-binding estimates: Any changes in a non-binding estimate must be mutually agreed to in a written attachment to the bill of lading. If a shipper asks for additional services after the goods are in-transit, the mover must inform the shipper additional money must be paid. If a mover determines additional services are necessary to properly service a shipment after the goods are in-transit, the mover must inform the shipper what the additional services are. The mover must allow the shipper at least one hour to determine whether he/she wants the additional services performed. If the shipper agrees to pay for the additional services, the mover must execute a written attachment to the bill of lading and have the shipper sign the written attachment.

FMCSA agrees with AMSA that a requirement that carriers furnish maximum prices would be tantamount to a mandatory binding estimate. FMCSA also agrees with AMSA that paragraphs (a)(7) and (8) of § 375.405 should parallel § 375.403(a)(5)–(7) and has changed the interim final rule language accordingly.

FMCSA also agrees with AMSA's comment on paragraph (b) and has changed ''best estimate'' to ''reasonably accurate estimate.''

FMCSA also agrees that requiring the retention of all estimates for one year would be burdensome, and has changed §§ 375.403(c), 375.405(d), and 375.407(d) so that a mover need only retain for one year copies of estimates for moves actually performed.

Section 375.407 Under What Circumstances Must I Relinquish Possession of a Collect-on-Delivery Shipment Transported Under a Non-Binding Estimate?

NACAA supports the requirement that all goods be released upon payment of no more than 110 percent of the

estimated charge. It also suggests that language should be added clarifying that the consumer, in accepting delivery, is not waiving any rights to proceed against the mover in a private action to recover transportation charges, or waiving State or local enforcement. It argues that the rules should provide that it is unfair, misleading and a deceptive act or practice to fail to deliver household goods when a mover is offered 110 percent of the written estimate.

The AGCT recommends the rules substantially reduce the amount of money that the consumer must pay to the carrier in order for the carrier to relinquish possession of the shipment. The AGCT strongly supports the deferred payment provision of paragraph (c) and believes the consumer should be permitted to offset any damages from the balance of any remaining charges owed to the carrier.

AMSA recommends that to avoid potential misunderstandings, the wording of paragraph (a) should be changed to comport with the language contained in current § 375.3(d), as follows:

> (a) If an individual shipper pays you at least 110 percent of the estimated charges on a collect-on-delivery shipment on which a non-binding estimate of the approximate costs was furnished, plus the costs for additional services that were performed en-route or at destination which were necessary to complete the transportation, you must relinquish possession of the shipment at the time of delivery. You may specify the form of payment acceptable to you.

Paragraph (c) includes an explanation of how carriers must handle the collection of balances due in excess of the 110 percent amount paid on shipments that moved under non-binding estimates. Although it believes that the example provided in the NPRM is clear, AMSA would like language added to avoid any misunderstandings concerning the assessment of authorized service charges on delinquent payments as would be authorized by proposed § 375.807. AMSA recommends adding the following sentence at the conclusion of paragraph (c) of § 375.407:

> If the $400 is not paid within the 30-day period following issuance of your freight or expense bill, you must assess a service charge of one percent of the freight bill, subject to a $20 minimum charge for each subsequent 30-day period or fraction thereof.

AMSA also believes it is necessary to consider the language contained in proposed § 375.801(b) *What types of charges apply to subpart H?*, and the discussion in Subpart H of the Your Rights and Responsibilities publication as they deal with the extension of credit to COD shippers.

AMSA believes the existing credit regulations make it clear that they do not apply to COD non-binding estimate shipments that move under the 110 percent rule. It refers to 49 CFR 377.215(a), and its reference to 49 CFR 375.3(d). This language was lifted in its entirety from the former ICC credit regulations, 49 CFR 1320.8(a), which contained the same inapplicability reference, *i.e.*, 49 CFR 1056.3(d). Under both versions of these regulations, COD shippers must pay not less than 110 percent of the estimated charges on a non-binding estimate shipment at the time of delivery. If a balance remains beyond the 110 percent amount paid, the carrier may request payment of that amount not sooner than 30 days after the date of delivery. There are no other credit arrangements available for the COD customer. The extension of credit regulations contained in 49 CFR 377.215 and 49 CFR 1320.8 apply to shippers, other than COD shippers, to whom carriers extend credit. For example, a national account shipper may arrange for the transportation of its employees' goods under a carrier's tariff rather than under a contract. Because of the repetitive nature of that shipper's business, the carrier may elect to extend credit to the shipper for the payment of transportation charges, in which case the provisions of § 377.215 would apply.

AMSA believes that in the drafting of proposed § 375.801 and the narrative contained in Subpart H of Your Rights and Responsibilities, we incorrectly assumed that the existing credit regulations apply to COD shippers whose goods move under the 110 percent rule. AMSA believes the language and instructions in proposed § 375.801 are bound to create confusion among individual shippers who may assume that their mover will defer its request for payment and extend credit 30 days or more beyond the date of delivery. AMSA recommends rewriting § 375.801 and subpart H to avoid misunderstandings between individual shippers and movers. It believes the regulations and shipper guidance must make it perfectly clear carriers will expect payment of not more than 110 percent of the estimated charges on a COD non-binding estimate shipment at the time of delivery. It also believes the mover rule and shipper guidance must make it perfectly clear the shipper will be billed for any balance due not sooner than 30 days after delivery.

Response to Comments

We do not agree with the AGCT proposal to reduce the amount of payment required at delivery to substantially less than 110 percent of the estimated charges. We believe the 110 percent requirement strikes a fair balance between the carrier's right to receive prompt payment for its services and the shipper's right to pay an amount reasonably close to the estimated charges at the time of delivery. Allowing shippers to offset damages from any remaining charges owed the carrier would violate 49 U.S.C. 13702, which requires household goods carriers to charge and receive the rate specified in their tariffs. In response to NACAA, the right to take claims to court is established by law and does not need to be specifically mentioned in these regulations.

FMCSA agrees with the AMSA comments. We have modified the section to state that the mover may expect payment of no more than 110 percent of the estimated charges on a COD non-binding estimate shipment at the time of delivery and that the shipper will be billed for any balance due not sooner than 30 days after delivery. We have also modified the last sentence in paragraph (a) to state the mover must accept the form of payment agreed upon at time of estimate, including credit card, and relinquish the shipment.

Section 375.409 May Household Goods Brokers Provide Estimates?

We have added new § 375.409 to eliminate confusion regarding the authority of household goods brokers to issue estimates of transportation charges. Twenty-five years ago, the Interstate Commerce Commission concluded that brokers were prohibited from providing estimates because the duty to comply with the household goods regulations rests with the carrier, and shippers aggrieved by an act or omission of a broker would be unprotected by the regulations. In *Entry Control of Brokers,* 126 M.C.C. 476, 520 (1977), the Commission stated:

> For example, if a broker provides a c.o.d. shipper with an estimate it has made, on which the shipper relies, the shipper would be deprived of the protection of 49 CFR 1056.8(b) of the household goods regulations, which provides that where the transportation charges exceed a carrier-made estimate by more than 10 percent, the shipper must pay only 110 percent of the charges upon delivery and is given a period of 15 days following delivery to make payment in full. Since this protection applies only to carrier-made estimates, a c.o.d. shipper who relies upon an incorrect estimate of a broker will have to pay the carrier's entire freight charges

upon delivery, regardless of the extent the actual charges might exceed the broker's estimate.

In *Exec-Van Systems, Inc., Broker Application,* 128 M.C.C. 669, 678 (1978), the ICC noted that a broker's proposal to make estimates ''would appear to be inconsistent with our established regulations, since 49 CFR 1056.8(a) places the obligation for making estimates solely upon the carrier. Applicant would, therefore, be advised not to interfere with the carrier in the performance of his obligations in making estimates, as this responsibility is intended by our regulations to be performed solely by the carrier or his agent.''

Along these same lines, the Commission, in *Ward Moving & Storage Co., Inc., Household Goods Broker Application,* 132 M.C.C. 589, 596 (1981), stated that ''49 CFR 1045.7(b) * * * implicitly forbids the broker offering services or making contractual obligations which only a carrier may offer. It must be clear to the public that the broker is only an arranger of transportation, acting only in an advisory nature and offering services ancillary to the physical transportation.'' The rule cited in this quotation, now codified in 49 CFR 371.7(b), prohibits brokers from misrepresenting themselves, directly or indirectly, as carriers.

Although brokers may not enter into agency agreements with household goods carriers because they are required to exercise discretion in allocating traffic among carriers, we believe it would be permissible for a carrier to enter into a more limited type of agreement authorizing the broker to provide estimates on behalf of the carrier. Under such an agreement, the carrier would have to adopt the broker's estimate as a carrier-issued estimate and incorporate it into the order for service and bill of lading for purposes of compliance with part 375, particularly the 110 percent rule. We believe that under these circumstances, the individual shipper would not be deprived of the protections provided in part 375 because the carrier would still be held accountable for complying with this part. However, a household goods broker may not issue an estimate without entering into such an agreement with a carrier because otherwise the requirements of part 375 would not apply to the broker-issued estimate.

Section 375.501 Must I Write Up an Order for Service?

NACAA supports requiring all prices, terms and services to be presented in written documents signed by the mover and delivered to the shipper before the household goods are packed and loaded; and that these documents must be retained for a period of one year. NACAA also urges us to prohibit movers from requiring shippers to sign blank or incomplete documents, such as estimates, orders for service, or bills of lading.

The AGCT suggests the rules should allow a shipper to proceed against the mover if the mover fails to deliver the shipment in accordance with the time requirements in the contract. It believes that the shipper should not have to pay an additional fee to the mover to ensure pickup and delivery of the goods on the specific dates or within a specific period. The AGCT argues that we should grant the shipper a three-day grace period allowing the shipper to rescind the order for service without any penalty, provided the ordered services are scheduled more than three days after the order is written and that the mover should provide shippers with the items listed in § 375.503(b)(2), (4), (9), (10), and (11).

The AGCT argues that paragraph (a)(5) should allow the shipper to deduct any penalties or per diem amount due to the shipper from any amounts that the shipper owes to the carrier. Alternatively, the mover should be required to make payment to the shipper at the time of delivery in the manner specified by the shipper to level the playing field and allow both parties to collect amounts due them at the same time. Paragraph (a)(6) should require the carrier to affirmatively note the shipper's denial of any special or accessorial services that might be reasonably expected.

In response to the AGCT comments, AMSA argues that shippers do not ordinarily incur additional costs for delivery date commitments unless equipment availability is limited and a specific request requires special operations. With respect to the shipper remedies suggested by the AGCT, AMSA states that: (1) Shippers routinely cancel orders for service for a variety of personal reasons and incur no penalty for doing so; (2) as a general rule, the information listed in § 375.503(b)(2), (4), (9), (10), and (11) is routinely furnished when an order for service is executed; (3) any amount that may be due a shipper as a result of loss, damage or inconvenience must be presented and processed pursuant to the regulations at 49 CFR part 370, or the carrier's lawful tariffs; and (4) if an accessorial service is requested or required, presumably performance of that service is necessary to safely transport a shipment. AMSA questions the advisability of a rule that would permit shippers to refuse services that ''might be reasonably expected.''

Response to Comments

Although carriers may routinely permit shippers to cancel orders for service without penalty and furnish references to several bill of lading provisions when an order for service is executed, the comments from the AGCT indicate that not all carriers adopt such practices. We believe that mandating a 3-day grace period and reference to the bill of lading provisions provides additional consumer protection (*See* new paragraphs (e) and (a)(6) through (a)(10) in the interim final rule).

We adopt the AGCT's comment about paragraph (a)(6) (which is codified at (a)(11) in the final rule) and agree with AMSA that a required accessorial service may be necessary to safely transport a shipment if the mover could reasonably expect it. We require, in new paragraph (b) of the interim final rule, that if an accessorial service is necessary to safely transport a shipment, the mover must refuse to accept the shipment. As a safety agency, we will not allow the mover to provide unsafe transportation even when requested by an individual shipper.

In response to comments by NACAA, in new paragraph (d) in the interim final rule we are prohibiting movers from requiring shippers to sign blank or incomplete estimates, orders for service, bills of lading, or any other blank or incomplete documents pertaining to the move.

Must I Write Up an Inventory?

NACAA believes the rules should mandate shipment inventories that itemize every box and item consigned to protect shippers and movers for all weight-rated and hour-rated moves, unless the shipper signs a clear and conspicuous waiver of the inventory. NACAA recommends that an inventory form also be required.

AMSA concurs in the NACAA recommendation stating that detailed inventories of the goods tendered for transportation serve to protect the interests of shippers and carriers. AMSA recommends inclusion of the following provision:

Proposed § 375.502 Must I Write Up an Inventory?

(a) You must prepare a written, itemized inventory for each shipment of household goods you transport for an individual shipper. The inventory must identify every carton and every uncartoned item that is included in the shipment. When you prepare the inventory, an identification number that corresponds to the inventory must be placed

on each article that is included in the shipment.

(b) You must prepare the inventory before the shipment is loaded in the vehicle for transportation in a manner that provides the individual shipper with the opportunity to observe and verify the accuracy of the inventory if he or she so requests.

(c) You must furnish a complete copy of the inventory to the individual shipper before beginning to load the shipment. A copy of the inventory, signed by both you and the shipper, must be provided to the shipper, together with a copy of the bill of lading, before you begin to load the shipment.

(d) Upon delivery, you must provide the shipper with the opportunity to observe and verify that the same articles are being delivered and the condition of those articles. You must also provide the shipper the opportunity to note, in writing, any missing articles and the condition of any damaged or destroyed articles. In addition, you must also provide the shipper with a copy of all such notations.

(e) You must retain inventory forms for at least one year from the date you created the form.

AMSA noted its recommended addition would also entail a change in that portion of the Your Rights and Responsibilities publication which deals with this issue (Subpart E—Pick Up of My Shipment of Household Goods).

AMSA therefore recommends adopting the following language in lieu of that proposed:

Should my mover write up an inventory of the shipment?

Yes. Your mover should prepare an inventory of your shipment before loading. The inventory should be a detailed listing of the cartons and uncartoned articles included in your shipment noting any damage or unusual wear to any articles. The purpose of the inventory is to make a list of the articles included in your shipment and a record of the condition of each article.

After completing the inventory both you and the driver should sign each page. Before you sign it, make sure that the inventory lists every item in the shipment and that the entries regarding the condition of each article are accurate. You have the right to note any disagreement in the form. When your mover delivers your shipment, your ability to prove that any articles were lost or damaged may depend on the accuracy of the inventory. Your mover should give you a copy of the inventory. Be sure to keep your copy in a safe place; it is an important part of your shipment records. Your mover will keep the original. If your mover's driver completed the inventory, the mover will attach the complete inventory to the bill of lading as an addendum.

Response to Comments

FMCSA agrees with NACAA and AMSA. We have added the proposed requirements in § 375.503 of the interim final rule and included that a mover must write an inventory of all items involved in a move, assigning each item an identification number. The mover must prepare an inventory before it allows its agents or drivers to load the shipment. The mover must provide a complete copy to the shipper before loading the shipment. Upon delivery, the mover must provide the shipper with an opportunity to verify the same articles are being delivered and the condition of those articles. The mover must provide the shipper the opportunity to note any missing articles and the condition of any damaged or destroyed articles. Finally, the mover must provide the shipper with a copy of all such notations.

Section 375.503 Must I Write Up a Bill of Lading?

NACAA supports the requirement that all prices, terms, and services be presented in written documents signed by the mover and delivered to the shipper before the household goods are packed and loaded and that the allowable form of payment be specified in writing. NACAA supports requiring movers to retain shipping records, including bills of lading, for a period of one year.

The 25AG recommend that the rules should require clear and conspicuous disclosure on all documents, including estimates and bills of lading, of what form of payment will be required upon delivery of household goods, if different from the form of payment received at the outset of the transaction. If a carrier accepts a credit card as only a guarantee, the 25AG assert, the carrier should disclose that the credit card is not the form of payment that will be accepted upon delivery and also must disclose the form acceptable at delivery.

Response to Comments

FMCSA has modified this section (renumbered as § 375.505 in the interim final rule) based on the comments. New paragraph (b)(4) requires movers to specify on the bill of lading the form of payment acceptable at delivery, which must be the same form of payment entered on the estimate and order for service. New paragraph (b)(14) specifies that the attachments to the bill of lading are an integral part of the bill of lading contract. Also, proposed paragraph (b)(4) has been deleted as unnecessary.

Section 375.505 Must I Determine the Weight of a Shipment?

The 25AG strongly agree with the proposed opposition to the use of non-certified on-board trailer scales.

Air-Weigh states that its scales convert truck and trailer air-spring air pressure to accurate weight display. Its scale determines how much weight per pound of air pressure the suspension is supporting by comparing empty and loaded vehicle weights with air pressure required to support the weight. It states that once calibrated, the scale displays the on-the-ground weight of each axle group to within 200 to 300 pounds of an accurate platform scale. Comparative statistical research is being conducted, which Air Weigh intends to forward to the FMCSA when it becomes available.

The Cat Scale Company believes that on-board weighing is not in the best interest of the shipper when addressing the issue of shipper protection. It stated that ''the allowance of on-board weighing would eliminate the customer being given a certified, 'legal for trade' weight of their goods as performed by a third party. The owner of the on-board scale would actually be the party transporting the goods and therefore have an interest in the weight of those goods.''

Cat Scale states further that full length certified scales are governed by regulations established by the National Institute of Standards and Technology (NIST) under the U.S. Department of Commerce. Cat states these regulations are published in the Handbook 44 publication. Most States have adopted Handbook 44 as the State's governing regulations or have regulations in force that are based, in large part, on Handbook 44. Cat asserts that each State very aggressively checks certified scales to insure their compliance with Handbook 44 and in turn seals the scale to show that the scale may be used to give a ''legal for trade'' weight.

Cat also states that significant ongoing maintenance of a certified scale is necessary in order to keep it 100 percent accurate and able to meet Handbook 44 requirements. For example, Cat uses a 200,000 pound capacity scale, having 10,000 graduations of 20 pounds each found in Table 6 Handbook 44 Section 2.20, Scales, pages 2–23. In order for Cat to maintain proper calibration of that scale, when Cat applies 25,000 pounds of test weights to the scale, the maximum deviation tolerance allowed by NIST would be three graduations or 60 pounds. When Cat initially placed into service the scale, the maximum allowable deviation was one half that or 30 pounds. It is Cat's understanding that the deviation of an on-board scale (using Air-Weigh's model 5600 as an example) is 200–300 pounds per axle group. That equates to as much as 900 pounds of potential error per typical load. If the average household goods load weighs 6,023 pounds, Cat believes 900 pounds represents a significant percentage of

that total and could translate into significant unnecessary costs to the shipper.

Cat re-calibrates its scale every 90 days or four times per year. Cat states that typically a State will check calibration and reseal the scale once per year. However, Cat's scale is subject to a random check by the State at any time.

Important to the certified weighing process, Cat believes, is the necessity of the scale to be constructed on a level plane with a 10-foot level approach at each end of the scale. If the scale is not absolutely level, the potential for error exists and is multiplied the more out of level the condition is. Cat asserts it is very difficult to achieve a level surface on many streets or driveways.

Cat states the remote sensor processor on an on-board scale converts the pressure readings at the axle group's air spring to a number and updates the scale every 4.8 seconds. By contrast, on its scale unit, the scale indicator reads data from each load cell 16 times per second, or 76 times more often.

In addition, Cat states Air Weigh's on-board scale systems are not approved by the National Type Evaluation Program of the NIST and are totally unregulated by any standards organization. Cat states it is concerned with shipper protection and customer satisfaction and guarantees its weights to be accurate. If a driver weighs legal on its scale and then receives an overweight citation, Cat states it will either reimburse the driver or trucking company for the amount of the fine, or it will appear in court with the driver as an expert witness. Cat also keeps copies of all of its scale tickets for seven years as required by law. This gives the shipper the opportunity to request a copy of the original ticket if he/she suspects fraud. In the case of its weights being used for billing purposes, Cat's guarantee still applies to make sure that drivers get paid for what they've hauled—no more, no less.

Cat does not think it is in the best interest of the shipper for FMCSA to approve on-board scales for the moving and storage industry because of the potential for error and the lack of a governing body to check the accuracy of the scale system. These factors could equate to shippers incurring additional unnecessary expenses in connection with their household moves.

Weighing Consultants, Inc., (WCI) believes that on-board weighing systems for trucks and trailers are available that meet the tolerance requirements for commercial application, which are 0.1 percent of the applied (net) load. WCI attached to its comments the National Type Evaluation Program of the NIST Certificate of Conformance 99–091 issued to NORAC Systems International for an on-board weighing system. WCI stated the request by Air-Weigh for FMCSA to accept Air-Weigh's technology was based on data accurate at best to 1.0 percent of applied load. WCI recommends rejecting it based on product already available that meets commercial requirements.

A WCI representative made a household move and the net weight of the household goods was 9,540 pounds. WCI stated that this represented the contents of a four-bedroom house and was above the average net weight of a household move. On a certified platform scale the tolerance allowed on this 9,540 pounds would be plus or minus 20 pounds. (WCI refers to Table 6 Handbook 44 Class IIIL scale). The 200–300 pound weight differential stated by Air-Weigh is 10 to 15 times greater. WCI stated, ''If in fact the differential of the Air-Weigh system is 200–300 pounds per axle group, the differential from a certified scale would be 20 to 30 times greater than the presently allowable tolerance. Handbook 44 also states the allowable tolerance for Class IIII scales, allowed for use by law enforcement only, at a maximum of 5 divisions which would be 100 pounds on an axle scale. The Air-Weigh product accuracy is stated as 2 to 3 times the generous Class IIII tolerance.''

WCI believes FMCSA should continue the policy of requiring all weights to be determined on scales certified by a State's Weights and Measures Department. This policy, it believes, will continue to ensure equity in the marketplace and leave the statutory authority for weights and measures with the states. WCI asserts that the National Conference on Weights and Measures and NIST Office of Weights and Measures have always encouraged the development of new technology and evaluate many new weighing device types each year under the National Type Evaluation Program. WCI believes Air-Weigh should be encouraged to submit its product to the National Type Evaluation Program for evaluation as its competitor NORAC System International did.

The Sisson Scale and Equipment Company, Inc., supports the current regulation requiring the use of certified scales for independent shippers by the moving and storage industry.

The Deskin Scale Company, Inc. states that the regulatory guide for its industry has been Handbook 44 since 1949. The NIST has a statutory responsibility for ''cooperation with States in securing uniformity of weights and measures laws and methods of inspection,'' Deskins states.

The only on-board weighing systems that Deskin was aware of that are actually accepted for commercial use are fork lift scales and lifting devices for trash haulers, which use load cells connected to the forks for measuring and do not in any way derive weight information from the pressure of hydraulics or air. Deskin stated its experience has been that ''those who do rely on hydraulics or air pressure do not repeat to any degree of accuracy which is demanded by H–44 and therefore in the interest of the shipper should not be considered for use.'' It is Deskin's opinion that the shipper's best interest will only be served by use of those devices that meet the requirements of Handbook 44.

