that no segment of the population, regardless of race, color, national origin, or income, bears disproportionately high and adverse human health and environmental effects as a result of EPA's policies, programs, and activities.

EPA has considered the impacts of this rule on low-income populations and minority populations and concluded that it will not cause any adverse effects to these populations. As stated above, the Agency has determined that the risk of significant data loss is very low. The data elements being removed or streamlined either have a low incidence of reporting, have other data source readily available or do not appear to be used to any significant degree by the public.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective September 12, 2005.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: June 30, 2005.

Stephen L. Johnson,

Administrator.

■ For the reasons discussed in the preamble, the Environmental Protection Agency 40 CFR part 372 is amended as follows:

PART 372—[AMENDED]

■ 1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11023 and 11048.

Subpart E—[Amended]

■ 2. Section 372.85 is amended as follows:

■ i. Revise paragraph (a).

■ ii. Remove paragraph (b)(6).

■ iii. Redesignate paragraphs (b)(7) through (b)(18) as paragraphs (b)(6) through (b)(17).

■ iv. Revise the newly-designated paragraph (b)(6).

■ v. Remove the newly-designated paragraph (b)(16)(iii).

■ vi. Redesignate the newly-designated paragraphs (b)(16)(iv) and (b)(16)(v) as paragraphs (b)(16)(iii) and (b)(16)(iv).

■ vii. Revise the newly-designated paragraph (b)(16)(iii).

■ viii. Remove the newly-designated paragraph (b)(17).

372.85 Toxic chemical release reporting form and instructions.

(a) *Availability of reporting form and instructions.* The most current version of Form R may be found on the following EPA Program Web site, *http://www.epa.gov/tri*. Any subsequent changes to the Form R will be posted on this Web site. Submitters may also contact the TRI Program at (202) 564–9554 to obtain this information.

(b) * * *

(6) Dun and Bradstreet identification number.

* * * * *

(16) * * *

(iii) An estimate of the efficiency of the treatment, which shall be indicated by a range.

* * * * *

§ 372.95 [Amended]

■ 3. Section 372.95 is amended as follows:

■ i. Remove paragraphs (b)(11), (b)(13), (b)(14) and (b)(15).

■ ii. Redesignate paragraph (b)(12) as paragraph (b)(11) and redesignate paragraphs (b)(16) through (b)(17) as paragraphs (b)(12) through (b)(13).

[FR Doc. 05–13486 Filed 7–11–05; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 375

[Docket No. FMCSA–97–2979]

RIN 2126–AA32

Transportation of Household Goods; Consumer Protection Regulations; Final Rule

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

ACTION: Final rule.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) adopts as final its interim regulations at 49 CFR part 375 published in the **Federal Register** on June 11, 2003 (68 FR 35064) and subsequent technical amendments published on March 5, 2004 (69 FR 10570), April 2, 2004 (69 FR 17313), and August 5, 2004 (69 FR 47386). The final rule specifies how motor carriers transporting household goods by commercial motor vehicle in interstate commerce must assist their individual customers who ship household goods. As no further amendments are necessary, the interim regulations at part 375 are adopted without change.

DATES: Effective August 11, 2005. *Petitions for Reconsideration* must be received by the agency not later than August 11, 2005.

FOR FURTHER INFORMATION CONTACT: Ms. Joy Dunlap, Acting Chief, Commercial Enforcement Division (MC–ECC), (202) 385–2428, Federal Motor Carrier Safety Administration, Suite 600, 400 Virginia Avenue, SW., Washington, DC 20024.

Docket: For access to the docket to read background documents or comments received on the interim final regulations and subsequent amendments, including a Record of Meeting and all correspondence referenced in this document, 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 (65 FR 19477). This statement is also available at *http://dms.dot.gov.*

SUPPLEMENTARY INFORMATION:

Legal Basis for the Rulemaking

The Interstate Commerce Commission Termination Act of 1995 (ICCTA) (Pub. L. 104–88, 109 Stat. 803) provides that ''[t]he Secretary may issue regulations, including regulations protecting individual shippers, in order to carry out this part with respect to the transportation of household goods by motor carriers subject to jurisdiction under subchapter 1 of chapter 135. The regulations and paperwork required of motor carriers providing transportation of household goods shall be minimized to the maximum extent feasible consistent with the protection of

individual shippers'' (49 U.S.C. 14104(a)(1)). This final rule establishes regulations governing the transportation of household goods in interstate and foreign commerce and, as such, is within the authority conferred by the ICCTA.