The Action Scale & Weighing Systems, Inc., states Toledo, Ohio is a ''hub'' for truck traffic coming from the North, South, East, and West, including Michigan ''train trucks'' and grain vehicles from Canada. It is Action's opinion that ''on-board weighing would not be in the best interest of the public, as the fox would virtually be guarding the hen house. The only way to insure accurate weights is on a static scale operated by a third party.''

The California, Colorado, Idaho, Michigan, New Hampshire, Oregon, and Pennsylvania Departments of Agriculture strongly support the use of certified scales for all aspects of commerce done by weight. They support the retention of the regulation requiring the moving and storage industry to use certified scales when conducting commerce where cost is determined by weight. The Pennsylvania Department of Agriculture believes the use of on-board non-certified scales will be an invitation for unscrupulous operators to defraud shippers, based on its experience discovering and prosecuting moving and storage companies for falsifying weighmaster certificates by ''bumping.'' ''Bumping'' is any method where additional charges to the customer are claimed by the moving and storage company by adding additional weight to the load or by adding weight to the scale and then weighing the load.

The State of Idaho Department of Agriculture, Bureau of Weights & Measures, does not dictate what type of scales the moving and storage industry uses, as long as they are commercial type scales, and are therefore capable of being certified. It believes there are a myriad of devices made today that fall short of the requirements for commercial use, but are manufactured for estimation, internal accounting, sorting, or other non-commercial applications. The Idaho Department of

Agriculture states there is at least one on-board weighing system for semi-trailer use (Weigh-Tronix, model STS–50, 50,000 times 20 pounds) that has a certificate of compliance on the market today.

The Idaho Department of Agriculture is concerned that non-commercial type on-board weighing systems are being used. It is also concerned that manufacturers are using this rulemaking to try to circumvent the National Type Evaluation Program of the NIST requirements being met by other scale manufacturers. The Idaho Department of Agriculture encourages Air-Weigh and Hi-Tech Scale to work to get their products approved through the National Type Evaluation Program system.

The Idaho Department of Agriculture notes that the National Conference on Weights and Measures along with NIST advisers have determined the requirements for commercial scales. The tolerances and performance requirements have been set to prevent either the buyer or seller from being damaged in transactions. These standards are recognized not only in every jurisdiction in this country but throughout the world. The Idaho Department of Agriculture urges FMCSA to ensure any rule change continues to require shipping and storage charges be determined on a commercial scale—whatever form that scale may be, a vehicle scale or on-board scale system.

The Michigan Department of Agriculture would not object to the non-commercial use of non-certified scales, provided they are clearly marked ''Not Legal For Trade'' and could thus be used for estimates only. Otherwise, the Michigan Department of Agriculture strongly supports maintaining the ''certified scale'' requirement for commercial sales.

The Handbook 44 serves the California Department of Agriculture as a uniform model governing performance, use, and testing of commercial weighing and measuring devices. The California Department of Agriculture urges FMCSA to retain a policy of requiring weights upon which charges are based to be determined on scales that have been tested and sealed by State weights and measures officials applying the requirements of Handbook 44. Companies who wish to offer weighing and measuring devices for use in determining charges for goods or services, should ensure that they comply with the uniform standards contained in Handbook 44, and should continue to be required by FMCSA to submit such devices to testing and verification by weights and measures officials.

The Oregon Department of Agriculture requires that: (1) Any weighing or measuring device must be licensed, tested and approved by the Oregon Department of Agriculture Measurement Standards Division when the device is used commercially for the measurement of vehicles; and (2) any commercial weighing or measuring instrument or device must be issued a Certificate of Conformance traceable to NIST.

The New Hampshire Department of Agriculture believes that on-board scales are not in the best interest of shippers and competitors. The potential error of 200–300 pounds per axle group is unacceptable, as well as its ''incorrect'' status under Handbook 44.

The Colorado Department of Agriculture does not have a problem with on-board weighing. It believes any rules that are adopted must take into account the individual State requirements for commercial measuring devices. All states currently have requirements for commercial measuring devices that are rooted in years of experience. These requirements manifest themselves as Handbook 44.

The Colorado Department of Agriculture states that if FMCSA elects to allow the use of on-board weighing systems, it must (1) ensure that the system is as accurate as the certified scales that are currently used for shipping; and (2) ensure the on-board weighing system meets the same standards, with regard to specifications, as other commercial devices, *i.e.,* that it meets the criteria of Handbook 44. The Colorado Department of Agriculture believes that meeting Handbook 44 requirements will ensure that both the shipper and carrier are treated equally, and scale manufacturers can compete equitably.

AMSA urges us to acknowledge the advantages of advances in technology that have become available throughout the moving industry for the weighing of shipments. It asserts that the use of on-board scales promotes shipper satisfaction by producing immediate, on-site shipment weights without the need to follow a tractor-trailer to an available scale. It proposed adding new § 375.523, which it believes will protect shippers' rights by requiring that shippers observe the weighing procedure, and allow them to reject the results of the on-board weighing procedure and elect to have the shipment weighed on a traditional scale. The recommended provision would read as follows:

If a trailer is so equipped, at the shipper's option, shipment weight may be determined with an on-board trailer scale if the shipper observes the weighing of the trailer both before and after the loading of the shipment. If the shipper accepts the final weight determination, you must obtain a signed statement to that effect and retain it as part of the shipment file. If the shipper rejects the on-board scale weight determination, the shipment must be weighed on a certified motor vehicle scale in accordance with the requirements of § 375.509.

Response to Comments

FMCSA opposes the use of non-certified on-board trailer scales. The comments show they are not in the best interest of shippers. On-board weighing has the potential for manipulation of actual weight. While we acknowledge there may be advantages to using new technology for the weighing of shipments, AMSA and its device manufacturer have not produced evidence that its system is compliant with Handbook 44.

FMCSA believes the issue of on-board trailer scales should be discussed in a separate and specific rulemaking. We believe the moving industry must work with the NIST and the States before asking us to allow their use. The NIST is the government agency responsible for promoting uniformity in United States weights and measures laws, regulations, and standards. The NIST regulations achieve equity between buyers and sellers in the marketplace and enhance shipper confidence in the marketplace. FMCSA does not have this expertise and will defer to the NIST for its opinions in this matter. The NIST does not want FMCSA approving a device that may set non-uniform weight regulations and may achieve inequality between buyers and sellers in the marketplace and degrade shipper confidence in the marketplace.

The moving industry may also want the NIST to research the issue as allowed by 15 CFR 200.101 *Measurement research.* The NIST provides basic research and development activities aimed at meeting broad general needs. The NIST may also undertake investigations or developments to meet specialized physical measurement problems of an industrial group using funds supplied by the requesting organization.

AMSA has not indicated how it will safeguard shippers' rights other than requiring that shippers observe the on-board weighing procedure and permitting them to reject the results of this procedure. The comments by the weighing industry and State regulatory agencies suggest that AMSA's methods and device may provide false weights.

AMSA does not specify how often the device would be calibrated, who would ensure calibration accuracy, and what happens if the calibration was done in another State and the shipper wishes to contest the weight in another State.

FMCSA has added a requirement in the interim final rule that the mover must provide a written explanation of volume to weight conversions, when the mover provides an estimate by volume and converts the volume to weight. Also, this section has been renumbered as § 375.507.

Section 375.507 What Is a Certified Scale?

The regulatory text of proposed § 375.507, which defined ''certified scale,'' has been moved to § 375.103, where it is more appropriate.

Section 375.509 How Must I Determine the Weight of a Shipment?

The 25AG believe the proposed rule fails to provide the shipper disclosures necessary to assure that carriers do not double bill on so-called split loads. They allege shippers are presented with recently issued official weight tickets from a nearby certified public scale at the time of delivery; however, the shipper is unaware that a partial load bound for another destination remains onboard, and that it formed a portion of the total load reflected on the ticket. They believe the rules should require that each shipper's shipment must be weighed separately.

AMSA states that a requirement that each shipper's shipment be weighed separately would result in operating gridlock. To comply with such a rule, carriers would be required to unload one shipment that is on a van to accommodate a second shipment solely for weighing purposes. The impracticalities of coordinating such operations should be obvious.

Response to Comments

FMCSA is not adopting the 25AG's proposal. FMCSA believes it is economically costly and time consuming to weigh each shipment separately as suggested by the 25AG. The rules as proposed are adequate. The weight must be determined by weighing the shipment at origin or back weighing the shipment. The shipper is further protected by the regulations that allow a shipper to witness the weighing and the right to request a re-weigh. Final transportation charges are based on actual weight in accordance with applicable tariff provisions.

Section 375.511 May I Use an Alternative Method for Shipments Weighing 454 Kilograms or Less?

AMSA states this section adopts the provisions of the current regulations, which provide that shipments weighing 1,000 pounds or less may be weighed on a certified platform or warehouse scale in lieu of a scale designed for weighing motor vehicles. AMSA understands the agency's concerns that an increase in the minimum shipment weight threshold might allow movers to charge a minimum rate at the higher weight threshold when the shipment actually weighs less and that defining a small shipment as one weighing 3,000 pounds or less could be perceived as giving our blessing to an increase in the minimum rate threshold in household goods carriers' tariffs. However, AMSA does not agree that these concerns will actually occur if the 1,000 pound small shipment weight is increased. AMSA argues that tariff charges, historically, have not been linked to the minimum weight determination threshold. For more than 40 years, AMSA states, the tariff minimum weight remained at 500 pounds (even though the minimum scale weight was 1,000 pounds) as personal effects shipments continued to gradually increase in weight. As a result, in June 1984, the tariff minimum was increased to 1,000 pounds, not because the increase corresponded to the threshold, but because of increases in the fixed administrative costs associated with the servicing of small shipments.

As a matter of practice, the moving industry already considers shipments weighing less than 3,000 pounds to be classified as small shipments and has adjusted its principal tariff series accordingly. A small shipment surcharge applicable to shipments weighing less that 3,000 pounds was initiated in May 1989 to offset the administrative costs associated with handling these shipments. This surcharge remained in effect until May 1996 when it was incorporated into the line-haul tariff rates. Therefore, an increase in the minimum scale weight would not impact existing tariff provisions since they have already been adjusted to reflect the costs associated with the handling of small shipments.

With this history in mind, and because the minimum scale weight and the minimum tariff rate have been unrelated to one another, AMSA does not agree that an increase in the minimum scale weight to 3,000 pounds will have a causal effect on tariff rates. Instead, AMSA believes that increasing the weight limit to 3,000 pounds would promote greater efficiency in the weighing of shipments on certified warehouse and platform scales which will, in turn, help reduce tractor-trailer traffic and congestion in areas where larger motor vehicle scales are operated.

AMSA notes that the proposed and current regulations require that if shipment charges are weight-based, the carrier must obtain a gross and tare weight for each shipment. Separate weight tickets identifying each weighing of a shipment are required to be provided to the shipper. The certificates list the scale name, location, weighing date, identification of tare, gross or net weights, vehicle identifications, and the name of the shipper. Clearly, this is sufficient to ensure that carriers obtain accurate shipment weights.

Response to Comments

We agree with the AMSA comments on this section and have modified the interim final rule to raise the weight threshold from 454 kilograms (1,000 pounds) to 3,000 pounds.

Section 375.513 Must I Give the Individual Shipper an Opportunity to Observe the Weighing?

NACAA supports requiring movers to afford shippers an opportunity to observe weighing of their shipments.

Response to Comments

The proposed observation requirement is adopted without change.

Section 375.515 May an Individual Shipper Waive His/Her Right To Observe Each Weighing?

AMSA argues this provision should be modified. AMSA recommends the provision should indicate that the shipper's decision not to observe weighings constitutes a waiver of that right. It argues that proposed § 375.513 clearly requires that carriers ''* * * must give the person who will observe the weighings a reasonable opportunity to be present to observe the weighings.'' Assuming a shipper elects not to observe the weighings, to be consistent, § 375.515 should be amended to indicate that right was waived. 49 U.S.C. 14104(c) requires that shipper waiver of the right to observe re-weighings must be accomplished in writing. Therefore, to accommodate both situations, AMSA recommends revising the section to read as follows:

> If an individual shipper elects not to observe a weighing, the shipper is presumed to have waived that right. If an individual shipper elects not to observe a re-weighing, the shipper shall waive that right in writing. This does not affect any other rights of the individual shipper under this part or otherwise.

Response to Comments

FMCSA agrees with AMSA and has added language to the interim final rule that a shipper's waiver of the right to observe a re-weighing must be in writing. We allow the shipper to send the writing via fax, e-mail, or any other electronic means.

Section 375.521 What Must I Do if an Individual Shipper Wants To Know the Actual Weight or Charges for a Shipment Before I Tender Delivery?

NACAA supports requiring movers to comply with the shipper's requests for notice of the shipment weight and charges before delivery.

Response to Comments

The proposed notification requirement is adopted without change.

Section 375.601 Must I Transport the Shipment in a Timely Manner?

NACAA supports requiring movers to transport goods in a timely manner.

Response to Comments

The proposed reasonable dispatch requirement is adopted without change.

Section 375.605 How Must I Notify an Individual Shipper of Any Service Delays?

NACAA supports requiring movers to retain notices relating to service delays for a period of one year and supports requiring movers to notify shippers of service delays.

AMSA believes there is a basic problem with the language employed in this section. The section states that a carrier must notify a shipper of service delays. AMSA believes the inconsistency lies in the fact that if a carrier is unable to pick up a shipment on the agreed upon date(s), it must notify the shipper of the delay and amend the order for service. It makes little sense to AMSA to amend an order for service for delay at origin. The practical result of this section, as written, is that carriers will never be responsible for delays at origin because the order for service will reflect that the shipment was actually loaded on the agreed upon pick-up date. Appropriate changes should be made.

In addition, AMSA notes that paragraph (b)(6) requires the mover, in the instance of delay notification, to furnish the shipper with a ''true copy'' of the notice by first class mail or in person. AMSA believes this provision, while carried over from the existing regulations, will be no more feasible to perform under the proposed regulations than it is under the existing regulations. During the course of a move, while both the shipment and the shipper are in transit, there is no practical benefit in mailing a copy of the delay notification to the shipper. Since the shipper, who has already received notice of a delay by telephone, telegram, or in person is not at his old or his future address, no purpose is served by mailing a duplicate notice. AMSA submits that the solution lies in simply adding the words ''if the shipper requests a copy of the notice.'' Such a revision would ensure that ''interested shippers'' who desire a copy of the notice for their records or to support a claim for delay or inconvenience will be furnished a copy, while duplicate copies would not be automatically forwarded to other shippers who have already received their shipments and have no need for the notice.

Response to Comments

FMCSA agrees with AMSA's comments on this section and has made appropriate changes in the interim final rule language.

Section 375.607 What Must I Do if I Am Able To Tender a Shipment for Final Delivery More Than 24 Hours Before a Specified Date or Period of Time?

The AGCT comments that carriers should be required to deliver the shipment in accordance with the delivery dates or periods specified in the contract. Paragraph (c) should preclude a carrier from limiting its liability for storage-in-transit to the delivery period. It is inequitable to allow a carrier to avoid any liability for delays in shipment while providing no similar mechanism to excuse a shipper's delay, even if the delay is caused by circumstances beyond the shipper's control. It recommends we should permit movers only limit their liability to the last day of the delivery period specified in the bill of lading.

AMSA comments on this AGCT proposal that paragraph (c) preclude movers from limiting their ''liability'' for storage-in-transit. In addition, it is suggested that this subsection be modified to only permit the mover to limit its ''liability'' to the last day of the period specified in the bill of lading. The proposed regulation speaks in terms of ''responsibility'' and not ''liability.'' The rule is apparently intended to authorize movers, at their option, to not assess storage charges, or, alternatively, to assess charges beyond the agreed date. In support of the AGCT's position, it argues that it is ''inequitable'' to allow carriers to avoid liability for delays with no similar mechanism to excuse shipper delays. AMSA believes that movers routinely honor delay and/or inconvenience claims in accordance with their tariff provisions that are not intended to avoid carrier liability.

Response to Comments

FMCSA agrees with the comments of this section.

Section 375.609 What Must I Do for Shippers Who Store Household Goods in Transit?

NACAA supports requiring movers to retain notices issued under this section for a period of one year.

The AGCT comments that the nine-month limitation on a shipper's right to file a claim against the carrier for damage or loss of goods in paragraph (b)(2) runs counter to a shipper's right to bring an action within the State of Connecticut's statutory period. It believes the rules should acknowledge the shipper's right to rely on a State-established statutory period for bringing an action against the carrier. Any other action is not shipper protection in its opinion. It also recommends that we modify paragraphs (a) and (b) to impose liability on the carrier until ten days after the carrier actually gave notice to the shipper that the period of storage-in-transit will expire and the shipment will be governed by rules and charges of the warehouseman. It believes the ten-day period is consistent with the provisions in paragraph (c).

AMSA asserts that paragraph (d) will require that notifications to shippers regarding the expiration of storage-in-transit (SIT) be accomplished by certified mail, return receipt requested. This provision should be expanded to include notification by facsimile transmission and overnight courier. Such a change will permit movers to take advantage of faster methods of transmitting the required notifications. This is particularly important for SIT periods of less than 10 days when only 1-day notice is required as contemplated by § 375.609(e).

In connection with paragraph (b)(2), AMSA believes that the AGCT's suggestion conflicts with the nine-month statutory period provided for the filing of claims for loss or damage in 49 U.S.C. 14706(e)(1).

In response to the AGCT proposal to retain carrier liability until 10 days after the carrier actually gives notice, AMSA does not believe that a notice related to the expiration of storage-in-transit should be allowed to unduly extend the SIT period. AMSA states shippers are advised at the time their goods are placed in storage that the SIT storage period is 90 days and if a longer period

applies by virtue of a particular carrier's tariff, the shipper is so advised.

Response to Comments

In the interim final rule, FMCSA has added to paragraph (d) that notification can be made by facsimile, overnight courier, e-mail, or certified mail return receipt. All of these methods can confirm delivery notification to the shipper. We cannot adopt the AGCT's comment about the shipper's right to bring an action within a State's statutory limitation period. The Federal statute takes precedence for interstate moves. Also, FMCSA cannot add a new requirement that would impose on carriers a potential additional 9 days of liability when it has failed to give the 10 day notification under paragraph (c). The rule, as adopted, imposes liability on a carrier for an indefinite period if it does not give notice and ensures the shipper of at least 24 hours notice that a carrier liability for goods in storage will end.

Section 375.701 May I Provide for a Release of Liability on My Delivery Receipt?

NACAA supports the requirement that movers must not include in their paperwork a release from liability for damages, but believes permitting carriers to include the ''statement the property was received in apparent good condition except as noted in the shipping documents'' is not justified and can lead to serious shipper harm. It suggests that proposed § 375.701(b) be removed. It also proposes requiring check boxes with statements such as ''I have not had an opportunity to open all boxes to verify the condition of their contents or determine if anything is missing.'' It believes the rules should mandate inclusion of a statement that the ''mover remains liable for all losses suffered by shipper'' with an explanation of the procedure and time limits for making a claim.

The AGCT recommends amending this section to make explicit that the ''apparent good condition'' language is not binding and the rules should not allow a carrier to include a statement that the property was received in good condition unless otherwise noted. It asserts that the shipper does not have the time to inspect all goods as the carrier unloads them. This is especially true for any items that are boxed and unavailable for inspection at the time of delivery. It believes the regulation creates a barrier to the shipper's ability to successfully assert damage claims against the carrier.

AMSA argues that paragraph (a) makes it clear that any carrier statement attempting to release it from liability is not permitted. The statement NACAA objects to is a general acknowledgment indicating that the services ordered have been accomplished and the shipment has been delivered in ''apparent'' good condition. The shipper is only expected to note conspicuous loss or damage at the time of delivery. The presumption of ''apparent'' good condition is routinely rebutted by shippers after they have had an opportunity to unpack and perform a more thorough inspection.

Response to Comments

FMCSA agrees with AMSA's comments on this section and believes no changes are necessary.

Section 375.703 What Is the Maximum Collect-on-Delivery Amount I May Demand at the Time of Delivery?

The AGCT recommends requiring carriers to relinquish possession of the shipment in an amount substantially less than 100 percent of the estimate.

AMSA comments that the maximum COD amount that may be collected on a non-binding estimate shipment is 110 percent of the estimated amount. It states that this provision should be revised to mirror its earlier suggested change in § 375.403(a)(7), to provide that the carrier may also require full payment for additional services requested or required by the shipper that do not appear on the estimate and were performed by the mover en-route or at destination. The proposed subsection would read as follows:

(b) On a non-binding estimate, the maximum amount is 110 percent of the non-binding estimate of charges, except that full payment may be collected at the time of delivery for any added additional services that were performed en-route or at destination which were necessary to complete the transportation and do not appear on your non-binding estimate. You may specify the form of payment acceptable to you.

Response to Comments

We have not made the changes to this section suggested by AMSA since we are providing in § 375.403(a)(7) that the carrier may not require full payment for additional services required by the shipper that do not appear on the estimate and were performed by the mover en-route or at destination. We believe that all shipments based on non-binding estimates should be released to the shipper for no more than 110 percent of the original estimate and the remainder billed after 30 days.

Section 375.705 If a Shipment Is Transported on More Than One Vehicle, What Charges May I Collect at Delivery?

The AGCT requested the rules should not permit demand for payment until the entire shipment is delivered. Shipments are not split for the shipper's benefit, but only for the convenience of the carrier. Shippers should only be required to tender payment upon the carrier delivering the entire shipment.

AMSA comments that the proposed section is patterned after the existing regulation and, on split delivery shipments, it would authorize carriers to defer collection of transportation charges until final delivery or collection of a pro-rata portion of those charges based upon the quantity of goods included in the first delivery.

AMSA argues the AGCT also ignored the requirements of 49 U.S.C. 13707, that provides that carriers must not relinquish possession of goods until transportation charges are paid. Thus, collection of a pro-rata portion of transportation charges equal to the quantity of goods delivered is required by statute.

From an operational standpoint, AMSA alleges, industry data indicates that less than 2 percent of the shipments transported in 1994 moved in two or more vans. This percentage is nearly equal to the number of shipments (2 percent) that weighed more than 18,000 to 20,000 pounds, the normal capacity of a moving van, and required the service of two or more vans. AMSA stated this data came from the latest year for which such data was available from the AMSA Continuing Traffic Study, though AMSA did not submit the study as part of its comments. Therefore, AMSA contends that, contrary to the AGCT's position, most shipments that involve split deliveries are not the result of carrier convenience. They are dictated by operational requirements.

Response to Comments

FMCSA agrees with the AMSA comments on this section and has made no changes to the proposed rule.

Section 375.707 If a Shipment Is Partially Lost or Destroyed, What Charges May I Collect at Delivery?

The AGCT comments that it is unimaginable that a carrier can lose or destroy part of a shipment and yet demand full payment before being obligated to relinquish possession of the remainder of the shipment. It believes this provision is abhorrent and strongly anti-shipper. The proposed regulation is silent as to when the carrier must refund

the amount of the lost or destroyed shipment to the shipper. The AGCT argues the carrier should be forced to relinquish possession of a shipment and only bill the shipper for amounts due and owing 30 days after delivering the shipment to the shipper.

AMSA comments that as proposed, in the event of partial loss or destruction of a shipment, the mover must determine, at its own expense, the portion of the shipment that was delivered intact. It recommends that the wording of this provision be revised for clarity to avoid confusion concerning the basis for refunding charges that were applicable to lost or destroyed portions of shipments, as follows:

(b)(4) You must determine, at your own expense, the proportion of the shipment, based on actual or constructive weight, not lost or destroyed in transit.

AMSA argues that the AGCT's comments evoke the same degree of incredulity that the AGCT professes regarding the proposed rule. AMSA argues that carriers routinely process claims for loss or damage, the sum of which includes a portion of the transportation charge related to lost goods. It is difficult to understand the rationale that would deny payment on a 10,000 pound shipment if, for example, cartons weighing 500 pounds were not tendered at the time of delivery. In such a situation, the carrier is liable for the value of the lost goods and a pro-rata portion of the transportation charges. As AMSA had commented previously, the ICCTA requires that carriers ''* * * shall give up possession at the destination of the property transported by it only when payment for the transportation or service is made.''

Response to Comments

FMCSA agrees with the AMSA comments on this section and has modified paragraph (b)(4) in the interim final rule accordingly.

Section 375.709 If a Shipment Is Totally Lost or Destroyed, What Charges May I Collect at Delivery?

The AGCT comments that carriers should be required to pay shippers the declared value of a lost or destroyed shipment on or before the last day of the contractually agreed on delivery date, less the specific valuation charge.

AMSA comments that under this section as proposed, movers will not be entitled to collect or require shippers to pay freight charges (including charges for accessorial or terminal services) when a shipment is totally lost or destroyed in transit. The provisions of paragraph (a)(2) appear to be in conflict by providing that ''you may apply paragraph (a) of this section only to the transportation of household goods and not to charges for other services the individual shipper ordered.'' AMSA is unclear as to the difference between the prohibited ''accessorial services'' charges referred to in paragraph (a) and the permitted ''other services'' charges referred to in paragraph (a)(2). AMSA recommends that paragraph (a)(2) be deleted to avoid confusion concerning the meaning of this section.

AMSA states that the settlement of claims for loss or damage does not fall into the simple scenario presented by the AGCT. All such claims must be substantiated. If a claimant declared a shipment value of $100,000, that does not automatically entitle the claimant to that amount in the event of a total loss. If the goods are actually valued at $75,000 and the claimant can substantiate that amount, the carrier will honor a claim for the same amount. 49 U.S.C. 14706 imposes liability ''* * * for the actual loss or injury to the property * * *'' The regulations require that claims for loss or damage be submitted, in writing in accordance with the requirements of 49 CFR part 370, and that they, inter alia, include a ''certification of values [and] depreciation reflected thereon.'' 49 CFR 370.7(b). Obviously, the processing and settlement of claims for loss or damage by carriers must follow the explicit requirements of the regulations.

Response to Comments

FMCSA agrees with AMSA's comments for this section and has changed the interim final rule accordingly.

Section 375.801 What Types of Charges Apply to Subpart H?

The AGCT again asserts the rules should require carriers to relinquish possession of shipments in an amount substantially less than 100 percent of the estimate.

Response to Comments

FMCSA does not agree with the AGCT comments. We believe that all binding estimates should be released to the shipper for no more than 100 percent of the original estimate. Sections 375.801–375.807 do not apply to non-binding estimates.

Section 375.805 If I Am Forced To Relinquish a Collect-on-Delivery Shipment Before the Payment of ALL Charges, How Do I Collect the Balance?

The AGCT comments that carriers should not be allowed to present freight or expense bills before the expiration of a 30-day period after delivery.

AMSA comments that in order to collect the balance of charges due on collect-on-delivery shipments, proposed § 375.805 would require carriers to present the freight bill within 7 days from the date the shipment was delivered at destination. Such a requirement is unreasonably short and unrealistic. Typically, a freight bill cannot be prepared until all shipment paperwork is received from the delivering driver. It is not uncommon for this process to consume most of the proposed 7-day period. A 7-day requirement is also inconsistent with the 15-day requirement contained in proposed § 375.807, and there is no justification for the two different time periods. It therefore recommends that § 375.805 be revised to read:

On ''collect-on-delivery'' shipments, you must present your freight bill for all transportation charges as provided in § 375.807(a).

Response to Comments

FMCSA agrees with AMSA's comment and has changed the rule text to be 15 days as required by § 375.807.

Section 375.807 What Actions May I Take To Collect the Charges Upon My Freight Bill?

The AGCT comments that shippers should not be automatically subjected to a one percent service charge by the operation of a regulation and believes the FMCSA should consider imposing a one percent ceiling on any service charge imposed by the carrier.

AMSA comments that as proposed, individual shippers will be assessed a service charge equal to one percent of the amount of the freight bill, subject to a $20 minimum charge, for extension of the normal credit period. AMSA believes this wording should be clarified to indicate that the one-percent fee applies in 30-day increments, rather than once for the entire extended credit period. For example, if the bill remains unpaid for 60 additional days following the initial 30-day period (for a total of 90 days), the one percent service charge would be applied three times, once for each 30-day extension or fraction thereof.

AMSA believes the AGCT suggestion that the regulation should limit to one percent any service charge imposed by carriers is an unreasonable request. AMSA asserts the cost of credit and capital and the cost to carriers of carrying delinquent accounts does not equate to a flat one percent of an outstanding amount.

Response to Comments

FMCSA agrees with AMSA's comments and has modified paragraph (c)(2) in the interim final rule to state the service charge will be assessed for each 30-day extension of the credit period during which the charges go unpaid.

Section 375.901 What Is An Annual Arbitration Report?

We discussed the comments concerning the arbitration report under § 375.211 in our discussion of the arbitration program as a whole. As we have decided to not require such a report, we have removed proposed §§ 375.901–375.907.

Section 375.1001 What Penalties Do We Impose for Violations of This Part? (Section 375.901 in Interim Final Rule)

NACAA supports movers being subject to statutory penalties for failure to comply with these regulations. In addition to these penalties, NACAA proposes that carriers be made subject to actions brought pursuant to State unfair or deceptive trade practices laws by adding the following language to this section:

> The regulations are supplementary law; that is, the remedies provided herein shall be cumulative and supplementary to all other remedies otherwise provided by Federal, State and local law.

The OCC requests this section include the following language. ''Not withstanding the above civil penalties, nothing in this Section shall deprive any holder of a receipt of bill of lading any remedy or right of action under existing law. Where litigation is pursued under other existing rights, the prevailing party shall be allowed attorney fees, trial preparation costs, and court costs.'' The OCC believes its proposed language should also be paraphrased in YRRWYM on the front page. It believes that shippers should be able to choose the choice of forum in the State of shipping or destination and that a list of State agencies that take complaints concerning household goods moves should be included.

AMSA comments that the NPRM attempted to explain and/or define the penalties, civil and criminal, arising from violations of the proposed regulations. AMSA believes this to be inadvisable. AMSA notes that 49 U.S.C. Chapter 149 consists of 14 specific laws that require 36 pages of written text (sections and related statutory and case notes) defining the scope of these penalty provisions. An attempt to restate these provisions in a short-hand version is likely to lead to misinterpretations and debate over Congressional intent. AMSA believes the statutory penalty provisions speak for themselves and, if invoked, they will prevail and not the proposed regulations. Therefore, AMSA recommends that all but the first two sentences of proposed § 375.1001 be eliminated.

Response to Comments

FMCSA agrees with AMSA's comments on this section and has removed all but the first two sentences of § 375.1001 (renumbered as 375.901 in the interim final rule). Regarding NACAA's comments, the Carmack amendment, now codified at 49 U.S.C. 14706, imposes a uniform regime of carrier liability for interstate shipments of property designed to eliminate the uncertainty resulting from potentially conflicting State laws. Federal and State courts have consistently held that Carmack preempts (or supercedes) a broad range of State consumer protection laws potentially applicable to interstate household goods carriers, regardless of whether these laws are consistent with Carmack. The language proposed by NACAA is inconsistent with prevailing case law and beyond the authority of FMCSA to impose in this rulemaking proceeding.

We agree with OCC's recommendation that this section include the following language: ''Notwithstanding the above civil penalty, nothing in this section shall deprive any holder of a receipt of a bill of lading, any remedy or right of action under existing law.''

Appendix A Your Rights and Responsibilities When You Move

FMCSA has modified appendix A to be consistent with the interim final rules as modified by the above comments.

Order of the Final Regulations

The following table specifies the new section of each rule, the old section (if any) where the rule originated, and the title of the new section.

PART 375.—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE

New section	Old section	Title of new section
SUBPART A—GENERAL REQUIREMENTS		
375.101	375.1(a)	Who must follow these regulations?
375.103	375.1(b)	What are the definitions of terms used in this part?
375.105	None	What are the information collection requirements of this part?
SUBPART B—BEFORE OFFERING SERVICES TO CUSTOMERS		
Liability Considerations		
375.201	375.12	What is my normal liability for loss or damage when I accept goods from an individual shipper?
375.203	375.12	What actions of an individual shipper may limit or reduce my normal liability?
General Responsibilities		
375.205	375.14	May I have agents?
375.207	375.17	What items must be in my advertisements?
375.209	375.13	How must I handle complaints and inquiries?
375.211	None	Must I have an arbitration program?
375.213	375.2	What information must I provide to a prospective individual shipper?
Collecting Transportation Charges		
375.215	373, subpart A	How must I collect charges?

PART 375.—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE—Continued

New section	Old section	Title of new section
375.217	377, subpart A	May I collect charges upon delivery?
375.219	377.215(a) and (b)	May I extend credit to shippers?
375.221	375.19	May I use a charge card plan for payments?
SUBPART C—SERVICE OPTIONS PROVIDED		
375.301	None	What service options may I provide?
375.303	375.11	If I sell liability insurance coverage, what must I do?
SUBPART D—ESTIMATING CHARGES		
375.401	375.3	Must I estimate charges?
375.403	375.3	How must I provide a binding estimate?
375.405	375.3	How must I provide a non-binding estimate?
375.407	375.3	Under what circumstances must I relinquish possession of a collect-on-delivery shipment transported under a non-binding estimate?
375.409	None	May household goods brokers provide estimates?
SUBPART E—PICK-UP OF SHIPMENTS OF HOUSEHOLD GOODS BEFORE LOADING		
375.501	375.5	Must I write up an order for service?
375.503	None	Must I write up an inventory?
375.505	375.6	Must I write up a bill of lading?
Weighing the Shipment		
375.507	375.7	Must I determine the weight of a shipment?
375.509	375.7	How must I determine the weight of a shipment?
375.511	375.7	May I use an alternative method for shipments weighing 3,000 pounds or less?
375.513	375.7	Must I give the individual shipper an opportunity to observe the weighing?
375.515	375.7	May an individual shipper waive his/her right to observe each weighing?
375.517	375.7	May an individual shipper demand re-weighing?
375.519	375.7	Must I obtain weight tickets?
375.521	375.7	What must I do if an individual shipper wants to know the actual weight or charges for a shipment before I tender delivery?
SUBPART F—TRANSPORTATION OF SHIPMENTS		
375.601	375.8	Must I transport the shipment in a timely manner?
375.603	375.8	When must I tender a shipment for delivery?
375.605	375.8	How must I notify an individual shipper of any service delays?
375.607	375.8	What must I do if I am able to tender a shipment for final delivery more than 24 hours before a specified date or period of time?
375.609	375.12(c)	What must I do for shippers who store household goods in transit?
SUBPART G—DELIVERY OF SHIPMENTS		
375.701	375.10	May I provide for a release of liability on my delivery receipt?
375.703	375.3(d)	What is the maximum collect-on-delivery amount I may demand at the time of delivery?
375.705	375.16	If a shipment is transported on more than one vehicle, what charges may I collect at delivery?
375.707	375.15	If a shipment is partially lost or destroyed, what charges may I collect at delivery?
375.709	375.15	If a shipment is totally lost or destroyed, what charges may I collect at delivery?
SUBPART H—COLLECTION OF ACTUAL CHARGES		
375.801	None	What types of charges apply to subpart H?
375.803	377.205	How must I present my freight or expense bill?
375.805	375.3(d)	If I was forced to relinquish a collect-on-delivery shipment before the payment of ALL charges, how do I collect the balance?
375.807	377.215 (c)	What actions may I take to collect the charges upon my freight bill?
SUBPART I—PENALTIES		
375.901	None	What penalties do we impose for violations of this part?
APPENDIX A		
Part 375, Appendix A	Part 375 Form: Office of Compliance and Enforcement (OCE)–100.	Your Rights and Responsibilities When You Move.

Compliance and Effective Dates

The agency is specifying when motor carriers and drivers must comply with this interim final rule. The effective date cited in the **DATES** heading at the top of this document is the date that this interim final rule's amendments affect the current Code of Federal Regulations published by the Office of the Federal Register. Motor carriers and drivers transporting household goods may not begin to comply with this interim final rule on that date.

The compliance date is the date that motor carriers and drivers must begin to comply with this interim final rule. Motor carriers, drivers, and the FMCSA must do many necessary things before the rules can be enforced. The FMCSA must update motor carrier information, compliance, and enforcement computer systems and manuals. The FMCSA has eight computer software packages where it must find the correct code, write new code, test the new software, and distribute it to its division offices.

The agency must develop training, distribute training materials, and ensure training materials are read, taught, and understood by the FMCSA's inspectors, investigators, and auditors. The agency also plans to provide training and presentations to the public about the new rules.

Motor carriers must develop training or use FMCSA's training materials, distribute training materials, and ensure training materials are read, taught, and understood by the drivers engaged in interstate commerce who transport household goods. The FMCSA cannot do its part, and cannot expect motor carriers to do their part, within 90 days after today.

The agency believes a compliance date near the end of the ''off-season'' will be the least burdensome to all carriers and enforcement officials. Most affected carriers subject to this interim final rule have fewer household goods shipments between October and March and most affected carriers would suffer less disruption to their operations if the rule took effect near the beginning of a new moving season (April through September). Therefore, the agency is providing a compliance date when all carriers, drivers, and enforcement officials will switch from the current rule to the new rule: Monday, March 1, 2004.

Rulemaking Analyses and Notices

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

FMCSA has determined that this action is a significant regulatory action within the meaning of Executive Order 12866 and the Department of Transportation regulatory policies and procedures (44 FR 11034, February 26, 1979) because there is substantial public interest. It is anticipated that the economic impact of this rulemaking will be minimal.

The rules affect a broad segment of the public. In addition, the agency received comments to the NPRM from the California, Colorado, Idaho, Michigan, New Hampshire, Oregon, and Pennsylvania Departments of Agriculture, the elected Attorney Generals from 26 States, and numerous consumer groups.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement and Fairness Act (Pub. L. 104–121), requires federal agencies to analyze the impact of rulemakings on small entities, unless the Agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The changes being made to the existing rule by FMCSA do not impose a significant economic impact on a substantial number of small entities. The original rule issued by the ICC imposed paperwork requirements that would take 785 hours for each entity. Today's IFR increases that burden by 458 hours; the new total of the burden hours is 1,243 hours. The total is being added to FMCSA's information collection budget, since the original amount was never ''transferred'' from the ICC.

The interim final rule bases this estimate of 1,243 hours upon the estimated costs identified to create records, duplicate records, store the original and duplicated copies of records, and practice inventory control for the records.

The information required for preparing these documents is the type of information already developed by such entities in the normal course of conducting a household goods transportation business. The time necessary to compile the incremental data for the documents required in these regulations should be minimal and would vary proportionately with the number of shipments transported by the carrier.

FMCSA did not propose any different requirements or timetables for small entities. As noted above, we do not believe these requirements will be onerous, with many carriers already having to comply with these requirements. Furthermore, FMCSA has eliminated existing performance reporting requirements for both large and small carriers.

As explained above, FMCSA cannot exempt small carriers from these proposals without seriously diminishing the agency's ability to ensure the protection of consumers. Exempting them could have the same impact as not issuing (or enforcing) these proposals. Therefore, FMCSA certifies that this interim final rule will not have a significant impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, dated August 4, 1999 (64 FR 43255, August 10, 1999). State Attorneys General submitted comments to the May 2, 1998 NPRM, which were considered in developing this interim final regulation. The FMCSA has addressed the concerns of the Attorneys General in the interim final rule. The FMCSA certifies that this interim final rule has federalism implications because it directly impacts the distribution of power and responsibilities among the various levels of government.

Federalism Summary Impact Statement

The FMCSA Position Supporting the Need To Issue This Regulation

The State Attorneys General generally believe they hold authority to enforce laws and regulations governing the interstate transportation of household goods and want FMCSA to acknowledge their role. However, the interstate transportation of household goods involves issues that are national in scope that have been regulated exclusively by the Federal government for many years. Regulations implementing the Household Goods Transportation Act of 1980 were promulgated by the Interstate Commerce Commission (ICC) in 1981 and were subsequently transferred to DOT by the ICC Termination Act of 1995 where Congress, in 49 U.S.C. 14104, conferred authority on the Secretary of Transportation to 'issue regulations protecting individual shippers.' The Secretary subsequently delegated this authority to FMCSA under 49 CFR 1.73(a)(6). Thus, the Carmack Amendment, now codified at 49 U.S.C. 14706, imposes a uniform regime of carrier liability for interstate shipments of property designed to eliminate the uncertainty resulting from potentially conflicting State laws. Federal and State courts have consistently held that

Carmack preempts a broad range of State consumer protection laws potentially applicable to interstate household goods carriers. As was the case with the former ICC regulation amended by today's interim final rule, under current case law this rule preempts all State regulations that purport to regulate the interstate transportation of household goods subject to Federal jurisdiction.

AMSA commented that the NPRM's conclusion that this rule is not intended to preempt any State law or regulation was incorrect and is likely to promote uncertainty and potential conflicts with States. AMSA wrote ''In promulgating these regulations FHWA has expressly preempted application of any State law that would impact the services required to perform interstate transportation of household goods. States, for example, may not regulate the manner in which household goods carriers are required by FHWA to execute orders for service nor may they enforce any State regulation that would affect any other aspect of the interstate moving service performed by household goods carriers regulated by FHWA. *See, e.g., Fidelity Federal S. Sr L. Assn.* v. *de la Cuesta,* 458 U.S. 141, 73 L.Ed.Zd 664 (1982) (Even where Congress has not completely displaced State regulation in a specific area, State law is nullified to the extent that it actually conflicts with Federal law. Federal regulations have no less pre-emptive effect than Federal statutes.) FHWA authority to issue the proposed regulations is without question. As the NPRM notes, in enacting section 14104 of the Termination Act, the enabling statute in this proceeding-Congress conferred authority on the Secretary to 'issue regulations protecting individual shippers.' That is precisely what the Secretary proposes and his action in doing so preempts all State regulations that would purport to regulate the same activities. For these reasons, the cited sentence should be removed or clarified in the final decision in this proceeding. In a similar vein, it is appropriate at this point to address certain comments of NACAA. NACAA urges that the proposed regulations should announce that they are supplementary law only and that violations will also subject movers to remedies provided by other Federal, State and local laws, such as State deceptive trade practices laws. (Comments, p. 7). This suggestion reflects a fundamental misconception of the Supremacy Clause, U.S. Constitution, Art. VI, clause 2, and Federal preemption. There is not the slightest suggestion in the law or its precedent that Congress ever intended this explicit and comprehensive regulatory scheme to be supplemental to or superseded by any State law or regulation. Congress could not have been clearer in expressing its intent to occupy the field of interstate household goods transportation regulation. AMSA asserts the NACAA's contention is flatly wrong.'' The FMCSA agrees that AMSA has correctly stated current case law on the preemption issue.

Prior Consultations With State and Local Officials

As the AMSA pointed out, the NPRM's conclusion that this rule is not intended to preempt any State law or regulation was incorrect. Thus, the requirement in section 6(c) to consult ''with State and local officials early in the process of developing the proposed regulation'' in accordance with OMB guidance to send letters to State and local officials or their regional or national representative organizations, such as the National Association of Governors, did not occur. The agency did receive comments to the docket from State and local officials.

Summary of the Nature of State and Local Officials' Concerns

State officials recommended that the rules incorporate additional consumer protection provisions, including: (1) More comprehensive disclosure requirements, particularly with respect to insurance and carrier liability; (2) stronger arbitration requirements; (3) uniform rules governing cash-on-delivery service, including requiring movers to relinquish possession of a shipment upon payment of an amount substantially less than the amount of the estimate; (4) requiring movers to offer guaranteed delivery prices if requested by the shipper; (5) restricting billing for additional services not contained in the estimate; (6) establishing a three-day grace period allowing a shipper to rescind an order for service without penalty; (7) permitting the shipper to deduct penalties for late deliveries from the transportation charges; (8) relaxing limitations on a shipper's right to file loss and damage claims, including claims for loss and damage occurring during storage-in-transit; and (9) prohibiting demands for payment until the entire shipment is delivered.

Statement of the Extent To Which the FMCSA Has Addressed the Concerns of State and Local Officials

In response to these comments, FMCSA modified the proposed rules by: (1) Revising the consumer information pamphlet that movers must give shippers to include guidance regarding their right to decline arbitration; (2) clarifying carrier liability disclosure requirements; (3) requiring movers to disclose the identity of subcontractors used to handle the move; (4) requiring movers to relinquish delivery and defer demanding payment for charges not in the estimate which the mover could have reasonably determined at the time of pick-up; and (5) mandating a three-day grace period for shippers to cancel orders for service without penalty.

Conclusion

The FMCSA submitted State and local official comments to the docket and this federalism summary impact statement to the Director of the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4; 2 U.S.C. 1532) requires each agency to assess the effects of its regulatory actions on State, local, and tribal governments and the private sector. Any agency promulgating a final rule likely to result in a Federal mandate requiring expenditures by a State, local, or tribal government or by the private sector of $100 million or more in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. FMCSA has determined that the changes in this interim final rule will not have an impact of $100 million or more in any one year.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal agency must obtain approval from the Office of Management and Budget (OMB) for each collection of information it conducts, sponsors, or requires through regulations. The majority of the information collection (IC) requirements in this IFR are not new. Yet, the FMCSA has determined, for reasons set forth below, that the information collection requirements in this IFR would technically constitute a new collection of information undertaking, thus needing a new OMB approval and control number.

The FMCSA seeks approval of the collection of information requirements in this IFR to generate, maintain, retain, disclose, and provide information to, or for, the agency under 49 CFR part 375. The information collected will assist individual household goods shippers in their commercial dealings with interstate household goods carriers, thereby providing a desirable consumer

protection service. The collection of information would be used by prospective household goods shippers to make informed decisions about contracts and services to be ordered, executed, and settled within the interstate household goods carrier industry. These information collection items were required by the former ICC regulations. When these items transferred from the ICC to the FMCSA, however, no OMB control number was assigned to cover this information collection transfer. It is therefore necessary to calculate the old information collection burden hours for these items approved under the ICC rules versus the new burden generated by this IFR. The only information collection items changing from the former ICC's rules regarding household goods transportation are the addition of an arbitration program summary, written non-binding estimates and inventory, and the elimination of the annual performance reporting requirement.