In the Motor Carrier Safety Improvement Act of 1999 (Public Law 106–159, December 9, 1999, 113 Stat. 1749), which established FMCSA as a separate agency within the U.S. Department of Transportation (DOT), Congress authorized the agency to regulate motor carriers transporting household goods for individual shippers. Our regulations setting forth Federal requirements for movers that provide interstate transportation of household goods are found in 49 CFR part 375.

Background

In May 1998, the Federal Highway Administration published a notice of proposed rulemaking (NPRM) requesting comments on its proposal to update the household goods regulations (63 FR 27126, May 15, 1998). The Federal Highway Administration is the predecessor agency to FMCSA within DOT.

The public submitted more than 50 comments to the NPRM. FMCSA subsequently modified the substance of the proposal in light of concerns raised by some of the commenters, and published an interim final rule in June 2003 (68 FR 35064, June 11, 2003). We published an interim final rule rather than a final rule to complete procedures for complying with information collection requirements.

In order to publish the rule text in the October 1, 2003, edition of the Code of Federal Regulations (CFR), we established the interim final rule's effective date as September 9, 2003. However, compliance was not required until March 1, 2004. On August 25, 2003, we received two petitions for reconsideration of the interim final rule. The petitioners were (1) the American Moving and Storage Association (AMSA) and (2) United Van Lines, LLC and Mayflower Transit, LLC (UniGroup). On the same date, AMSA submitted a separate Petition for Stay of Effective Date.

On September 30, 2003, FMCSA delayed the compliance date for the rule indefinitely in order to consider fully the petitioners' concerns (68 FR 56208). In separate letters to the petitioners dated December 23, 2003, we conveyed our decision to make some of the requested changes through technical amendments to the interim final rule and to further consider others that are substantive in nature in a future rulemaking proceeding.

On March 5, 2004, FMCSA published technical amendments to the interim final rule (69 FR 10570). Some of the amendments provided uniformity between the rule text and the appendix—the consumer pamphlet *Your Rights and Responsibilities When You Move*—while others clarified certain provisions, reflected current industry practice, or corrected typographical errors. In addition, certain technical amendments revised language that was contrary to the statutory intent of the ICCTA, as codified at 49 U.S.C. 14104 and 14708.

The March 5, 2004, notice of technical amendments stated our intent to consider certain substantive amendments requested by the petitioners in a future rulemaking. As these substantive amendments involve changes to prescribed operational practices of movers, and in some cases have a direct impact on consumers, the public should be given an opportunity to comment.

On March 16, 2004, we received from AMSA a Petition for Reconsideration and Stay of the Interim Final Rule and Technical Amendments Compliance Date. In response to the petitioner's concerns, on April 2, 2004, we published clarifying technical amendments to the interim final rule, chiefly to its appendix, and established a new compliance date of May 5, 2004 (69 FR 17313, Apr. 2, 2004). However, we believe that certain amendments sought in the petition are not necessary, while others are substantive in nature and will be considered along with other potential substantive amendments in a future rulemaking proceeding. Therefore, the petition was granted in part and denied in part.

In May 2004, attorneys for both Atlas World Group, Inc. (Ms. Marian Weilert Sauvey) and Wheaton Van Lines, Inc. (Mr. James P. Reichert) contacted us concerning an incorrect statutory citation in four sections of Appendix A to part 375. Mr. Reichert also brought to our attention certain language in subpart E of Appendix A that is not fully consistent with 49 CFR 375.501(h) and 375.505(e), as amended on March 5, 2004. To correct these problems and make a few minor editorial revisions to the rule appendix, we published correcting amendments on August 5, 2004 (69 FR 47386).

Purpose of the Household Goods Regulations

The amended interim final rule is intended to (1) increase the public's understanding of the regulations with which movers must comply, and (2) help individual shippers and the moving industry understand the roles and responsibilities of movers, brokers, and shippers, to prevent moving disputes. Individual shippers—many of whom are either relocating for business reasons or have retired—may use for-hire truck transportation services infrequently. These consumers may be poorly informed about the regulations movers must comply with and thus have little understanding of how moving companies operate. The consumer pamphlet *Your Rights and Responsibilities When You Move*—Appendix A to part 375—is intended to help individual shippers understand the regulations so that they can make informed decisions in selecting a mover and planning a satisfactory move. Section 375.213 requires movers to furnish the information in the consumer pamphlet to prospective customers. The consumer information is posted on FMCSA's Web site at *http://www.fmcsa.dot.gov/*, where it can be downloaded and printed.