Assumptions used for calculations in this PRA section include the following: (1) There are currently approximately 4,000 active household goods carriers—up from the 2,000 estimated in the 1998 NPRM; (2) an estimated 75 new household goods carriers will start-up business each year; (3) over the next 3 years, two large van lines will start-up business; and (4) the arbitration report that was proposed at NPRM stage will not be required.

The following table summarizes the information collection burden hours of this IFR by setting forth the appropriate section of part 375 that is affected. The total annual burden hour estimate in this IFR is *4,370,037* (the estimate at NPRM stage was 4,811,127 burden hours, a difference of 441,090 burden hours). The chart also shows which information collection activities were required under the former-ICC regulations and those which are new, set forth for the first time in this IFR. A detailed analysis of the burden hours can be found in the OMB Supporting Statement that corresponds with this IFR. The Supporting Statement and its attachments are in the docket associated with this rule (Docket No. FMCSA–97–2979).

Type of burden	Proposed section	Hourly burden	New burden?
Agency Agreements	375.205	19	No
Minimum Advertising Information Soliciting Prospective Individual Shippers	375.207	684	No
Complaint and Inquiry Handling	375.209	500,000	No
Arbitration Program Summary	375.211	8,000	Yes
Your Rights and Responsibilities When You Move Booklet	375.213	8,334	No
Selling Insurance Policies	375.303	100,000	No
Estimates—Binding	375.401	1,836,000	No
Estimates—Non-binding	375.401	1,224,000	Yes
Orders for Service	375.501	300,000	No
Inventory	375.503	0 [1]	Yes
Bills of Lading	375.505	300,000	No
Volume to Weight Conversions	375.507	4,000	No
Weight Tickets	375.519	42,000	No
Notifications of Reasonable Dispatch Service Delays	375.605	16,000	No
Delivery More Than 24 Hrs. Ahead of Time	375.607	1,000	No
Notification of Storage-in-Transit Liability Assignments	375.609	30,000	No
''Old'' Burden Hours	.....	.....	3,138,037
''New'' Burden Hours	.....	.....	1,232,000
Total Burden Hours for IC	.....	4,370,037	

[1] Making inventories is a usual and customary moving industry practice that the FMCSA is adopting at the suggestion of the NACAA and the AMSA. The PRA regulations at 5 CFR 1320.3(b)(2) allow the FMCSA to calculate no burden when the agency demonstrates that the activity needed to comply is usual and customary. The supporting statement in the docket demonstrates that moving industry drivers usually and customarily write inventories before loading shipments, although drivers have not been required by law to do so before today's **Federal Register**.

We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet the goal of 49 CFR part 375 to protect consumers, including: (1) Whether the information is useful to this goal; (2) the accuracy of the estimate of the burden of the information collection; (3) ways to enhance the quality, utility and clarity of the information collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

You may submit comments on the *information collection burden* addressed by this interim final rule to the Office of Management and Budget (OMB). The OMB must receive your comments by July 11, 2003. You must mail or hand deliver your comments to: Attention: Desk Officer for the Department of Transportation, Docket Library, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, 725 17th Street, NW., Washington, DC 20503.

National Environmental Policy Act

The agency has analyzed this rulemaking for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action does not have any effect on the quality of the environment.

Executive Order 12630 (Taking of Private Property)

This final rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this action under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because as a procedural action it is not economically significant and will not have a significant adverse effect on the supply, distribution, or use of energy.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

List of Subjects

49 CFR Part 375

Advertising, Arbitration, Consumer protection, Freight, Highways and roads, Insurance, Motor carriers, Moving of household goods, Reporting and recordkeeping requirements

49 CFR Part 377

Credit, Freight forwarders, Highways and roads, Motor carriers.

■ For the reasons set out in the preamble, FMCSA amends 49 CFR parts 375 and 377 as set forth below:

■ 1. Part 375 is revised to read as follows:

PART 375—TRANSPORTATION OF HOUSEHOLD GOODS IN INTERSTATE COMMERCE; CONSUMER PROTECTION REGULATIONS

Subpart A—General Requirements

Sec.

Subpart B—Before Offering Services to My Customers

Liability Considerations

General Responsibilities

Collecting Transportation Charges

Subpart C—Service Options Provided

Subpart D—Estimating Charges

Subpart E—Pick Up of Shipments of Household Goods

Before Loading

Weighing the Shipment

Subpart F—Transportation of Shipments

Subpart G—Delivery of Shipments

Subpart H—Collection of Charges

Subpart I—Penalties

Authority: 5 U.S.C. 553; 49 U.S.C. 13301, 13704, 13707, 14104, 14706; and 49 CFR 1.73.

Subpart A—General Requirements

§ 375.101 Who must follow these regulations?

You, a for-hire motor carrier engaged in the interstate transportation of household goods, must follow these regulations 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.

§ 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.

Individual shipper means any person who is the consignor or consignee of a household goods shipment identified as such in the bill of lading contract. The individual shipper owns the goods being transported and pays the 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).

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

§ 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_____.

(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.

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) You are liable for loss of, or damage to, any household goods to the extent provided in the current Surface Transportation Board's released rates order. Contact the Surface Transportation Board for a current copy of the Released Rates of Motor Carrier Shipments of Household Goods. The rate may be increased annually by the carrier based on the Department of Commerce's Cost of Living Adjustment.

(c) As required by § 375.303(g), you may have additional liability if you sell liability insurance and you fail to issue a copy of the insurance policy or other appropriate evidence of insurance.

(d) You must, in a clear and concise manner, disclose to the individual shipper the limits of your liability.

§ 375.203 What actions of an individual shipper may limit or reduce my normal liability?

(a) If an individual shipper includes perishable, dangerous, or hazardous articles in the shipment without your knowledge, you need not assume liability for those articles or for the loss or damage caused by their inclusion in the shipment. If the shipper requests that you accept such articles for

transportation, you may elect to limit your liability for any loss or damage by appropriately published tariff provisions.

(b) If an individual shipper agrees to ship household goods released at a value greater than 60 cents per pound ($1.32 per kilogram) per article, your liability for loss and damage may be limited to $100 per pound ($220 per kilogram) per article if the individual shipper fails to notify you in writing of articles valued at more than $100 per pound ($220 per kilogram).

(c) If an individual shipper notifies you in writing that an article valued at greater than $100 per pound ($220 per kilogram) will be included in the shipment, the shipper will be entitled to full recovery up to the declared value of the article or articles, not to exceed the declared value of the entire shipment.

General Responsibilities

§ 375.205 May I have agents?

(a) You may have agents provided you comply with paragraphs (b) and (c) of this section. A household goods agent is defined as either one of the following two types of agents:

(1) A *prime agent* provides a transportation service for you or on your behalf, including the selling of, or arranging for, a transportation service. You permit or require the agent to provide services under the terms of an agreement or arrangement with you. A prime agent does not provide services on an emergency or temporary basis. A prime agent does not include a household goods broker or freight forwarder.

(2) An *emergency or temporary agent* provides origin or destination services on your behalf, excluding the selling of, or arranging for, a transportation service. You permit or require the agent to provide such services under the terms of an agreement or arrangement with you. The agent performs such services only on an emergency or temporary basis.

(b) If you have agents, you must have written agreements between you and your prime agents. You and your retained prime agent must sign the agreements.

(c) Copies of all your prime agent agreements must be in your files for a period of at least 24 months following the date of termination of each agreement.

§ 375.207 What items must be in my advertisements?

(a) You and your agents must publish and use only truthful, straightforward, and honest advertisements.

(b) You must include, and you must require each of your agents to include, in all advertisements for all services (including any accessorial services incidental to or part of interstate household goods transportation), the following two elements:

(1) Your name or trade name, as it appears on our document assigning you a U.S. DOT number, or the name or trade name of the motor carrier under whose operating authority the advertised service will originate.

(2) Your U.S. DOT number, assigned by us authorizing you to operate as a for-hire motor carrier transporting household goods.

(c) Your FMCSA-assigned U.S. DOT number must be displayed only in the following form in every advertisement: U.S. DOT No. (*assigned number*).

§ 375.209 How must I handle complaints and inquiries?

(a) You must establish and maintain a procedure for responding to complaints and inquiries from your individual shippers.

(b) Your procedure must include all four of the following items:

(1) A communications system allowing individual shippers to communicate with your principal place of business by telephone.

(2) A telephone number.

(3) A clear and concise statement about who must pay for complaint and inquiry telephone calls.

(4) A written or electronic record system for recording all inquiries and complaints received from an individual shipper by any means of communication.

(c) You must produce a clear and concise written description of your procedure for distribution to individual shippers.

§ 375.211 Must I have an arbitration program?

(a) You must have an arbitration program for individual shippers. You must establish and maintain an arbitration program with the following eleven minimum elements:

(1) You must design your arbitration program to prevent you from having any special advantage in any case where the claimant resides or does business at a place distant from your principal or other place of business.

(2) Before the household goods are tendered for transport, your arbitration program must provide notice to the individual shipper of the availability of neutral arbitration, including all three of the following items:

(i) A summary of the arbitration procedure.

(ii) Any applicable costs.

(iii) A disclosure of the legal effects of election to use arbitration.

(3) Upon the individual shipper's request, you must provide information and forms you consider necessary for initiating an action to resolve a dispute under arbitration.

(4) You must require each person you authorize to arbitrate to be independent of the parties to the dispute and capable of resolving such disputes, and you must ensure the arbitrator is authorized and able to obtain from you or the individual shipper any material or relevant information to carry out a fair and expeditious decisionmaking process.

(5) You must not charge the individual shipper more than one-half of the total cost for instituting the arbitration proceeding against you. In the arbitrator's decision, the arbitrator may determine which party must pay the cost or a portion of the cost of the arbitration proceeding, including the cost of instituting the proceeding.

(6) You must refrain from requiring the individual shipper to agree to use arbitration before a dispute arises.

(7) Arbitration must be binding for claims of $5,000 or less, if the individual shipper requests arbitration.

(8) Arbitration must be binding for claims of more than $5,000, if the individual shipper requests arbitration and the carrier agrees to it.

(9) If all parties agree, the arbitrator may provide for an oral presentation of a dispute by a party or representative of a party.

(10) The arbitrator must render a decision within 60 days of receipt of written notification of the dispute, and a decision by an arbitrator may include any remedies appropriate under the circumstances.

(11) The arbitrator may extend the 60-day period for a reasonable period if you or the individual shipper fail to provide, in a timely manner, any information the arbitrator reasonably requires to resolve the dispute.

(b) You must produce and distribute a concise, easy-to-read, accurate summary of the your arbitration program, including the items in this section.

§ 375.213 What information must I provide to a prospective individual shipper?

(a) Before you execute an order for service for a shipment of household goods, you must furnish to your prospective individual shipper, all five of the following documents:

(1) The contents of appendix A of this part, ''Your Rights and Responsibilities When You Move.''

(2) A concise, easy-to-read, accurate estimate of your charges.

(3) A notice of the availability of the applicable sections of your tariff for the estimate of charges, including an explanation that individual shippers may examine these tariff sections or have copies sent to them upon request.

(4) A concise, easy-to-read, accurate summary of the your arbitration program.

(5) A concise, easy to read, accurate summary of your customer complaint and inquiry handling procedures. Included in this description must be both of the following two items:

(i) The main telephone number the individual shipper may use to communicate with you.

(ii) A clear and concise statement concerning who must pay for telephone calls.

(b) To comply with paragraph (a)(1) of this section, you must produce and distribute a document with the text and general order of appendix A to this part as it appears. The following three items also apply:

(1) If we, the Federal Motor Carrier Safety Administration, choose to modify the text or general order of appendix A, we will provide the public appropriate notice in the **Federal Register** and an opportunity for comment as required by part 389 of this chapter before making you change anything.

(2) If you publish the document, you may choose the dimensions of the publication as long as the type font size is at least 10 point or greater and the size of the booklet is at least as large as 36 square inches (232 square centimeters).

(3) If you publish the document, you may choose the color and design of the front and back covers of the publication. The following words must appear prominently on the front cover in at least 12 point or greater bold or full-faced type: **''Your Rights And Responsibilities When You Move. Furnished By Your Mover, As Required By Federal Law.''** You may substitute your name or trade name in place of ''Your Mover'' if you wish (for example, *Furnished by XYZ Van Lines, As Required By Federal Law*).

(c) Paragraphs (b)(2) and (b)(3) of this section do not apply to exact copies of appendix A published in the **Federal Register** or the *Code of Federal Regulations.*

Collecting Transportation Charges

§ 375.215 How must I collect charges?

You must issue an honest, truthful freight or expense bill in accordance with subpart A of part 373 of this chapter. All rates and charges for the transportation and related services must be in accordance with your appropriately published tariff provisions in effect, including the method of payment.

§ 375.217 How must I collect charges upon delivery?

(a) You must specify the form of payment when you prepare the estimate. You and your agents must honor the form of payment at delivery, except when a shipper agrees to a change in writing.

(b) You must specify the same form of payment provided in paragraph (a) of this section when you prepare the order for service and the bill of lading.

(c) Charge or credit card payments:

(1) If you agree to accept payment by charge or credit card, you must arrange with the individual shipper for the delivery of the household goods during the time your credit/collection department is open so you may seek approval of payment by the card issuer.

(2) Paragraph (c)(1) of this section does not apply to you when you have equipped your motor vehicle(s) to process card transactions.

(d) You may maintain a tariff setting forth nondiscriminatory rules governing collect-on-delivery service and the collection of collect-on-delivery funds.

(e) If an individual shipper pays you at least 110 percent of the approximate costs of a non-binding estimate on a collect-on-delivery shipment, you must relinquish possession of the shipment at the time of delivery.

§ 375.219 May I extend credit to shippers?

You may extend credit to shippers, but, if you do, it must be in accordance with § 375.807.

§ 375.221 May I use a charge or credit card plan for payments?

(a) You may provide in your tariff for the acceptance of charge or credit cards for the payment of freight charges. Accepting charge or credit card payments is different than extending credit to shippers in §§ 375.219 and 375.807. Once you provide an estimate you are bound by the provisions in your tariff regarding payment as of the estimate date, until completion of any transaction that results from that estimate, unless otherwise agreed with a shipper under § 375.217(a).

(b) You may accept charge or credit cards whenever shipments are transported under agreements and tariffs requiring payment by cash, certified check, money order, or a cashier's check.

(c) If you allow an individual shipper to pay for a freight or expense bill by charge or credit card, you are deeming such payment to be the same as payment by cash, certified check, money order, or a cashier's check.

(d) The charge or credit card plans you participate in must be identified in your tariff rules as items permitting the acceptance of the charge or credit cards.

(e) If an individual shipper causes a charge or credit card issuer to reverse a charge transaction, you may consider the individual shipper's action tantamount to forcing you to provide an involuntary extension of your credit. In such instances, the rules in § 375.807 apply.

Subpart C—Service Options Provided

§ 375.301 What service options may I provide?

(a) You may design your household goods service to provide individual shippers with a wide range of specialized service and pricing features. Many carriers provide at least the following five service options:

(1) Space reservation.

(2) Expedited service.

(3) Exclusive use of a vehicle.

(4) Guaranteed service on or between agreed dates.

(5) Liability insurance.

(b) If you sell liability insurance, you must follow the requirements in § 375.303.

§ 375.303 If I sell liability insurance coverage, what must I do?

(a) You, your employee, or an agent, may sell, offer to sell, or procure liability insurance coverage for loss or damage to shipments of any individual shippers only when the individual shipper releases the shipment for transportation at a value not exceeding 60 cents per pound ($1.32 per kilogram) per article.

(b) You may offer, sell, or procure any type of insurance policy on behalf of the individual shipper covering loss or damage in excess of the specified carrier liability.

(c) You must issue to the individual shipper a policy or other appropriate evidence of the insurance the individual shipper purchased.

(d) You must provide a copy of the policy or other appropriate evidence to the individual shipper at the time you sell or procure the insurance.

(e) You must issue policies written in plain English.

(f) You must clearly specify the nature and extent of coverage under the policy.

(g) 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.

(h) 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 for 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.

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 inaccurately 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/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. You must bill the individual shipper for the additional services after 30 days after delivery. If the shipper does not agree to pay the additional services performed by the carrier after the shipment is picked up, the carrier should perform the additional services as required to complete the delivery and bill the individual shipper for the additional services after 30 days after delivery.

(8) If the individual shipper requests additional services after the household goods are in-transit, you must inform the individual shipper additional charges 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 after 30 days after 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 then must issue freight or expense bills after 30 days after 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.

§ 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.

(b) If you provide a non-binding estimate to an individual shipper, you must provide your reasonably accurate estimate of the approximate costs the individual shipper should expect to pay for the transportation and services of the shipment. You must comply with the following ten requirements:

(1) You must provide reasonably accurate non-binding estimates based upon the estimated weight or volume of the shipment and services required. 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.

(2) You must explain to the individual shipper final charges calculated for shipments moved on non-binding estimates will be those appearing in your tariffs applicable to the transportation. You must explain to the individual shipper these final charges may exceed the approximate costs appearing in your estimate.

(3) You must furnish non-binding estimates without charge and in writing to the individual shipper or other person responsible for payment of the freight charges.

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

(5) You must clearly indicate on the face of a non-binding estimate, the estimate is not binding upon you and the charges shown are the approximate charges to be assessed for the services identified in the estimate. The estimate must clearly state that the shipper may not be required to pay more than 110 percent of the non-binding estimate at the time of delivery.

(6) You must clearly describe on the face of a non-binding estimate the entire shipment and all services you are providing.

(7) If it appears an individual shipper has tendered additional household goods or requires additional services not identified in the non-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 two things:

(i) Reaffirm your non-binding estimate.

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

(8) Once you load a shipment, failure to execute a new non-binding estimate signifies you have reaffirmed the original non-binding estimate. You may not collect more than 110 percent of the amount of the original non-binding estimate at destination.

(9) 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/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. You must bill the individual shipper for the additional services after 30 days after delivery. If the shipper does not agree to pay the additional services performed by the carrier after the shipment is picked up, the carrier should perform the additional services as required to complete the delivery and bill the individual shipper for the additional services after 30 days after delivery.

(10) If the individual shipper requests additional services after the household goods are in-transit, you must inform the individual shipper additional charges will be billed. You may require full payment at destination of no more than 110 percent of the original non-binding estimate. You must bill for the payment of the balance of any remaining charges after 30 days after delivery. For example, if your non-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 $1,100 (110 percent of the estimated charges) and forego demanding immediate payment of the balance. You then must issue a freight or expense bill for the remaining $400 after the 30-day period expires.

(c) If you furnish a non-binding estimate, you must enter the estimated charges upon the order for service and upon the bill of lading.

(d) You must retain a copy of the non-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.

§ 375.407 Under what circumstances must I relinquish possession of a collect-on-delivery shipment transported under a non-binding estimate?

(a) If an individual shipper pays you at least 110 percent of the approximate costs of a non-binding estimate on a collect-on-delivery shipment, you must relinquish possession of the shipment at the time of delivery. You must accept the form of payment agreed to at the time of estimate, unless the shipper agrees in writing to a change in the form of payment.

(b) Failure to relinquish possession of a shipment upon an individual shipper's offer to pay 110 percent of the estimated charges constitutes a failure to transport the shipment with ''reasonable dispatch'' and subjects you to cargo delay claims pursuant to part 370 of this chapter.

(c) You must defer billing for the payment of the balance of any remaining charges for a period of 30 days following the date of delivery. After this 30-day period, you may demand payment of the balance of any remaining charges, as explained in § 375.405.

§ 375.409 May household goods brokers provide estimates?

A household goods broker must not provide an individual shipper with an estimate of charges for the transportation of household goods unless there is a written agreement between the broker and you, the carrier, adopting the broker's estimate as your own estimate. If you make such an agreement with a broker, you must ensure compliance with all requirements of this part pertaining to estimates, including the requirement that you must relinquish possession of the shipment if the shipper pays you 110 percent of a non-binding estimate at the time of delivery.

Subpart E—Pick Up of Shipments of Household Goods

Before Loading

§ 375.501 Must I write up an order for service?

(a) Before you receive a shipment of household goods you will move for an individual shipper, you must prepare an order for service. The order for service must contain the information described in the following 15 items:

(1) Your name and address and the FMCSA U.S. DOT number assigned to the mover who is responsible for performing the service.

(2) The individual shipper's name, address and, if available, its telephone number(s).

(3) The name, address, and telephone number of the delivering mover's office or agent located at or nearest to the destination of the shipment.

(4) A telephone number where the individual shipper/consignee may contact you or your designated agent.

(5) One of the following three entries must be on the order for service:

(i) The agreed pickup date and agreed delivery date of the move.

(ii) The agreed period(s) of the entire move.

(iii) If you are transporting the shipment on a guaranteed service basis, the guaranteed dates or periods for pickup, transportation, and delivery. You must enter any penalty or per diem requirements upon the agreement under this item.

(6) The names and addresses of any other motor carriers, when known, who will participate in interline transportation of the shipment.

(7) The form of payment you and your agents will honor at delivery. The payment information must be the same that was entered on the estimate.

(8) The terms and conditions for payment of the total charges, including notice of any minimum charges.

(9) The maximum amount you will demand at the time of delivery to obtain possession of the shipment, when you transport on a collect-on-delivery basis.

(10) The Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage. The released rates may be increased annually by the carrier based on the Department of Commerce's Cost of Living Adjustment.

(11) A complete description of any special or accessorial services ordered and minimum weight or volume charges applicable to the shipment, subject to the following two conditions:

(i) If you provide service for individual shippers on rates based upon the transportation of a minimum weight or volume, you must indicate on the order for service the minimum weight- or volume-based rates, and the minimum charges applicable to the shipment.

(ii) If you do not indicate the minimum rates and charges, your tariff must provide you will compute the final charges relating to such a shipment based upon the actual weight or volume of the shipment.

(12) Any identification or registration number you assign to the shipment.

(13) *For non-binding estimates,* your reasonably accurate estimate of the amount of the charges, the method of payment of total charges, and the maximum amount (no more than 110 percent of the non-binding estimate) you will demand at the time of delivery to relinquish possession of the shipment.

(14) *For binding estimates,* the amount of charges you will demand based upon the binding estimate and the terms of payment under this estimate.

(15) Whether the individual shipper requests notification of the charges before delivery. The individual shipper must provide you with the telephone number(s) or address(es) where you will transmit the notification.

(b) You, your agent, or your driver must inform the individual shipper if you reasonably expect a special or accessorial service is necessary to safely transport a shipment. You must refuse to accept the shipment when you reasonably expect a special or accessorial service is necessary to safely transport a shipment and the individual shipper refuses to purchase the special or accessorial service. You must make a written note if the shipper refuses any special or accessorial services that you reasonably expect to be necessary.

(c) You and the individual shipper must sign the order for service. You must provide a dated copy of the order for service to the individual shipper at the time you sign the order.

(d)(1) You may provide the individual shipper with blank or incomplete estimates, orders for service, bills of lading, or any other blank or incomplete documents pertaining to the move.

(2) You are forbidden from requiring the individual shipper to sign any blank or incomplete estimates, orders for service, bills of lading, or any other blank or incomplete documents pertaining to the move.

(e) You must provide the individual shipper the opportunity to rescind the order for service without any penalty for a three-day period after the shipper signs the order for service, if the shipper scheduled the shipment to be loaded more than three days after signing the order.

(f) Before loading the shipment, and upon mutual agreement of both you and the individual shipper, you may amend an order for service.

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

§ 375.503 Must I write up an inventory?

(a) You must prepare a written, itemized inventory for each shipment of household goods you transport for an individual shipper. The inventory must identify every carton and every uncartoned item that is included in the shipment. When you prepare the inventory, an identification number that corresponds to the inventory must be placed on each article that is included in the shipment.

(b) You must prepare the inventory before the shipment is loaded in the vehicle for transportation in a manner that provides the individual shipper with the opportunity to observe and verify the accuracy of the inventory if he or she so requests.

(c) You must furnish a complete copy of the inventory to the individual shipper before beginning to load the shipment. A copy of the inventory, signed by both you and the individual shipper, must be provided to the shipper, together with a copy of the bill of lading, before you begin to load the shipment.

(d) Upon delivery, you must provide the individual shipper with the opportunity to observe and verify that the same articles are being delivered and the condition of those articles. You must also provide the individual shipper the opportunity to note in writing any missing articles and the condition of any damaged or destroyed articles. In addition, you must also provide the shipper with a copy of all such notations.

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

§ 375.505 Must I write up a bill of lading?

(a) You must issue a bill of lading. The bill of lading must contain the terms and conditions of the contract. You must furnish a complete copy of the bill of lading to the individual shipper before beginning to load the shipment.

(b) On a bill of lading, you must include the following 14 items:

(1) Your name and address, or the name and address of the motor carrier issuing the bill of lading.

(2) The names and addresses of any other motor carriers, when known, who will participate in transportation of the shipment.

(3) The name, address, and telephone number of your office (or the office of your agent) where the individual shipper can contact you in relation to the transportation of the shipment.

(4) The form of payment you and your agents will honor at delivery. The payment information must be the same that was entered on the estimate and order for service.

(5) When you transport on a collect-on-delivery basis, the name, address, and if furnished, the telephone number of a person to notify about the charges.

(6) *For non-guaranteed service,* the agreed date or period of time for pickup of the shipment and the agreed date or period of time for the delivery of the shipment. The agreed dates or periods for pickup and delivery entered upon the bill of lading must conform to the agreed dates or periods of time for pickup and delivery entered upon the order for service or a proper amendment to the order for service.

(7) *For guaranteed service,* subject to tariff provisions, the dates for pickup and delivery, and any penalty or per diem entitlements due the individual shipper under the agreement.

(8) The actual date of pickup.

(9) The company or carrier identification number of the vehicle(s) upon which you load the individual shipper's shipment.

(10) The terms and conditions for payment of the total charges, including notice of any minimum charges.

(11) The maximum amount you will demand at the time of delivery to obtain possession of the shipment, when you transport under a collect-on-delivery basis.

(12) The Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage. The released rates may be increased annually by the carrier based on the Department of Commerce's Cost of Living Adjustment.

(13) Evidence of any insurance coverage sold to or procured for the individual shipper from an independent insurer, including the amount of the premium for such insurance.

(14) Each attachment to the bill of lading. Each attachment is an integral part of the bill of lading contract. The following three items must be added as an attachment to the bill of lading.

(i) The binding or non-binding estimate.

(ii) The order for service.

(iii) The inventory.

(c) A copy of the bill of lading must accompany a shipment at all times while in your (or your agent's) possession. When you load the shipment upon a vehicle for transportation, the bill of lading must be in the possession of the driver responsible for the shipment.

(d) You must retain bills of lading for each move you perform for at least one year from the date you created the bill of lading.

Weighing the Shipment

§ 375.507 Must I determine the weight of a shipment?

(a) When you transport household goods on a non-binding estimate dependent upon the shipment weight, you must determine the weight of each shipment transported before the assessment of any charges.

(b) You must weigh the shipment upon a certified scale.

(c) You must provide a written explanation of volume to weight conversions, when you provide an estimate by volume and convert the volume to weight.

§ 375.509 How must I determine the weight of a shipment?

(a) You must weigh the shipment by using one of the following two methods:

(1) *First method—origin weigh.* You determine the difference between the tare weight of the vehicle before loading at the origin of the shipment and the gross weight of the same vehicle after loading the shipment.

(2) *Second method—back weigh.* You determine the difference between the gross weight of the vehicle with the shipment loaded and the tare weight of the same vehicle after you unload the shipment.

(b) The following three conditions must exist for both the tare and gross weighings:

(1) The vehicle must have installed or loaded all pads, dollies, hand trucks, ramps, and other equipment required in the transportation of the shipment.

(2) The driver and other persons must be off the vehicle at the time of either weighing.

(3) The fuel tanks on the vehicle must be full at the time of each weighing, or, in the alternative, when you use the *first method—origin weigh,* in paragraph (a)(1) of this section, where the tare weighing is the first weighing performed, you must refrain from adding fuel between the two weighings.

(c) You may detach the trailer of a tractor-trailer vehicle combination from the tractor and have the trailer weighed separately at each weighing provided the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

(d) You must use the net weight of shipments transported in containers. You must calculate the difference between the tare weight of the container (including all pads, blocking and bracing used in the transportation of the shipment) and the gross weight of the container with the shipment loaded in the container.

§ 375.511 May I use an alternative method for shipments weighing 3,000 pounds or less?

For shipments weighing 3,000 pounds or less (1,362 kilograms or less), you may weigh the shipment upon a platform or warehouse certified scale before loading for transportation or after unloading.

§ 375.513 Must I give the individual shipper an opportunity to observe the weighing?

You must give the individual shipper or any other person responsible for the payment of the freight charges the right to observe all weighings of the shipment. You must advise the individual shipper, or any other person entitled to observe the weighings, where and when each weighing will occur. You must give the person who will observe the weighings a reasonable opportunity to be present to observe the weighings.

§ 375.515 May an individual shipper waive his/her right to observe each weighing?

(a) If an individual shipper elects not to observe a weighing, the shipper is presumed to have waived that right.

(b) If an individual shipper elects not to observe a re-weighing, the shipper must waive that right in writing. The individual shipper may send the writing via fax, e-mail, or any other electronic means.

(c) Waiver of the right to observe a weighing or re-weighing does not affect any other rights of the individual shipper under this part or otherwise.

§ 375.517 May an individual shipper demand re-weighing?

After you inform the individual shipper of the billing weight and total charges and before actually beginning to unload a shipment weighed at origin (*first method* under § 375.509(a)(1)), the individual shipper may demand a re-weigh. You must base your freight bill charges upon the re-weigh weight.

§ 375.519 Must I obtain weight tickets?

(a) You must obtain weight tickets whenever we require you to weigh the shipment in accordance with this subpart. You must obtain a separate weight ticket for each weighing. The weigh master must sign each weight ticket. Each weight ticket must contain the following six items:

(1) The complete name and location of the scale.

(2) The date of each weighing.

(3) The identification of the weight entries as being the tare, gross, or net weights.

(4) The company or carrier identification of the vehicle.

(5) The last name of the individual shipper as it appears on the bill of lading.

(6) The carrier's shipment registration or bill of lading number.

(b) When both weighings are performed on the same scale, one weight ticket may be used to record both weighings.

(c) As part of the file on the shipment, you must retain the original weight ticket or tickets relating to the determination of the weight of a shipment.

(d) All freight bills you present to an individual shipper must include true copies of all weight tickets obtained in the determination of the shipment weight in order to collect any shipment charges dependent upon the weight transported.

§ 375.521 What must I do if an individual shipper wants to know the actual weight or charges for a shipment before I tender delivery?

(a) You must comply with a request of an individual shipper of a shipment being transported on a collect-on-delivery basis who specifically requests notification of the actual weight or volume and charges on a shipment. This requirement is conditioned upon the individual shipper supplying you with an address or telephone number where the individual shipper will receive the communication. You must make your notification by telephone, telegram, or in person.

(b) The individual shipper must receive your notification at least one full 24-hour day before any tender of the shipment for delivery, excluding Saturdays, Sundays and Federal holidays.

(c) You may disregard the 24-hour notification requirement on shipments in any one of the following three circumstances:

(1) The shipment will be back weighed (*i.e.*, weighed at destination).

(2) Pickup and delivery encompass two consecutive weekdays, if the individual shipper agrees.

(3) The shipment is moving under a non-binding estimate and the maximum payment required at time of delivery is 110 percent of the estimated charges, but only if the individual shipper agrees to waive the 24-hour notification requirement.

Subpart F—Transportation of Shipments

§ 375.601 Must I transport the shipment in a timely manner?

Yes. Transportation in a timely manner is also known as ''reasonable dispatch service.'' You must provide reasonable dispatch service to all individual shippers, except for transportation on the basis of guaranteed pickup and delivery dates.

§ 375.603 When must I tender a shipment for delivery?

You must tender a shipment for delivery for an individual shipper on the agreed delivery date or within the period specified on the bill of lading. Upon the request or concurrence of the individual shipper, you may waive this requirement.

§ 375.605 How must I notify an individual shipper of any service delays?

(a) When you are unable to perform either the pickup or delivery of a shipment on the dates or during the periods specified in the order for service and as soon as the delay becomes apparent to you, you must notify the individual shipper of the delay, at your expense, in one of the following three ways:

(1) By telephone.

(2) By telegram.

(3) In person.

(b) You must advise the individual shipper of the dates or periods you expect to be able to pick up and/or deliver the shipment. You must consider the needs of the individual shipper in your advisement. You also must do the following four things:

(1) You must prepare a written record of the date, time, and manner of notification.

(2) You must prepare a written record of your amended date or period for pick-up or delivery.

(3) You must retain these records as a part of your file on the shipment. The retention period is one year from the date of notification.

(4) You must furnish a copy of the notice to the individual shipper by first class mail or in person if the individual shipper requests a copy of the notice.

§ 375.607 What must I do if I am able to tender a shipment for final delivery more than 24 hours before a specified date?

(a) You may ask the individual shipper to accept an early delivery date. If the individual shipper does not concur with your request or the individual shipper does not request an early delivery date, you may, at your discretion, place a shipment in storage under your own account and at your own expense in a warehouse located near the destination of the shipment. If you place the shipment in storage, you must comply with paragraph (b) of this section. You may comply with paragraph (c) of this section, at your discretion.

(b) You must immediately notify the individual shipper of the name and address of the warehouse where you place the shipment. You must make and keep a record of your notification as a part of your shipment records. You have responsibility for the shipment under the terms and conditions of the bill of lading. You are responsible for the charges for redelivery, handling, and storage until you make final delivery.

(c) You may limit your responsibility under paragraph (b) of this section up to the agreed delivery date or the first day of the period of time of delivery as specified in the bill of lading.

§ 375.609 What must I do for shippers who store household goods in transit?

(a) If you are holding goods for storage-in-transit (SIT) and the period of time is about to expire, you must comply with this section.

(b) You must notify the individual shipper, in writing of the following four items:

(1) The date of conversion to permanent storage.

(2) The existence of a nine-month period after the date of conversion to permanent storage when the individual shipper may file claims against you for loss or damage occurring to the goods in transit or during the storage-in-transit period.

(3) The fact your liability is ending.

(4) The fact the individual shipper's property will be subject to the rules, regulations, and charges of the warehouseman.

(c) You must make this notification at least 10 days before the expiration date of either one of the following two periods:

(1) The specified period of time when the goods are to be held in storage.

(2) The maximum period of time provided in your tariff for storage-in-transit.

(d) You must notify the individual shipper by facsimile transmission,

overnight courier, e-mail, or certified mail, return receipt requested.

(e) If you are holding household goods in storage-in-transit for a period of time less than 10 days, you must give notification to the individual shipper of the information specified in paragraph (b) of this section one day before the expiration date of the specified time when the goods are to be held in such storage.

(f) You must maintain a record of notifications as part of the records of the shipment.

(g) Your failure or refusal to notify the individual shipper will automatically effect a continuance of your carrier liability according to the applicable tariff provisions with respect to storage-in-transit, until the end of the day following the date when you actually gave notice.

Subpart G—Delivery of Shipments

§ 375.701 May I provide for a release of liability on my delivery receipt?

(a) Your delivery receipt or shipping document must not contain any language purporting to release or discharge you or your agents from liability.

(b) The delivery receipt may include a statement the property was received in apparent good condition except as noted on the shipping documents.

§ 375.703 What is the maximum collect-on-delivery amount I may demand at the time of delivery?

(a) On a binding estimate, the maximum amount is the exact estimate of the charges.

(b) On a non-binding estimate, the maximum amount is 110 percent of the non-binding estimate of the charges.

§ 375.705 If a shipment is transported on more than one vehicle, what charges may I collect at delivery?

(a) At your discretion, you may do one of the following three things:

(1) You may defer the collection of all charges until you deliver the entire shipment.

(2) If you have determined the charges for the entire shipment, you may collect charges for the portion of the shipment tendered for delivery. You must determine the percentage of the charges for the entire shipment represented by the portion of the shipment tendered for delivery.

(3) If you cannot reasonably calculate the charges for the entire shipment, you must determine the charges for the portion of the shipment being delivered. You must collect this amount. The total charges you assess for the transportation of the separate portions of the shipment must not be more than the charges due for the entire shipment.

(b) In the event of the loss or destruction of any part of a shipment transported on more than one vehicle, you must collect the charges as provided in § 375.707.

§ 375.707 If a shipment is partially lost or destroyed, what charges may I collect at delivery?

(a) If a shipment is partially lost or destroyed, you may first collect your freight charges for the entire shipment, if you choose. If you do this, you must refund the portion of your published freight charges corresponding to the portion of the lost or destroyed shipment (including any charges for accessorial or terminal services), at the time you dispose of claims for loss, damage, or injury to the articles in the shipment under part 370 of this chapter.

(b) To calculate the amount of charges applicable to the shipment as delivered, you must multiply the percentage corresponding to the delivered shipment by the total charges applicable to the shipment tendered by the individual shipper. The following four conditions also apply:

(1) If the charges computed exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges must apply. This will apply only to the transportation of household goods and not to charges for other services the individual shipper ordered.

(2) You must collect any specific valuation charge due.

(3) You may disregard paragraph (a) of this section if loss or destruction was due to an act or omission of the individual shipper.

(4) You must determine, at your own expense, the proportion of the shipment, based on actual or constructive weight, not lost or destroyed in transit.

(c) The individual shipper's rights are in addition to, and not in lieu of, any other rights the individual shipper may have with respect to a shipment of household goods you or your agent(s) partially lost or destroyed in transit. This applies whether or not the individual shipper exercises its rights provided in paragraph (a) of this section.

§ 375.709 If a shipment is totally lost or destroyed, what charges may I collect at delivery?

(a) You are forbidden from collecting, or requiring an individual shipper to pay, any freight charges (including any charges for accessorial or terminal services) when a household goods shipment is *totally lost or destroyed* in transit. The following two conditions also apply:

(1) You must collect any specific valuation charge due.

(2) You may disregard paragraph (a) of this section if loss or destruction was due to an act or omission of the individual shipper.

(b) The individual shipper's rights are in addition to, and not in lieu of, any other rights the individual shipper may have with respect to a shipment of household goods you or your agent(s) totally lost or destroyed in transit. This applies whether or not the individual shipper exercises its rights provided in paragraph (a) of this section.

Subpart H—Collection of Charges

§ 375.801 What types of charges apply to subpart H?

(a) This subpart applies to all shipments subject to binding estimates.

(b) This subpart does not apply to collect-on-delivery shipments subject to the 110 percent rule for non-binding estimates. You may expect payment of not more than 110 percent of the estimated charges on a collect-on-delivery non-binding estimate at the time of delivery. You must bill the individual shipper for any balance due not sooner than 30 days after delivery.

§ 375.803 How must I present my freight or expense bill?

You must present your freight or expense bill in accordance with § 377.205 of this chapter.

§ 375.805 If I am forced to relinquish a collect-on-delivery shipment before the payment of ALL charges, how do I collect the balance?

On ''collect-on-delivery'' shipments, you must present your freight bill for all transportation charges within 15 days as required by § 375.807.

§ 375.807 What actions may I take to collect the charges upon my freight bill?

(a) You must present a freight bill within 15 days (excluding Saturdays, Sundays, and Federal holidays) of the date of delivery of a shipment at its destination.

(b) The credit period must be seven days (including Saturdays, Sundays, and Federal holidays).

(c) You must provide in your tariffs the following four things:

(1) You must automatically extend the credit period to a total of 30 calendar days for any shipper who has not paid your freight bill within the 7-day period.

(2) You will assess a service charge to each individual shipper equal to one percent of the amount of the freight bill,

subject to a $20 minimum charge, for the extension of the credit period. You will assess the service charge for each 30-day extension the charges go unpaid.

(3) You must deny credit to any shipper who fails to pay a duly-presented freight bill within the 30-day period. You may grant credit to the individual shipper when the individual shipper satisfies he/she will promptly pay all future freight bills duly presented.

(4) You must ensure all payments of freight bills are strictly in accordance with the rules and regulations of this part for the settlement of your rates and charges.

Subpart I—Penalties

§ 375.901 What penalties do we impose for violations of this part?

The penalty provisions of 49 U.S.C. Chapter 149, Civil and Criminal Penalties apply to this part. These penalties do not overlap. Notwithstanding these civil penalties, nothing in this section shall deprive any holder of a receipt or a bill of lading any remedy or right of action under existing law.

Appendix A to Part 375—Your Rights and Responsibilities When You Move

You must furnish this document to prospective individual shippers as required by § 375.213. The text as it appears in this appendix may be reprinted in a form and manner chosen by you, provided it complies with § 375.213(b)(2) and (b)(3). You do not have to italicize titles of sections.

YOUR RIGHTS AND RESPONSIBILITIES WHEN YOU MOVE

OMB No. 2126–_____.

Furnished By Your Mover, As Required By Federal Law

Authority: 49 U.S.C. 13301, 13704, 13707, and 14104; 49 CFR 1.73.

What is Included in This Pamphlet?

In this pamphlet, you will find a discussion of each of these topics:

Why Was I Given This Pamphlet?

What Are The Most Important Points I Should Remember From This Pamphlet?

What If I Have More Questions?

Subpart A—General Requirements

Who must follow the regulations?

What definitions are used in this pamphlet?

Subpart B—Before Requesting Services From Any Mover

What is my mover's normal liability for loss or damage when my mover accepts goods from me?

What actions by me limit or reduce my mover's normal liability?

What are dangerous or hazardous materials that may limit or reduce my mover's normal liability?

May my mover have agents?

What items must be in my mover's advertisements?

How must my mover handle complaints and inquiries?

Do I have the right to inspect my mover's tariffs (schedules of charges) applicable to my move?

Must my mover have an arbitration program?

Must my mover inform me about my rights and responsibilities under Federal law?

What other information must my mover provide to me?

How must my mover collect charges?

May my mover collect charges upon delivery?

May my mover extend credit to me?

May my mover accept charge or credit cards for my payments?

Subpart C—Service Options Provided

What service options may my mover provide?

If my mover sells liability insurance coverage, what must my mover do?

Subpart D—Estimating Charges

Must my mover estimate the transportation and accessorial charges for my move?

How must my mover estimate charges under the regulations?

What payment arrangements must my mover have in place to secure delivery of my household goods shipment?

Subpart E—Pickup of My Shipment of Household Goods

Must my mover write up an order for service?

Must my mover write up an inventory of the shipment?

Must my mover write up a bill of lading?

Should I reach an agreement with my mover about pickup and delivery times?

Must my mover determine the weight of my shipment?

How must my mover determine the weight of my shipment?

What must my mover do if I want to know the actual weight or charges for my shipment before delivery?

Subpart F—Transportation of My Shipment

Must my mover transport the shipment in a timely manner?

What must my mover do if it is able to deliver my shipment more than 24 hours before I am able to accept delivery?

What must my mover do for me when I store household goods in transit?

Subpart G—Delivery of My Shipment

May my mover ask me to sign a delivery receipt releasing it from liability?

What is the maximum collect-on-delivery amount my mover may demand I pay at the time of delivery?

If my shipment is transported on more than one vehicle, what charges may my mover collect at delivery?

If my shipment is partially or totally lost or destroyed, what charges may my mover collect at delivery?

How must my mover calculate the charges applicable to the shipment as delivered?

Subpart H—Collection of Charges

Does this subpart apply to most shipments?

How must my mover present its freight or expense bill to me?

If I forced my mover to relinquish a collect-on-delivery shipment before the payment of ALL charges, how must my mover collect the balance?

What actions may my mover take to collect from me the charges in its freight bill?

Do I have a right to file a claim to recover money for property my mover lost or damaged?

Subpart I—Resolving Disputes with My Mover

What may I do to resolve disputes with my mover?

Why Was I Given This Pamphlet?

The Federal Motor Carrier Safety Administration's (FMCSA) regulations protect consumers on interstate moves and define the rights and responsibilities of consumers and household goods carriers.

The household goods carrier (mover) gave you this booklet to provide information about your rights and responsibilities as an individual shipper of household goods. Your primary responsibility is to select a reputable household goods carrier, ensure that you understand the terms and conditions of the contract, and understand and pursue the remedies that are available to you when problems arise. You should talk to your mover if you have further questions. The mover will also furnish you with another booklet describing its procedure for handling your questions and complaints. The other booklet will include a telephone number you can call to obtain additional information about your move.

What Are the Most Important Points I Should Remember From This Pamphlet?

1. Movers must give written estimates.
2. Movers may give binding estimates.
3. Non-binding estimates are not always accurate; actual charges may exceed the estimate.
4. You should not sign blank or incomplete documents or allow anyone representing you to do so.
5. You may request from the mover the availability of guaranteed pick up and delivery dates.
6. Be sure you understand the mover's responsibility for loss or damage, and request an explanation of the difference between valuation and actual insurance.
7. You have the right to be present each time your shipment is weighed.
8. You may request a re-weigh of your shipment.
9. If you agree to move under a non-binding estimate, you should confirm with your mover—in writing—the method of payment at delivery as cash, certified check, cashier's check, money order, or credit card.
10. Movers must offer a dispute settlement program as an alternative means of settling loss or damage claims. ASK YOUR MOVER FOR DETAILS.

11. You should ask the person you speak to whether he/she works for the actual mover or a household goods broker. A household goods broker only arranges for the transportation. A household goods broker must not represent itself as a mover. A household goods broker does not own trucks of its own. The broker is required to find an authorized mover to provide the transportation. You should know a household goods broker generally has no authority to provide you an estimate on behalf of a specific mover. If a household goods broker provides you an estimate, it may not be binding on the actual mover and you may have to pay the actual charges the mover incurs. A household goods broker is not responsible for loss or damage.

12. You may request complaint information about movers from the Federal Motor Carrier Safety Administration under the Freedom of Information Act. You may be assessed a fee to obtain this information. *See* 49 CFR part 7 for the schedule of fees.

13. You should seek estimates from at least three different movers. You should not disclose any information to the different movers about their competitors, as it may affect the accuracy of their estimates.

What If I Have More Questions?

If this pamphlet does not answer all of your questions about your move, do not hesitate to ask your mover's representative who handled the arrangements for your move, the driver who transports your shipment, or the mover's main office for additional information.

Subpart A—General Requirements

The primary responsibility for your protection lies with you in selecting a reputable household goods carrier, ensuring you understand the terms and conditions of your contract with your mover, and understanding and pursuing the remedies that are available to you when problems arise.

Who Must Follow the Regulations?

The regulations inform motor carriers engaged in the interstate transportation of household goods (movers) what standards the movers must follow when offering services to you. You, an individual shipper, are not directly subject to the regulations. However, your mover may be required by the regulations to force you to pay on time. The regulations only apply to your mover when the mover transports your household goods by motor vehicle in interstate commerce, *i.e.*, when you are moving from one State to another. The regulations do not apply when your interstate move takes place within a single commercial zone. A commercial zone is roughly equivalent to the local metropolitan area of a city or town. For example, a move between Brooklyn, NY, and Hackensack, NJ, would be considered to be within the New York City commercial zone and would not be subject to these regulations. Commercial zones are defined in 49 CFR part 372.

What Definitions Are Used in This Pamphlet?

Accessorial (additional) services—These are services such as packing, appliance servicing, unpacking, or piano stair carries you request to be performed (or are necessary because of landlord requirements or other special circumstances). Charges for these services are in addition to the transportation charges.

Advanced charges—These are charges for services not performed by the mover, but by someone else. A professional, craftsman, or other third party may perform these services at your request. The mover pays for these services and adds the charges to your bill of lading charges.

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

Agent—A local moving company authorized to act on behalf of a larger, national company.

Appliance service—The preparation of major electrical appliances to make them safe for shipment. Charges for these services are in addition to the transportation charges.

Bill of lading—The receipt for your goods and the contract for its transportation.

Carrier—The mover transporting your household goods.

Cash on delivery (COD)—This means payment is required at the time of delivery at the destination residence (or warehouse).

Certified scale—Any scale designed for weighing motor vehicles, including trailers or semi-trailers not attached to a tractor, and certified by an authorized scale inspection and licensing authority. A certified scale may also be a platform or warehouse type scale properly inspected and certified.

Estimate, binding—This is an agreement made in advance with your mover. It guarantees the total cost of the move based upon the quantities and services shown on the estimate.

Estimate, non-binding—This is what your mover believes the cost will be based upon the estimated weight of the shipment and the accessorial services requested. A non-binding estimate is not binding on the mover. The final charges will be based upon the actual weight of your shipment, the services provided, and the tariff provisions in effect.

Expedited service—This is an agreement with the mover to perform transportation by a set date in exchange for charges based upon a higher minimum weight.

Flight charge—An extra charge for carrying items up or down flights of stairs.

Guaranteed pickup and delivery service—An additional level of service featuring guaranteed dates of service. Your mover will provide reimbursement to you for delays. This premium service is often subject to minimum weight requirements.

High value article—These are items included in a shipment valued at more than $100 per pound ($220 per kilogram).

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 you or by another individual on your behalf. This may include items moving from a factory or store when you purchase them to use in your dwelling. You must request that these items be transported and you (or another individual on your behalf) must pay the transportation charges to the mover.

Inventory—The detailed descriptive list of your household goods showing the number and condition of each item.

Linehaul charges—The charges for the vehicle transportation portion of your move. These charges apply in addition to the accessorial service charges.

Long carry—An added charge for carrying articles excessive distances between the mover's vehicle and your residence.

May—An option. You or your mover may do something, but it is not a requirement.

Mover—A motor carrier engaged in the transportation of household goods and its household goods agents.

Must—A legal obligation. You or your mover must do something.

Order for service—The document authorizing the mover to transport your household goods.

Order (bill of lading) number—The number used to identify and track your shipment.

Peak season rates—Higher linehaul charges applicable during the summer months.

Pickup and delivery charges—Separate transportation charges applicable for transporting your shipment between the storage-in-transit warehouse and your residence.

Reasonable dispatch—The performance of transportation on the dates, or during the period of time, agreed upon by you and your mover and shown on the Order For Service/Bill of Lading. For example, if your mover deliberately withholds any shipment from delivery after you offer to pay the binding estimate or 110 percent of a non-binding estimate, your mover has not transported the goods with reasonable dispatch. The term ''reasonable dispatch'' excludes transportation provided under your mover's tariff provisions requiring guaranteed service dates. Your mover will have the defenses of force majeure, *i.e.*, that 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.

Should—A recommendation. We recommend you or your mover do something, but it is not a requirement.

Shuttle service—The use of a smaller vehicle to provide service to residences not accessible to the mover's normal linehaul vehicles.

Storage-in-transit (SIT)—The temporary warehouse storage of your shipment pending further transportation. For example, you may need SIT if your new home is not quite ready

to occupy. You must specifically request SIT service. This may not exceed a total of 180 days of storage. You will be responsible for the added charges for SIT service, as well as the warehouse handling and final delivery charges.

Surface Transportation Board—An agency within the Department of Transportation that regulates household good carrier tariffs among other responsibilities. The Surface Transportation Board's address is 1925 K Street NW., Washington, DC 20423–0001 Tele. 202–565–1674.

Tariff—An issuance (in whole or in part) containing rates, rules, regulations, classifications or other provisions. The Surface Transportation Board requires a tariff contain three specific items. First, an accurate description of the services the mover offers to the public. Second, the specific applicable rates (or the basis for calculating the specific applicable rates) and service terms for services offered to the public. Finally, the mover's tariff must be arranged in a way that allows you to determine the exact rate(s) and service terms applicable to your shipment.

Valuation—The degree of ''worth'' of the shipment. The valuation charge compensates the mover for assuming a greater degree of liability than is provided for in its base transportation charges.

Warehouse handling—An additional charge applicable each time SIT service is provided. This charge compensates the mover for the physical placement and removal of items within the warehouse.

We, Us, and Our—The Federal Motor Carrier Safety Administration (FMCSA).

You and Your—You are an individual shipper of household goods. You are a consignor or consignee of a household goods shipment and your mover identifies you as such in the bill of lading contract. You own the goods being transported and you pay the transportation charges to the mover.

Where may other terms used in this pamphlet be defined? You may find other terms used in this pamphlet defined in 49 U.S.C. 13102. The statute controls the definitions in this pamphlet. If terms are used in this pamphlet 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.

Subpart B—Before requesting services from any mover

What Is My Mover's Normal Liability for Loss or Damage When My Mover Accepts Goods From Me?

In general, your mover is legally liable for loss or damage if it happens during performance of any transportation of household goods and all related services identified on your mover's lawful bill of lading.

Your mover is liable for loss of, or damage to, any household goods to the extent provided in the current Surface Transportation Board's Released Rates Order. You may obtain a copy of the current Released Rates Order by contacting the Surface Transportation Board at the address in the definition of the Surface Transportation Board. The rate may be increased annually by your mover based on the Department of Commerce's Cost of Living Adjustment. Your mover may have additional liability if your mover sells liability insurance to you.

All moving companies are required to assume liability for the value of the goods transported. However, there are different levels of liability, and you should be aware of the amount of protection provided and the charges for each option.

Basically, most movers offer two different levels of liability (options 1 and two, below) under the terms of their tariffs and the Surface Transportation Board's Released Rates Orders. These orders govern the moving industry.

Option 1: Released Value

This is the most economical protection option available. This no-additional cost option provides minimal protection. Under this option, the mover assumes liability for no more than 60 cents per pound ($1.32 cents per kilogram), per article. Loss or damage claims are settled based upon the pound (kilogram) weight of the article multiplied by 60 cents per pound ($1.32 cents per kilogram). For example, if your mover lost or destroyed a 10-pound (4.54-kilogram) stereo component valued at $1000, your mover would be liable for no more than $6.00. Obviously, you should think carefully before agreeing to such an arrangement. There is no extra charge for this minimal protection, but you must sign a specific statement on the bill of lading agreeing to it.

Option 2: Full Value Protection (FVP)

Under this option, the mover is liable for the replacement value of lost or damaged goods (as long as it doesn't exceed the total declared value of the shipment). If you elect to purchase full value protection, when your mover loses, damages or destroys your articles, your mover must repair, replace with like items, or settle in cash at the current market replacement value, regardless of the age of the lost or damaged item. The minimum declared value of a shipment under this option is $5,000 or $4.00 times the actual total weight (in pounds) of the shipment, whichever is greater. For example, the minimum declared value for a 4,000-pound (1,814.4-kilogram) shipment would be $16,000. Your mover may offer you FVP with a $250 or $500 deductible, or with no deductible at all. The amount of the deductible will affect the cost of your FVP coverage. The $4.00 per pound minimum valuation rate may be increased annually by your mover based on changes in the household furnishings element of the Consumer Price Index established by the U.S. Department of Labor's Bureau of Labor Statistics.

Unless you specifically agree to other arrangements, the mover must assume liability for the entire shipment based upon this option. The approximate cost for FVP is $8.50 for each $1000 of declared value; however, it may vary by mover. In the example above, the valuation charge for a shipment valued at $16,000 would be $136.00. This fee may be adjusted annually by your mover based on changes in the household furnishings element of the Consumer Price Index.

Under these two options, movers are permitted to limit their liability for loss or damage to articles of extraordinary value, unless you specifically list these articles on the shipping documents. An article of extraordinary value is any item whose value exceeds $100 per pound ($220 per kilogram). Ask your mover for a complete explanation of this limitation before your move. It is your responsibility to study this provision carefully and to make the necessary declaration.

These optional levels of liability are not insurance agreements governed by State insurance laws, but instead are authorized under Released Rates Orders of the Surface Transportation Board of the U.S. Department of Transportation.

In addition to these options, some movers may also offer to sell, or procure for you, separate liability insurance from a third-party insurance company when you release your shipment for transportation at the minimum released value of 60 cents per pound ($1.32 per kilogram) per article (Option 1). This is not valuation coverage governed by Federal law, but optional insurance regulated under State law. If you purchase this separate coverage and your mover is responsible for loss or damage, the mover is liable only for an amount not exceeding 60 cents per pound ($1.32 per kilogram) per article, and the balance of the loss is recoverable from the insurance company up to the amount of insurance purchased. The mover's representative can advise you of the availability of such liability insurance and the cost.

If you purchase liability insurance from or through your mover, the mover is required to issue a policy or other written record of the purchase and to provide you with a copy of the policy or other document at the time of purchase. If the mover fails to comply with this requirement, the mover becomes fully liable for any claim for loss or damage attributed to its negligence.

What Actions by Me Limit or Reduce My Mover's Normal Liability?

Your actions may limit or reduce your mover's normal liability, under the following three circumstances:

(1) You include perishable, dangerous, or hazardous materials in your household goods without your mover's knowledge.

(2) You ship household goods valued at more than 60 cents per pound ($1.32 per kilogram) per article.

(3) You fail to notify your mover in writing of articles valued at more than $100 per pound ($220 per kilogram). (If you *do* notify your mover, you will be entitled to full recovery up to the declared value of the article or articles, not to exceed the declared value of the entire shipment.)

What Are Dangerous or Hazardous Materials That May Limit or Reduce My Mover's Normal Liability?

Federal law forbids you shipping hazardous materials in your household goods boxes or luggage without informing your mover. A violation can result in five years'

imprisonment and penalties of $250,000 or more (49 U.S.C. 5124). You may also lose or damage your household goods by fire, explosion, or contamination.

If you offer hazardous materials to your mover, you are considered a hazardous materials shipper and must comply with the hazardous material requirements in 49 CFR parts 171, 172, and 173, including, but not limited to package labeling and marking, shipping papers, and emergency response information. Your mover must comply with 49 CFR parts 171, 172, 173, and 177 as a hazardous materials carrier.

Hazardous materials include explosives, compressed gases, flammable liquids and solids, oxidizers, poisons, corrosives, and radioactive materials.

Examples: Nail polish remover, paints, paint thinners, lighter fluid, gasoline, fireworks, oxygen bottles, propane cylinders, automotive repair and maintenance chemicals, and radio-pharmaceuticals.

There are special exceptions for small quantities (up to 70 ounces total) of medicinal and toilet articles carried in your household goods and certain smoking materials carried on your person. For further information contact your mover.

May My Mover Have Agents?

Yes, your mover may have agents. If your mover has agents, your mover must have written agreements with its prime agents. Your mover and its retained prime agent must sign their agreements. Copies of your mover's prime agent agreements must be in its files for a period of at least 24 months following the date of termination of each agreement.

What Items Must Be in My Mover's Advertisements?

Your mover must publish and use only truthful, straightforward, and honest advertisements. Your mover must include certain information in all advertisements for all services (including any accessorial services incidental to or part of interstate transportation). Your mover must require each of its agents to include the same information in their advertisements. The information must include the following two pieces of information about your mover:

(1) Name or trade name of the mover, under whose U.S. DOT number the advertised service will originate.

(2) U.S. DOT number, assigned by the FMCSA authorizing your mover to operate. Your mover must display the information as: USDOT No. (assigned number).

You should compare the name or trade name of the mover and its U.S. DOT number to the name and USDOT number on the sides of the truck(s) that arrive at your residence. The names and numbers should be identical. If the names and numbers are not identical, you should ask your mover immediately why the names and numbers are not identical. You should not allow the mover to load your household goods on its truck(s) until you obtain a satisfactory response from the mover's local agent. The discrepancies may warn of problems you will have later in your business dealings with this mover.

How Must My Mover Handle Complaints and Inquiries?

All movers are expected to respond promptly to complaints or inquiries from you, the customer. Should you have a complaint or question about your move, you should first attempt to obtain a satisfactory response from the mover's local agent, the sales representative who handled the arrangements for your move, or the driver assigned to your shipment.

If for any reason you are unable to obtain a satisfactory response from one of these persons, you should then contact the mover's principal office. When you make such a call, be sure to have available your copies of all the documents relating to your move. *Particularly important is the number assigned to your shipment by your mover.*

Interstate movers are also required to offer neutral arbitration as a means of resolving consumer loss or damage disputes involving loss of, or damage to, household goods. Your mover is required to provide you with information regarding its arbitration program. You have the right to pursue court action under 49 U.S.C. 14704 to seek judicial redress directly and to not participate in your mover's arbitration program.

All interstate moving companies are required to maintain a complaint and inquiry procedure to assist their customers. At the time you make the arrangements for your move, you should ask the mover's representative for a description of the mover's procedure, the telephone number to be used to contact the mover, and whether the mover will pay for such telephone calls. Your mover's procedure must include the following four things:

(1) A communications system allowing you to communicate with your mover's principal place of business by telephone.

(2) A telephone number.

(3) A clear and concise statement about who must pay for complaint and inquiry telephone calls.

(4) A written or electronic record system for recording all inquiries and complaints received from you by any means of communication.

Your mover must give you a clear and concise written description of its procedure. You may want to test the system to see how it works for you.

Do I Have the Right To Inspect My Mover's Tariffs (Schedules of Charges) Applicable to My Move?

Federal law requires your mover to advise you of your right to inspect your mover's tariffs (its schedules of rates or charges) governing your shipment. Mover tariffs are made a part of the contract of carriage (bill of lading) between you and the mover. You may inspect the tariff at the mover's facility, or, upon request, the mover will furnish you a free copy of any tariff provision containing the mover's rates, rules, or charges governing your shipment.

Tariffs may include provisions limiting the mover's liability. This would generally be described in a section on declaring value on the bill of lading. A second tariff provision may set the periods for filing claims. This would generally be described in Section 6 on the reverse side of a bill of lading. A third tariff provision may reserve your mover's right to assess additional charges for additional services performed. For non-binding estimates, another tariff provision may base charges upon the exact weight of the goods transported. Your mover's tariff may contain other provisions that apply to your move. Ask your mover what they might be.

Must My Mover Have an Arbitration Program?

Your mover must have an arbitration program for your use in resolving disputes concerning loss or damage to your household goods. You have the right not to participate in the arbitration program. You may pursue court action under 49 U.S.C. 14704 to seek judicial remedies directly. Your mover must establish and maintain an arbitration program with the following eleven minimum elements:

(1) The arbitration program offered to you must prevent your mover from having any special advantage, because you live or work in a place distant from the mover's principal or other place of business.

(2) Before your household goods are tendered for transport, your mover must provide notice to you of the availability of neutral arbitration, including the following three things.

(a) A summary of the arbitration procedure.

(b) Any applicable costs.

(c) A disclosure of the legal effects of electing to use arbitration.

(3) Upon your request, your mover must provide information and forms it considers necessary for initiating an action to resolve a dispute under arbitration.

(4) Each person authorized to arbitrate must be independent of the parties to the dispute and capable of resolving such disputes fairly and expeditiously. Your mover must ensure the arbitrator is authorized and able to obtain from you or your mover any material or relevant information to carry out a fair and expeditious decision making process.

(5) You must not be required to pay more than one-half of the arbitration's cost. The arbitrator may determine the percentage of payment of the costs for each party in the arbitration decision, but may not make you pay more than half.

(6) Your mover must not require you to agree to use arbitration before a dispute arises.

(7) You will be bound by arbitration for claims of $5,000 or less, if you request arbitration.

(8) You will be bound by arbitration for claims of more than $5,000, only if you request arbitration and your mover agrees to it.

(9) If you and your mover both agree, the arbitrator may provide for an oral presentation of a dispute by a party or representative of a party.

(10) The arbitrator must render a decision within 60 days of receipt of written notification of the dispute, and a decision by an arbitrator may include any remedies appropriate under the circumstances.

(11) The 60-day period may be extended for a reasonable period if you or your mover

fail to provide information in a timely manner.

Your mover must produce and distribute a concise, easy-to-read, accurate summary of its arbitration program.

Must My Mover Inform Me About My Rights and Responsibilities Under Federal Law?

Yes, your mover must inform you about your rights and responsibilities under Federal law. Your mover must produce and distribute this document. It should be in the general order and contain the text of appendix A to 49 CFR part 375.

What Other Information Must My Mover Provide to Me?

Before your mover executes an order for service for a shipment of household goods, your mover must furnish to you the following four documents:

(1) The contents of appendix A, ''Your Rights and Responsibilities When You Move,'' this pamphlet.

(2) A concise, easy-to-read, accurate summary of your mover's arbitration program.

(3) A notice of the availability of the applicable sections of your mover's tariff for the estimate of charges, including an explanation that you may examine the tariff sections or have copies sent to you upon request.

(4) A concise, easy to read, accurate summary of your mover's customer complaint and inquiry handling procedures. Included in this summary must be the following two items:

(a) The main telephone number you may use to communicate with your mover.

(b) A clear and concise statement concerning who must pay for telephone calls.

Your mover may, at its discretion, provide additional information to you.

How Must My Mover Collect Charges?

Your mover must issue you an honest, truthful freight or expense bill for each shipment transported. Your mover's freight or expense bill must contain the following 19 items:

(1) Name of the consignor.

(2) Name of the consignees.

(3) Date of the shipment.

(4) Origin point.

(5) Destination points.

(6) Number of packages.

(7) Description of the freight.

(8) Weight of the freight (if applicable to the rating of the freight).

(9) The volume of the freight (if applicable to the rating of the freight).

(10) The measurement of the freight (if applicable to the rating of the freight).

(11) Exact rate(s) assessed.

(12) Disclose the actual rates, charges, and allowances for the transportation service, when your mover electronically presents or transmits freight or expense bills to you. These rates must be in accordance with the mover's applicable tariff.

(13) Indicate whether adjustments may apply to the bill.

(14) Total charges due and acceptable methods of payment.

(15) The nature and amount of any special service charges.

(16) The points where special services were rendered.

(17) Route of movement and name of each mover participating in the transportation.

(18) Transfer points where shipments moved.

(19) Address where you must pay or address of bill issuer's principal place of business.

Your mover must present its freight or expense bill to you within 15 days of the date of delivery of a shipment at its destination. The computation of time excludes Saturdays, Sundays, and Federal holidays.

If your mover lacks sufficient information to compute its charges, your mover must present its freight bill for payment within 15 days of the date when sufficient information does become available.

May My Mover Collect Charges Upon Delivery?

Yes. Your mover must specify the form of payment acceptable at delivery when the mover prepares an estimate and order for service. The mover and its agents must honor the form of payment at delivery, except when you mutually agree to a change in writing. The mover must also specify the same form of payment when it prepares your bill of lading, unless you agree to a change. See also ''May my mover accept charge or credit cards for my payments?''

You must prepare yourself to pay 10 percent more than the estimated amount, if your goods are moving under a non-binding estimate. Every collect-on-delivery shipper must have available 110 percent of the estimate at the time of delivery.

May My Mover Extend Credit to Me?

Extending credit to you is not the same as accepting your charge or credit card(s) as payment. Your mover may relinquish possession of freight before you pay its tariff charges, at its discretion. Your mover may extend credit to you in the amount of the tariff charges. Your mover must ensure you will pay its tariff charges within the credit period. If your mover extends credit to you, your mover becomes like a bank offering you a line of credit, whose size and interest rate are determined by your ability to pay its tariff charges within the credit period.

The credit period must begin on the day following presentation of your mover's freight bill to you. Under Federal regulation, the standard credit period is 15 days, including Saturdays, Sundays, and Federal holidays, except your mover may establish its own standard credit period of up to 30 calendar days. Your mover may also establish a service charge for extending credit, including a minimum service charge. Your mover's service charge only applies when your payments are made after its established standard credit period. For example, if your mover's established standard credit period is less than the maximum 30-calendar-day period, your mover may extend credit including a service charge for the additional time up to the maximum 30-calendar-day period. If your mover extends such credit, you may elect to postpone payment, including the service charge until the end of the extended credit period.

Your mover may establish additional service charges for payments made after the expiration of the 30-calendar-day period. If your mover establishes additional service charges, your mover must begin to compute service charges on the day following the last day of its standard credit period. If your mover establishes service charges, your mover must notify you about the following three things:

(1) The only purpose of the service charge is to prevent you from having free use of the mover's funds.

(2) The service charge encourages your prompt payment.

(3) Your failure to pay within the credit period will require your mover to determine whether you will comply with the Federal-household-goods-transportation credit regulations in good faith in the future before extending credit again.

May My Mover Accept Charge or Credit Cards for My Payments?

Your mover may allow you to use a charge or credit card for payment of the freight charges. Your mover may accept charge or credit cards whenever you ship with it under an agreement and tariff requiring payment by cash or cash equivalents. Cash equivalents are a certified check, money order, or a cashier's check (a check drawn by a financial institution—bank, credit union, savings & loan, etc.—upon itself and signed by an officer of the financial institution).

If your mover allows you to pay for a freight or expense bill by charge or credit card, your mover deems such a payment to be equivalent to payment by cash, certified check, or a cashier's check. It must note in writing on the order for service and the bill of lading whether you may pay for the transportation and related services using a charge or credit card. You should ask your mover at the time the estimate is written whether it will accept charge or credit cards at delivery.

The mover must specify what charge or credit cards it will accept, such as American Express™, Discover™, MasterCard ™, or Visa™. The mover must arrange with you for delivery during the time when the mover's credit or collection department is open so the mover may seek approval of the payment by the card issuer. The mover does not have to make these delivery arrangements with you when it has equipped its motor vehicle(s) with card transaction processing machines.

If you cause a charge or credit card issuer to reverse a transaction, your mover may consider your action tantamount to forcing your mover to provide an involuntary extension of its credit.

Subpart C—Service Options Provided

What Service Options May My Mover Provide?

Your mover may provide any service options it chooses. It is customary for movers to offer several price and service options.

The total cost of your move may increase if you want additional or special services. Before you agree to have your shipment moved under a bill of lading providing special service, you should have a clear understanding with your mover what the

additional cost will be. You should always consider whether other movers may provide the services you require without requiring you to pay the additional charges.

One service option is a *Space Reservation.* If you agree to have your shipment transported under a space reservation agreement, you will pay for a minimum number of cubic feet of space in the moving van regardless of how much space in the van your shipment actually occupies.

A second option is *Expedited Service.* This aids you if you must have your shipments transported on or between specific dates when the mover could not ordinarily agree to do so in its normal operations.

A third customary service option is *Exclusive Use of a Vehicle.* If for any reason you desire or require your shipment be moved by itself on the mover's truck or trailer, most movers will provide such service.

Another service option is *Guaranteed Service on or Between Agreed Dates.* You enter into an agreement with the mover where the mover provides for your shipment to be picked up, transported to destination, and delivered on specific guaranteed dates. If the mover fails to provide the service as agreed, you are entitled to be compensated at a predetermined amount or a daily rate (per diem) regardless of the expense you actually might have incurred as a result of the mover's failure to perform.

Before requesting or agreeing to any of these price and service options, be sure to ask the mover's representatives about the final costs you will pay.

Transport of Shipments on Two or More Vehicles

Although all movers try to move each shipment on one truck, it becomes necessary, at times, to divide a shipment among two or more trucks. This may occur if your mover has underestimated the cubic meters of space required for your shipment and it will not all fit on the first truck. Your mover will pick up the remainder or ''leave behind'' on a second truck at a later time and this part of your shipment may arrive at the destination at a later time than the first truck. When this occurs, your transportation charges will be determined as if the entire shipment moved on one truck.

If it is important for you to avoid this inconvenience of a ''leave behind,'' be sure your estimate includes an accurate calculation of the cubic meters required for your shipment. Ask your estimator to use a ''Table of Measurements'' form in making this calculation. Consider asking for a binding estimate. A binding estimate is more likely to be conservative with regard to cubic meters than a non-binding estimate. If the mover offers space reservation service, consider purchasing this service for the necessary amount of space plus some margin for error. In any case, you would be prudent to ''prioritize'' your goods in advance of the move so the driver will load the more essential items on the first truck if some are left behind.

If My Mover Sells Liability Insurance Coverage, What Must My Mover Do?

If your mover provides the service of selling additional liability insurance, your mover must follow certain regulations.

Your mover, its employees, or its agents, may sell, offer to sell, or procure additional liability insurance coverage for you for loss or damage to your shipment, if you release the shipment for transportation at a value not exceeding 60 cents per pound ($1.32 per kilogram) per article.

Your mover may offer, sell, or procure any type of insurance policy covering loss or damage in excess of its specified liability.

Your mover must issue you a policy or other appropriate evidence of the insurance you purchased. Your mover must provide a copy of the policy or other appropriate evidence to you at the time your mover sells or procures the insurance. Your mover must issue policies written in plain English.

Your mover must clearly specify the nature and extent of coverage under the policy. Your mover's failure to issue you a policy, or other appropriate evidence of insurance you purchased, will subject your mover to full liability for any claims to recover loss or damage attributed to it.

Your mover must provide in its tariffs for the provision of liability insurance coverage. The tariff must also provide for the base transportation charge, including its assumption for full liability for the value of the shipment. This would be in the event your mover fails to issue you a policy or other appropriate evidence of insurance at the time of purchase.

Subpart D—Estimating Charges

Must My Mover Estimate the Transportation and Accessorial Charges for My Move?

We require your mover to prepare a written estimate on every shipment transported for you. You are entitled to a copy of the written estimate when your mover prepares it. Your mover must provide you a written estimate of all charges, including transportation, accessorial, and advance charges. Your mover's ''rate quote'' is not an estimate. You and your mover must sign the estimate of charges. Your mover must provide you with a dated copy of the estimate of charges at the time you sign the estimate.

You should be aware that if you receive an estimate from a household goods broker, the mover is not required to accept the estimate. Be sure to obtain a written estimate from the mover if a mover tells you orally that it will accept the broker's estimate.

Your mover must specify the form of payment it and its delivering 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 mover's own credit.

If your mover provides you with an estimate based on volume that will later be converted to a weight-based rate, the mover must provide you an explanation in writing of the formula used to calculate the conversion to weight. Your mover must specify that the final charges will be based on actual weight and services. Before loading your household goods, and upon mutual agreement of both you and your mover, your mover may amend an estimate of charges. Your mover may not amend the estimate after loading the shipment.

A *binding estimate* is an agreement made in advance with your mover. It guarantees the total cost of the move based upon the quantities and services shown on your mover's estimate.

A *non-binding estimate* is what your mover believes the total cost will be for the move, based upon the estimated weight of the shipment and the accessorial services requested. A non-binding estimate is not binding on your mover. Your mover will base the final charges upon the actual weight of your shipment, the services provided, and its tariff provisions in effect. You must prepare yourself to pay 10 percent more than the estimated amount at delivery.

How Must My Mover Estimate Charges Under the Regulations?

Binding estimates. Your mover may charge you for providing a binding estimate. The binding estimate must clearly describe the shipment and all services provided.

When you receive a binding estimate, you cannot be required to pay any more than the estimated amount at delivery. If you have requested the mover provide more services than those included in the estimate, the mover may not demand full payment for those added services at time of delivery. Instead he must bill for those services later, as explained below. Such services might include destination charges often not known at origin (*i.e.,* long carry charges, shuttle charges, or extra stair carry charges).

A binding estimate must be in writing and a copy must be made available to you before you move.

If you agree to a binding estimate, you are responsible for paying the charges due by cash, certified check, money order, or a cashier's check. The charges are due your mover at the time of delivery unless your mover agrees, before you move, to extend credit or to accept payment by a specific charge card such as American Express™ or a specific credit card such as Visa™. If you are unable to pay at the time the shipment is delivered, the mover may place your shipment in storage at your expense until you pay the charges.

Other requirements of binding estimates include the following eight elements:

(1) Your mover must retain a copy of each binding estimate as an attachment to the bill of lading.

(2) Your mover must clearly indicate upon each binding estimate's face the estimate is binding upon you and your mover. Each binding estimate must also clearly indicate on its face the charges shown are the charges to be assessed for only those services specifically identified in the estimate.

(3) Your mover must clearly describe binding estimate shipments and all services to be provided.

(4) If, before loading your shipment, your mover believes you are tendering additional household goods or are requiring additional services not identified in the binding

estimate, and you and your mover cannot reach an agreement, your mover may refuse to service the shipment. If your mover agrees to service the shipment, your mover must do one of the following three things:

(a) Reaffirm the binding estimate.

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

(c) Add an attachment to the contract, in writing, stating both of you will consider the original binding estimate as a non-binding estimate. You should read more below. This may seriously affect how much you may pay for the entire move.

(5) Once your mover loads your shipment, your mover's failure to execute a new binding estimate or to agree with you to treat the original estimate as a non-binding estimate signifies it has reaffirmed the original binding estimate. Your mover may not collect more than the amount of the original binding estimate, except as provided in the next two paragraphs.

(6) Your mover may believe additional services are necessary to properly service your shipment after your household goods are in-transit. Your mover must inform you what the additional services are before performing those services. Your mover must allow you at least one hour to determine whether you want the additional services performed. Such additional services include carrying your furniture up additional stairs or using an elevator. If these services do not appear on your mover's estimate, your mover must deliver your shipment and bill you later for the additional services.

If you agree to pay for the additional services, your mover must execute a written attachment to be made an integral part of the bill of lading and have you sign the written attachment. This may be done through fax transmissions. You will be billed for the additional services 30 days following the date of delivery.

(7) If you add additional services after your household goods are in-transit, you will be billed for the additional services, but will only be expected to pay the full amount of the binding estimate to receive delivery. Thirty days after delivery, your mover must bill you for the balance of any remaining charges. For example, if your binding estimate shows total charges at delivery should be $1,000, but your actual charges at destination are $1,500, your mover must deliver the shipment upon payment of $1,000. The mover must bill you for the remaining $500 after 30 days after delivery.

(8) Failure of your mover to relinquish possession of a shipment upon your offer to pay the binding estimate amount constitutes your mover's failure to transport a shipment with ''reasonable dispatch'' and subjects your mover to cargo delay claims pursuant to 49 CFR part 370.

Non-Binding Estimates

Your mover is not permitted to charge you for giving a non-binding estimate.

A non-binding estimate is not a bid or contract. Your mover provides it to you to give you a general idea of the cost of the move, but it does not bind your mover to the estimated cost. You should expect the final cost to be more than the estimate. The actual cost will be in accordance with your mover's tariffs. Federal law requires your mover to collect the charges shown in its tariffs, regardless of what your mover writes in its non-binding estimates. This is why it is important to ask for copies of the mover's tariffs before deciding on a mover. The charges contained in mover's tariffs are essentially the same for the same weight shipment moving the same distance. If you obtain differing non-binding estimates from different movers, you must pay only the amount specified in your mover's tariff. Therefore, a non-binding estimate may have no effect on the amount that you will ultimately have to pay.

You must prepare yourself to pay 10 percent more than the estimated amount at the time of delivery. Every collect-on-delivery shipper must have available 110 percent of the estimate at the time of delivery. If you order additional services from your mover after your goods are in transit, the mover will then bill you 30 days after delivery for any remaining charges.

Non-binding estimates must be in writing and clearly describe the shipment and all services provided. Any time a mover provides such an estimate, the amount of the charges estimated must be on the order for service and bill of lading relating to your shipment. When you are given a non-binding estimate, do not sign or accept the order for service or bill of lading unless the amount estimated is entered on each form when prepared by the mover.

Other requirements of non-binding estimates include the following nine elements:

(1) Your mover must provide reasonably accurate non-binding estimates based upon the estimated weight of the shipment and services required.

(2) Your mover must explain to you that all charges on shipments moved upon non-binding estimates will be those appearing in your mover's tariffs applicable to the transportation. If your mover provides a non-binding estimate of approximate costs, your mover is not bound by such an estimate.

(3) Your mover must furnish non-binding estimates without charge and in writing to you.

(4) Your mover must retain a copy of each non-binding estimate as an attachment to the bill of lading.

(5) Your mover must clearly indicate on the face of a non-binding estimate, the estimate is not binding upon your mover and the charges shown are the approximate charges to be assessed for the services identified in the estimate.

(6) Your mover must clearly describe on the face of a non-binding estimate the entire shipment and all services to be provided.

(7) If, before loading your shipment, your mover believes you are tendering additional household goods or are requiring additional services not identified in the non-binding estimate, and you and your mover cannot reach an agreement, your mover may refuse to service the shipment. If your mover agrees to service the shipment, your mover must do one of the following two things:

(a) Reaffirm the non-binding estimate.

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

(8) Once your mover loads your shipment, your mover's failure to execute a new estimate signifies it has reaffirmed the original non-binding estimate. Your mover may not collect more than 110 percent of the amount of this estimate at destination.

(9) Your mover may believe additional services are necessary to properly service your shipment after your household goods are in-transit. Your mover must inform you what the additional services are before performing those services. Your mover must allow you at least one hour to determine whether you want the additional services performed. Such additional services include carrying your furniture up additional stairs or using an elevator. If these services do not appear on your mover's estimate, your mover must deliver your shipment and bill you later for the additional services.

If you agree to pay for the additional services, your mover must execute a written attachment to be made an integral part of the bill of lading and have you sign the written attachment. This may be done through fax transmissions. You will be billed for the additional services after 30 days after delivery.

(10) If you add additional services after your household goods are in-transit, you will be billed for the additional services, but will only be expected to pay no more than 110 percent of the non-binding estimate to receive delivery. Thirty days after delivery, your mover must bill you for the balance of any remaining charges. For example, if your non-binding estimate shows total charges at delivery should be $1,000, but your actual charges at destination are $1,500, your mover must deliver the shipment upon payment of $1,100. The mover must bill you for the remaining $400 after 30 days after delivery.

If your mover furnishes a non-binding estimate, your mover must enter the estimated charges upon the order for service and upon the bill of lading.

Your mover must retain a record of all estimates of charges for each move performed for at least one year from the date your mover made the estimate.

What Payment Arrangements Must My Mover Have in Place To Secure Delivery of My Household Goods Shipment?

If your total bill is 110 percent of the non-binding estimate or less, the mover can require payment in full upon delivery. If the bill exceeds 110 percent of the non-binding estimate, your mover must relinquish possession of the shipment at the time of delivery upon payment of 110 percent of the estimated amount. Your mover should have specified its acceptable form of payment on the estimate, order for service, and bill of lading. Your mover's failure to relinquish possession of a shipment after you offer to pay 110 percent of the estimated charges constitutes its failure to transport the shipment with ''reasonable dispatch'' and subjects your mover to your cargo delay claims under 49 CFR part 370.

Your mover must bill for the payment of the balance of any remaining charges after 30 days after delivery.

Subpart E—Pickup of My Shipment of Household Goods

Must My Mover Write Up an Order for Service?

We require your mover to prepare an order for service on every shipment transported for you. You are entitled to a copy of the order for service when your mover prepares it.

The order for service is not a contract. Should you cancel or delay your move or if you decide not to use the mover, you should promptly cancel the order.

If you or your mover change any agreed dates for pick up or delivery of your shipment, or agree to any change in the non-binding estimate, your mover may prepare a written change to the order for service. The written change must be attached to the order for service.

The order for service must contain the following fifteen elements:

(1) Your mover's name and address and the U.S. DOT number assigned to your mover.

(2) Your name, address and, if available, your telephone number(s).

(3) The name, address, and telephone number of the delivering mover's office or agent located at or nearest to the destination of your shipment.

(4) A telephone number where you may contact your mover or its designated agent.

(5) One of the following three dates and times:

(a) The agreed pickup date and agreed delivery date of your move.

(b) The agreed period(s) of the entire move.

(c) If your mover is transporting the shipment on a guaranteed service basis, the guaranteed dates or periods of time for pickup, transportation, and delivery. Your mover must enter any penalty or per diem requirements upon the agreement under this item.

(6) The names and addresses of any other motor carriers, when known, who will participate in interline transportation of the shipment.

(7) The form of payment your mover will honor at delivery. The payment information must be the same that was entered on the estimate.

(8) The terms and conditions for payment of the total charges, including notice of any minimum charges.

(9) The maximum amount your mover will demand at the time of delivery to obtain possession of the shipment, when transported on a collect-on-delivery basis.

(10) The Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage. The STB's required released rates may be increased annually by your mover based on the Department of Commerce's Cost of Living Adjustment.

(11) A complete description of any special or accessorial services ordered and minimum weight or volume charges applicable to the shipment.

(12) Any identification or registration number your mover assigns to the shipment.

(13) For non-binding estimated charges, your mover's reasonably accurate estimate of the amount of the charges, the method of payment of total charges, and the maximum amount (110 percent of the non-binding estimate) your mover will demand at the time of delivery for you to obtain possession of the shipment.

(14) For binding estimated charges, the amount of charges your mover will demand based upon the binding estimate and the terms of payment under the estimate.

(15) An indication of whether you request notification of the charges before delivery. You must provide your mover with the telephone number(s) or address(es) where your mover will transmit such communications.

You and your mover must sign the order for service. Your mover must provide a dated copy of the order for service to you at the time your mover signs the order. Your mover must provide you the opportunity to rescind the order for service without any penalty for a three-day period after you sign the order for service, if you scheduled the shipment to be loaded more than three days after you sign the order.

Your mover may provide you with blank or incomplete estimates, orders for service, bills of lading, or any other blank or incomplete documents pertaining to the move for informational purposes. However, your mover is forbidden from requiring you to sign any blank or incomplete estimates, orders for service, bills of lading, or any other blank or incomplete documents pertaining to the move.

Before loading your shipment, and upon mutual agreement of both you and your mover, your mover may amend an order for service. Your mover must retain records of an order for service it transported for at least one year from the date your mover wrote the order.

Your mover must inform you if the mover reasonably expects a special or accessorial service is necessary to safely transport a shipment. Your mover must refuse to accept the shipment when your mover reasonably expects a special or accessorial service is necessary to safely transport a shipment and you refuse to purchase the special or accessorial service. Your must make a written note if you refuse any special or accessorial services that your move reasonably expects to be necessary.

Must My Mover Write Up an Inventory of the Shipment?

Yes. Your mover must prepare an inventory of your shipment before loading. If your mover's driver fails to prepare an inventory, you should write a detailed inventory of your shipment listing any damage or unusual wear to any items. The purpose is to make a record of the existence and condition of each item.

After completing the inventory, you should sign each page and ask the mover's driver to sign each page. Before you sign it, it is important you make sure the inventory lists every item in the shipment and the entries regarding the condition of each item are correct. You have the right to note any disagreement. When your mover delivers the shipment, if an item is missing or damaged, your ability to dispute the items lost or damaged may depend upon your notations.

You should retain a copy of the inventory. Your mover may keep the original if the driver prepared it. If your mover's driver completed an inventory, the mover must attach the complete inventory to the bill of lading as an integral part of the bill of lading.

Must My Mover Write Up a Bill of Lading?

The bill of lading is the *contract* between you and the mover. The mover is required by law to prepare a bill of lading for every shipment it transports. *The information on a bill of lading is required to be the same information shown on the order for service.* The driver who loads your shipment must give you a copy of the bill of lading before loading your furniture and other household goods.

It is your responsibility to read the bill of lading before you accept it. It is your responsibility to understand the bill of lading before you sign it. If you do not agree with something on the bill of lading, do not sign it until you are satisfied it is correct.

The bill of lading requires the mover to provide the service you have requested. You must pay the charges set forth in the bill of lading.

The bill of lading is an important document. Do not lose or misplace your copy. Have it available until your shipment is delivered, all charges are paid, and all claims, if any, are settled.

A bill of lading must include the following 14 elements:

(1) Your mover's name and address, or the name and address of the motor carrier issuing the bill of lading.

(2) The names and addresses of any other motor carriers, when known, who will participate in the transportation of the shipment.

(3) The name, address, and telephone number of the office of the motor carrier you must contact in relation to the transportation of the shipment.

(4) The form of payment your mover will honor at delivery. The payment information must be the same that was entered on the estimate and order for service.

(5) When your mover transports your shipment under a collect-on-delivery basis, your name, address, and telephone number where the mover will notify you about the charges.

(6) *For non-guaranteed service,* the agreed date or period of time for pickup of the shipment and the agreed date or period of time for the delivery of the shipment. The agreed dates or periods for pickup and delivery entered upon the bill of lading must conform to the agreed dates or periods of time for pickup and delivery entered upon the order for service or a proper amendment to the order for service.

(7) For *guaranteed service,* the dates for pickup and delivery and any penalty or per diem entitlements due you under the agreement.

(8) The actual date of pickup.

(9) The identification number(s) of the vehicle(s) in which your mover loads your shipment.

(10) The terms and conditions for payment of the total charges including notice of any minimum charges.

(11) The maximum amount your mover will demand from you at the time of delivery

for you to obtain possession of your shipment, when your mover transports under a collect-on-delivery basis.

(12) The Surface Transportation Board's required released rates valuation statement, and the charges, if any, for optional valuation coverage. The STB's required released rates may be increased annually by your mover based on the Department of Commerce's Cost of Living Adjustment.

(13) Evidence of any insurance coverage sold to or procured for you from an independent insurer, including the amount of the premium for such insurance.

(14) Each attachment to the bill of lading. Each attachment is an integral part of the bill of lading contract. The following three items must be added as attachments:

(i) The binding or non-binding estimate.

(ii) The order for service.

(iii) The inventory.

A copy of the bill of lading must accompany your shipment at all times while in the possession of your mover or its agent(s). When your mover loads the shipment upon a vehicle for transportation, the bill of lading must be in the possession of the driver responsible for the shipment. Your mover must retain bills of lading for shipments it transported for at least one year from the date your mover created the bill of lading.

Should I Reach an Agreement With My Mover About Pickup and Delivery Times?

You and your mover should reach an agreement for pickup and delivery times. It is your responsibility to determine on what date, or between what dates, you need to have the shipment picked up and on what date, or between what dates, you require delivery. It is your mover's responsibility to tell you if it can provide service on or between those dates, or, if not, on what other dates it can provide the service.

In the process of reaching an agreement with your mover, you may find it necessary to alter your moving and travel plans if no mover can provide service on the specific dates you desire.

Do not agree to have your shipment picked up or delivered ''as soon as possible.'' The dates or periods you and your mover agree upon should be definite.

Once an agreement is reached, your mover must enter those dates upon the order for service and upon the bill of lading.

Once your goods are loaded, your mover is contractually bound to provide the service described in the bill of lading. Your mover's only defense for not providing the service on the dates called for is the ''Defense of Force Majeure.'' This is a legal term. It means when circumstances change, were not foreseen, and are beyond the control of your mover, preventing your mover from performing the service agreed to in the bill of lading, your mover is not responsible for damages resulting from its non-performance.

This may occur when you do not inform your mover of the exact delivery requirements. For example, because of restrictions trucks must follow in your new city, the mover may not be able to take its truck down the street of your residence and must find helpers to provide long carries to carry your furniture and other household goods down a street where it can drive and park its trucks. Another example would be if your mover is not aware that your new residence is on the third floor, requiring six flight stair carries and workmen that can carry your furniture and household goods up stairs.

Must My Mover Determine the Weight of My Shipment?

Generally yes. If your mover transports your household goods on a non-binding estimate under the mover's tariffs based upon weight, your mover must determine the weight of the shipment. If your mover provided a binding estimate and has loaded your shipment without claiming you have added additional items or services, the weight of the shipment will not affect the charges you will pay. If your mover is transporting your shipment based upon the volume of the shipment (*i.e.*, a set number of cubic yards or meters), the weight of the shipment will also not affect the charges you will pay.

Your mover must determine the weight of your shipment before requesting you pay for any charges dependent upon your shipment's weight.

Most movers usually have a minimum weight or volume charge for transporting a shipment. Usually the minimum is the charge for transporting a shipment of at least 3,000 pounds (1,362 kilograms).

If your shipment appears to weigh less than the mover's minimum weight, your mover must advise you on the order for service of the minimum cost before transporting your shipment. Should your mover fail to advise you of the minimum charges and your shipment is less than the minimum weight, your mover must base your final charges upon the actual weight instead of the minimum weight.

How Must My Mover Determine the Weight of My Shipment?

Your mover must weigh your shipment upon a certified scale.

The weight of your shipment must be obtained by using one of two methods.

Origin weighing—Your mover may weigh your shipment in the city or area where it loads your shipment. If it elects this option, the driver must weigh the truck before coming to your residence. This is called the *tare weight.* At the time of this first weighing, the truck may already be partially loaded with one or more other shipments. This will not affect the weight of your shipment. The truck should also contain the pads, dollies, hand-trucks, ramps, and other equipment normally used in the transportation of household goods shipments.

After loading, the driver will weigh the truck again to obtain the loaded weight, called the *gross weight.* The net weight of your shipment is then obtained by subtracting the *tare weight* before loading from the *gross weight.*

Gross weight − tare weight before loading=net weight

Destination weighing (Also called *back weighing*)—The mover is also permitted to determine the weight of your shipment at the destination after it delivers your load. The fact your mover weighs your shipment at the destination instead of the origin will not affect the accuracy of the weight of your shipment. *The most important difference is your mover will not determine the exact charges on your shipment before it is unloaded.*

Destination weighing is done in reverse of origin weighing. After arriving in the city or area where you are moving, the driver will weigh the truck. Your shipment will still be on the truck. Your mover will determine the *gross weight* before coming to your new residence to unload. After unloading your shipment, the driver will again weigh the truck to obtain the tare weight. The net weight of your shipment will then be obtained by subtracting the *tare weight* after delivery from the *gross weight.*

Gross weight − tare weight after delivery=net weight

At the time of both weighings, your mover's truck must have installed or loaded all pads, dollies, hand trucks, ramps, and other equipment required in the transportation of your shipment. The driver and other persons must be off the vehicle at the time of both weighings. The fuel tanks on the vehicle must be full at the time of each weighing. In lieu of this requirement, your mover must not add fuel between the two weighings when the tare weighing is the first weighing performed.

Your mover may detach the trailer of a tractor-trailer vehicle combination from the tractor and have the trailer weighed separately at each weighing provided the length of the scale platform is adequate to accommodate and support the entire trailer at one time.

Your mover may use an alternative method to weigh your shipment if it weighs 3,000 pounds or less (1,362 kilograms or less). The only alternative method allowed is weighing the shipment upon a platform or warehouse certified scale before loading your shipment for transportation or after unloading.

Your mover must use the net weight of shipments transported in large containers, such as ocean or railroad containers. Your mover will calculate the difference between the tare weight of the container (including all pads, blocking and bracing used in the transportation of your shipment) and the gross weight of the container with your shipment loaded in the container.

You have the right, and your mover must inform you of your right, to observe all weighings of your shipment. Your mover must tell you where and when each weighing will occur. Your mover must give you a reasonable opportunity to be present to observe the weighings.

You may waive your right to observe any weighing or re-weighing. This does not affect any of your other rights you have under Federal law.

Your mover may request you waive your right to have a shipment weighed upon a certified scale. Your mover may want to weigh the shipment upon a trailer's on-board non-certified scale. You should demand your right to have a certified scale used. The use of a non-certified scale may cause you to pay a higher final bill for your move, if the non-

certified scale does not accurately weigh your shipment. Remember, certified scales are inspected and approved for accuracy by a government inspection or licensing agency. Non-certified scales are not inspected and approved for accuracy by a government inspection or licensing agency.

Your mover must obtain a separate weight ticket for each weighing. The weigh master must sign each weight ticket. Each weight ticket must contain the following six items:

(1) The complete name and location of the scale.

(2) The date of each weighing.

(3) Identification of the weight entries as being the tare, gross, or net weights.

(4) The company or mover identification of the vehicle.

(5) Your last name as it appears on the Bill of Lading.

(6) Your mover's shipment registration or Bill of Lading number.

Your mover must retain the original weight ticket or tickets relating to the determination of the weight of your shipment as part of its file on your shipment.

When both weighings are performed on the same scale, one weight ticket may be used to record both weighings.

Your mover must present all freight bills with true copies of all weight tickets. If your mover does not present its freight bill with all weight tickets, your mover is in violation of Federal law.

Before the driver actually begins unloading your shipment weighed at origin and after your mover informs you of the billing weight and total charges, you have the right to demand a re-weigh of your shipment. If you believe the weight is not accurate, you have the right to request your mover re-weigh your shipment before unloading.

You have the right, and your mover must inform you of your right, to observe all re-weighings of your shipment. Your mover must tell you where and when each re-weighing will occur. Your mover must give you a reasonable opportunity to be present to observe the re-weighings.

You may waive your right to observe any re-weighing, however, you must waive that right in writing. You may send the written waiver via fax, e-mail, or any other electronic means. This does not affect any of your other rights you have under Federal law.

Your mover is prohibited from charging you for the re-weighing. If the weight of your shipment at the time of the re-weigh is different from the weight determined at origin, the mover must recompute the charges based upon the re-weigh weight.

Before requesting a re-weigh, you may find it to your advantage to estimate the weight of your shipment using the following three-step method:

1. Count the number of items in your shipment. Usually there will be either 30 or 40 items listed on each page of the inventory. For example, if there are 30 items per page and your inventory consists of four complete pages and a fifth page with 15 items listed, the total number of items will be 135. *If an automobile is listed on the inventory do not include this item in the count of the total items.*

2. Subtract the weight of any automobile included in your shipment from the total weight of the shipment. If the automobile was not weighed separately, its weight can be found on its title or license receipt.

3. Divide the number of items in your shipment into the weight. If the average weight resulting from this exercise ranges between 35 and 45 pounds (16 and 20 kilograms) per article, it is unlikely a re-weigh will prove beneficial to you and could result in you paying higher charges.

Experience has shown the average shipment of household goods will weigh about 40 pounds (18 kilograms) per item. If a shipment contains a large number of heavy items, such as cartons of books, boxes of tools or heavier than average furniture, the average weight per item may be 45 pounds or more (20 kilograms or more).

What Must My Mover Do if I Want To Know the Actual Weight or Charges for My Shipment before Delivery?

If you request notification of the actual weight or volume and charges upon your shipment, your mover must comply with your request when it is moving your goods on a collect-on-delivery basis. This requirement is conditioned upon you supplying your mover with an address or telephone number where you will receive the communication. Your mover must make its notification by telephone, telegram, or in person.

You must receive its notification at least one full 24-hour day before your mover's delivery, excluding Saturdays, Sundays and Federal holidays.

Your mover may disregard this 24-hour notification requirement on shipments subject to one of the following three things:

(1) Back weigh (when your mover weighs your shipment at its destination).

(2) Pickup and delivery encompassing two consecutive weekdays, if you agree.

(3) Maximum payment amounts at time of delivery of 110 percent of the estimated charges, if you agree.

Subpart F—Transportation of My Shipment

Must My Mover Transport the Shipment in a Timely Manner?

Yes, your mover must transport your household goods in a timely manner. This is also known as ''reasonable dispatch service.'' Your mover must provide reasonable dispatch service to you, except for transportation on the basis of guaranteed delivery dates.

When your mover is unable to perform either the pickup or delivery of your shipment on the dates or during the periods of time specified in the order for service, your mover must notify you of the delay by telephone, telegram, or in person, at your mover's expense. As soon as the delay becomes apparent to your mover, it must give you notification it will be unable to provide the service specified in the terms of the order for service.

At the time of your mover's notification of delay, it must advise you of the dates or periods of time it may be able to pickup and/or deliver the shipment. Your mover must consider your needs in its advisement.

Your mover must prepare a written record of the date, time, and manner of its notification. Your mover must prepare a written record of its amended date or period for delivery. Your mover must retain these records as a part of its file on your shipment. The retention period is one year from the date of notification. Your mover must furnish a copy of the notification to you by first class mail or in person if you request a copy of the notice.

Your mover must tender your shipment for delivery upon the agreed delivery date or within the period specified on the bill of lading. Upon your request or concurrence, your mover may deliver your shipment on another day.

The establishment of a delayed pickup or delivery date does not relieve your mover from liability for damages resulting from your mover's failure to provide service as agreed. However, when your mover notifies you of alternate delivery dates, it is your responsibility to be available to accept delivery on the dates specified. If you are not available and are not willing to accept delivery, your mover has the right to place your shipment in storage at your expense or hold the shipment on its truck and assess additional charges.

If after the pickup of your shipment, you request your mover to change the delivery date, most movers will agree to do so providing your request will not result in unreasonable delay to its equipment or interfere with another customer's move. However, your mover is under no obligation to consent to amended delivery dates. Your mover has the right to place your shipment in storage at your expense if you are unwilling or unable to accept delivery on the date agreed to in the bill of lading.

If your mover fails to pick up and deliver your shipment on the date entered on the bill of lading and you have expenses you otherwise would not have had, you may be able to recover those expenses from your mover. This is what is called an inconvenience or delay claim. Should your mover refuse to honor such a claim and you continue to believe you are entitled to be paid damages, you may take your mover to court under 49 U.S.C. 14704. *The Federal Motor Carrier Safety Administration (FMCSA) has no authority to order your mover to pay such claims.*

While we hope your mover delivers your shipment in a timely manner, you should consider the possibility your shipment may be delayed and find out what payment you can expect if a mover delays service through its own fault before you agree with the mover to transport your shipment.

What Must My Mover Do if It Is Able To Deliver My Shipment More Than 24 Hours Before I Am Able To Accept Delivery?

At your mover's discretion, it may place your shipment in storage. This will be under its own account and at its own expense in a warehouse located in proximity to the destination of your shipment. Your mover may do this if you fail to request or concur with an early delivery date, and your mover is able to deliver your shipment more than 24 hours before your specified date or the first day of your specified period.

If your mover exercises this option, your mover must immediately notify you of the

name and address of the warehouse where your mover places your shipment. Your mover must make and keep a record of its notification as a part of its shipment records. Your mover has full responsibility for the shipment under the terms and conditions of the bill of lading. Your mover is responsible for the charges for redelivery, handling, and storage until it makes final delivery. Your mover may limit its responsibility to the agreed delivery date or the first day of the period of delivery as specified in the bill of lading.

What Must My Mover Do for Me When I Store Household Goods in Transit?

If you request your mover to hold your household goods in storage-in-transit (SIT) and the storage period of time is about to expire, your mover must notify you, in writing, about the four following items:

(1) The date when storage-in-transit will convert to permanent storage.

(2) The existence of a nine-month period after the date of conversion to permanent storage when you may file claims against your mover for loss or damage occurring to your goods while in transit or during the storage-in-transit period.

(3) Your mover's liability will end.

(4) Your property will be subject to the rules, regulations, and charges of the warehouseman.

Your mover must make this notification at least 10 days before the expiration date of one of the following two periods of time:

(1) The specified period of time when your mover is to hold your goods in storage.

(2) The maximum period of time provided in its tariff for storage-in-transit.

Your mover must notify you by facsimile transmission, overnight courier, e-mail, or certified mail, return receipt requested.

If your mover holds your household goods in storage-in-transit for a period of time less than 10 days, your mover must notify you of the same information specified above one day before the expiration date of the specified time when your goods are to be held in such storage.

Your mover must maintain a record of all notifications to you as part of the records of your shipment. Your mover's failure or refusal to notify you will automatically effect a continuance of your mover's liability according to the applicable tariff provisions with respect to storage-in-transit, until the end of the day following the date when your mover actually gives you notice.

Subpart G—Delivery of My Shipment

May My Mover Ask Me To Sign a Delivery Receipt Purporting To Release It From Liability?

At the time of delivery, your mover will expect you to sign a receipt for your shipment. You generally will sign each page of your mover's copy of the inventory.

Your mover's delivery receipt or shipping document must not contain any language purporting to release or discharge it or its agents from liability.

Your mover may include a statement about your receipt of your property in apparent good condition, except as noted on the shipping documents.

DO NOT SIGN the delivery receipt if it contains any language purporting to release or discharge your mover or its agents from liability. Strike out such language before signing or refuse delivery if the driver or mover refuses to provide a proper delivery receipt.

What Is the Maximum Collect-on-Delivery Amount My Mover May Demand I Pay at the Time of Delivery?

On a binding estimate, the maximum amount is the exact estimate of the charges. Your mover must specify on the estimate, order for service, and bill of lading the form of payment acceptable to it (*e.g.*, a certified check).

On a non-binding estimate, the maximum amount is 110 percent of the approximate costs. Your mover must specify on the estimate, order for service, and bill of lading the form of payment acceptable to it (*e.g.*, cash).

If My Shipment Is Transported on More Than One Vehicle, What Charges May My Mover Collect at Delivery?

Although all movers try to move each shipment on one truck, it becomes necessary at times to divide a shipment among two or more trucks. This frequently occurs when an automobile is included in the shipment and it is transported on a vehicle specially designed to transport automobiles. When this occurs your transportation charges are the same as if the entire shipment moved on one truck.

If your shipment is divided for transportation on two or more trucks, the mover may require payment for each portion as it is delivered.

Your mover may delay the collection of all the charges until the entire shipment is delivered, at its discretion, not yours. When you order your move, you should ask the mover about its policies in this respect.

If My Shipment Is Partially Lost or Destroyed, What Charges May My Mover Collect at Delivery?

Movers customarily make every effort to not lose, damage, or destroy your items while your shipment is in their possession for transportation. However, despite the precautions taken, articles are sometimes lost or destroyed during the move.

In addition to any money you may recover from your mover to compensate for lost or destroyed articles, you may also recover the transportation charges represented by the portion of the shipment lost or destroyed. Your mover may only apply this paragraph to the transportation of household goods. Your mover may disregard this paragraph if loss or destruction was due to an act or omission by you. Your mover must require you to pay any specific valuation charge due.

For example, if you pack a hazardous material (*i.e.*, gasoline, aerosol cans, motor oil, etc.) and your shipment is partially lost or destroyed by fire in storage or in the mover's trailer, your mover may require you to pay for the full cost of transportation.

Your mover may first collect its freight charges for the entire shipment, if your mover chooses. At the time your mover disposes of claims for loss, damage, or injury to the articles in your shipment, it must refund the portion of its freight charges corresponding to the portion of the lost or destroyed shipment (including any charges for accessorial or terminal services).

Your mover is forbidden from collecting, or requiring you to pay, any freight charges (including any charges for accessorial or terminal services) when your household goods shipment is totally lost or destroyed in transit, unless the loss or destruction was due to an act or omission by you.

How Must My Mover Calculate the Charges Applicable to the Shipment as Delivered?

Your mover must multiply the percentage corresponding to the delivered shipment times the total charges applicable to the shipment tendered by you to obtain the total charges it must collect from you.

If your mover's computed charges exceed the charges otherwise applicable to the shipment as delivered, the lesser of those charges must apply. This will apply only to the transportation of your household goods.

Your mover must require you to pay any specific valuation charge due.

Your mover may not refund the freight charges if the loss or destruction was due to an act or omission by you. For example, you fail to disclose to your mover your shipment contains perishable live plants. Your mover may disregard its loss or destruction of your plants, because you failed to inform your mover you were transporting live plants.

Your mover must determine, at its own expense, the proportion of the shipment, based on actual or constructive weight, not lost or destroyed in transit.

Your rights are in addition to, and not in lieu of, any other rights you may have with respect to your shipment of household goods your mover lost or destroyed, or partially lost or destroyed, in transit. This applies whether or not you have exercised your rights provided above.

Subpart H—Collection of Charges

Does This Subpart Apply to Most Shipments?

No, this subpart does not apply to most shipments. Most movers perform COD service subject to the 110 percent rule for non-binding estimates. Read and understand this subpart only if your mover is providing a shipment subject to a binding estimate.

How Must My Mover Present Its Freight or Expense Bill to Me?

At the time for payment of transportation charges, your mover must give you a freight bill identifying the service provided and the charge for each service. It is customary for most movers to use a copy of the bill of lading as a freight bill; however, some movers use an entirely separate document for this purpose.

Except in those instances where a shipment is moving on a binding estimate, the freight bill must specifically identify each service performed, the rate per unit for each service, and the total charges for each service. *If this information is not on the freight bill, DO NOT accept or pay the freight bill.*

Movers customarily provide in tariffs the freight charges must be paid in cash, by

certified check, or by a cashier's check. When this requirement exists, the mover will not accept personal checks. At the time you order your move, you should ask your mover about the form of payment your mover requires.

Some movers permit payment of freight charges by use of a charge or credit card. However, do not assume your nationally recognized charge, credit, or debit card will be acceptable for payment. Ask your mover at the time you request an estimate. Your mover must specify the form of payment it will accept at delivery.

If you do not pay the transportation charges at the time of delivery, your mover has the right, under the bill of lading, to refuse to deliver your goods. The mover may place them in storage, at your expense, until the charges are paid. However, the mover must deliver your goods upon payment of 100 percent of a binding estimate.

If, before payment of the transportation charges, you discover an error in the charges, you should attempt to correct the error with the driver, the mover's local agent, or by contacting the mover's main office. If an error is discovered after payment, you should write the mover (the address will be on the freight bill) explaining the error and request a refund.

Movers customarily check all shipment files and freight bills after a move has been completed to make sure the charges were accurate. If an overcharge is found, you should be notified and a refund made. If an undercharge occurred, you may be billed for the additional charges due.

On ''to be prepaid'' shipments, your mover must present its freight bill for all transportation charges within 15 days, from the date your mover received the shipment. This period excludes Saturdays, Sundays, and Federal holidays.

On ''collect'' shipments, your mover must present its freight bill for all transportation charges on the date of delivery, or, at its discretion, within 15 days, measured from the date the shipment was delivered at your destination. This period excludes Saturdays, Sundays, and Federal holidays.

Your mover's freight bills and accompanying written notices must state the following five items:

(1) Penalties for late payment.

(2) Credit time limits.

(3) Service or finance charges.

(4) Collection expense charges.

(5) Discount terms.

If your mover extends credit to you, freight bills or a separate written notice accompanying a freight bill or a group of freight bills presented at one time must state ''You may be subject to tariff penalties for failure to timely pay freight charges'' or a similar statement. Your mover must state on its freight bills or other notices when it expects payment, and any applicable service charges, collection expense charges and discount terms.

When your mover lacks sufficient information to compute its tariff charges at its time of billing, your mover must present its freight bill for payment within 15 days following the day when sufficient information becomes available. This period excludes Saturdays, Sundays, and Federal holidays.

Your mover must not extend more credit to you, if you fail to furnish sufficient information to your mover. Your mover must have sufficient information to render a freight bill within a reasonable time after the shipment.

When your mover presents freight bills by mail, it must deem the time of mailing to be the time of presentation of the bills. The term ''freight bills,'' as used in this paragraph, includes both paper documents and billing by use of electronic media such as computer tapes, disks, or the Internet when the mails (U.S. mail, e-mail) are used to transmit them.

When you mail acceptable checks or drafts in payment of freight charges, your mover must deem the act of mailing the payment within the credit period to be the proper collection of the tariff charges within the credit period for the purposes of Federal law. In the case of a dispute as to the date of mailing, your mover must accept the postmark as the date of mailing.

If I Forced My Mover To Relinquish a Collect-on-Delivery Shipment Before the Payment of All Charges, How Must My Mover Collect the Balance?

On ''collect-on-delivery'' shipments, your mover must present its freight bill for all transportation charges within 15 days, measured from the date the shipment was delivered at your destination. This period excludes Saturdays, Sundays, and Federal holidays.

What Actions May My Mover Take To Collect From Me the Charges Upon Its Freight Bill?

Your mover must present a freight bill within 15 days (excluding Saturdays, Sundays, and Federal holidays) of the date of delivery of a shipment at your destination.

The credit period must be 15 days (including Saturdays, Sundays, and Federal holidays).

Your mover must provide in its tariffs the following three things:

(1) A provision automatically extending the credit period to a total of 30 calendar days for you if you have not paid its freight bill within the 15-day period.

(2) A provision indicating you will be assessed a service charge by your mover equal to one percent of the amount of the freight bill, subject to a $20 minimum charge, for the extension of the credit period. The mover will assess the service charge for each 30-day extension that the charges go unpaid.

(3) A provision your mover must deny credit to you, if you fail to pay a duly presented freight bill within the 30-day period. Your mover may grant credit to you, at its discretion, when you satisfy your mover's conditions you will pay all future freight bills duly presented. Your mover must ensure all your payments of freight bills are strictly in accordance with Federal rules and regulations for the settlement of its rates and charges.

Do I Have a Right To File a Claim To Recover Money for Property My Mover Lost or Damaged?

Should your move result in the loss or damage to any of your property, you have the right to file a claim with your mover to recover money for such loss or damage.

You have nine months following either the date of delivery, or the date when the shipment should have been delivered, to file a claim. You should file a claim as soon as possible. If you fail to file a claim within nine months following delivery and later bring a legal action against the mover to recover the damages, you may not be able to recover your attorney fees even though you win the court action.

While the Federal Government maintains regulations governing the processing of loss and damage claims (49 CFR part 370), it cannot resolve those claims. If you cannot settle a claim with the mover, you may file a civil action to recover your claim in court under 49 U.S.C. 14704. You may obtain the name and address of the mover's agent for service of legal process in your state by contacting the Federal Motor Carrier Safety Administration. You may also obtain the name of a process agent via the Internet at *http://www.fmcsa.dot.gov* and click on Licensing and Insurance (L&I) section.

In addition, your mover must participate in an Arbitration Program. The program, described earlier in this pamphlet, provides you with the opportunity to settle certain types of unresolved loss or damage claims through a neutral arbitrator. You may find submitting your claim to arbitration under such a program to be a less expensive and more convenient way to seek recovery of your claim. If the mover does not provide you with information about its arbitration program before you move as it must do, ask the mover for the details of the program.

Subpart I—Resolving Disputes With My Mover

What May I Do To Resolve Disputes With My Mover?

The Federal Motor Carrier Safety Administration does not help you settle your dispute with your mover.

Generally, you must resolve your own disputes with your mover. You enter a contractual arrangement with your mover. You are bound by each of the following three things:

(1) The terms and conditions you negotiated before your move.

(2) The terms and conditions you accepted when you signed the bill of lading.

(3) The terms and conditions you accepted when you signed for delivery of your goods.

You have the right to take your mover to court. We require your mover to offer you arbitration to settle your disputes with it.

The Federal Motor Carrier Safety Administration does not have the resources to seek a court injunction on your behalf to obtain your household goods if your mover is holding your goods ''hostage.''

PART 377—PAYMENT OF TRANSPORTATION CHARGES

■ 2. The authority citation for part 377 continues to read as follows:

Authority: 49 U.S.C. 13101, 13301, 13701–13702, 13706, 13707, and 14101; 49 CFR 1.73.

§ 377.215 [Removed and Reserved]

■ 3. Section 377.215 is removed and reserved.

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Annette M. Sandberg,

Acting Administrator.

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