Discussion of Public Comments

In addition to the petitions described above, FMCSA received public comments to the interim final rule and subsequent amendments from 19 commenters. Commenting were 12 moving companies—Mayflower Transit, LLC (Mayflower), United Van Lines, LLC, and Mayflower Transit, LLC (UniGroup), Paul Arpin Van Lines (Arpin), Affiliated Movers of Oklahoma City, Inc. (Affiliated Movers), Capitol North American (Capitol), Hawkeye North American Moving and Storage (Hawkeye), Republic Van Lines of San Diego (Republic), Andy's Transfer and Storage (Andy's), Cor-O-Van Moving and Storage (Cor-O-Van), Mother Lode Van and Storage, Inc. (Mother Lode), and Atlas World Group, Inc. and Wheaton Van Lines, Inc. (through attorneys Marian Weilert Sauvey and James P. Reichert, respectively); the Georgia Department of Motor Vehicle Safety; five individuals—Staci Haag, Angie A. Chen, Kay F. Edge, Tyrone Kelly, and Tim Walker for MovingScam.com; and the American Moving and Storage Association (AMSA), which submitted one of three comments through counsel (Venable LLP). The comments are discussed below, together with FMCSA's responses on the issues addressed.

Enforcement of the Household Goods Regulations

The Georgia Department of Motor Vehicle Safety, while expressing support for the interim final rule,

emphasized that FMCSA should devote resources to enforcing the household goods regulations. This commenter observed: ''No amount of regulatory change will make any difference unless the FMCSA will have the personnel available to deal with consumer complaints.''

FMCSA Response: Recognizing the limited resources available for FMCSA's household goods program, coupled with the increasing volume of consumer complaints against moving companies, Congress increased our program funding for fiscal year 2004 and authorized seven new staff positions for household goods complaint investigation and enforcement activities. We are using these resources to expand our household goods enforcement program initiatives and activities. Our focus is on more accurately defining and analyzing the various problems related to household goods transportation, implementing improved countermeasures, and carrying out a more aggressive enforcement and compliance policy.

Extension of Compliance Date

Ten commenters—AMSA, UniGroup, Mother Lode, Car-O-Van, Andy's, Republic, Hawkeye, Affiliated Movers, Arpin, and North American—requested a further delay of the compliance date beyond the extension to May 5, 2004, granted in FMCSA's April 2, 2004, decision (69 FR 17313). These commenters emphasized the difficulties of implementing the new requirements at the onset of the peak moving season (May 15 through September 15). They argued that moving companies would not have time, while coping with peak-season demands, to train their employees in the proper application of the amended regulations. Several commenters added that the summer 2004 moving season was expected to be one of the busiest in many years.

Of this group, six (Mother Lode, Cor-O-Van, Andy's, Republic, Hawkeye, and Affiliated Movers) noted that as small businesses they would be particularly hard-pressed to meet the May 5, 2004, compliance date. Three others—AMSA, UniGroup, and Arpin—cited the change to the regulation governing payment for additional services (discussed below) as especially likely to cause problems if compliance with the new rules were not postponed.

In a letter of April 29, 2004, to FMCSA Administrator Annette M. Sandberg, AMSA predicted that, without a further extension of the compliance date, moving companies' inability to adequately train employees during the busy summer moving season would create service disruptions. AMSA representatives had discussed these concerns during an April 26, 2004, meeting with FMCSA staff, explaining that they expected confusion about the new rules to lead to disputes with customers (individual shippers). A record of the April 26, 2004, meeting is in the docket, along with a copy of AMSA's April 29, 2004, letter and copies of all other correspondence referenced in this document.

Two individuals (Movingscam.com and Tyrone Kelley) stated there was no need for a further extension of the compliance date. Mr. Kelley asserted that ''willful, arrogant defiance of DOT/FMCSA authority does not constitute grounds for an extension, especially since the sole beneficiaries of the extension would be the defiant ones.''

FMCSA Response: In her May 3, 2004, response to AMSA's April 29, 2004, correspondence, FMCSA Administrator Sandberg stated the agency would not further extend the May 5, 2004, compliance date. Ms. Sandberg noted, however, that we were not unsympathetic to the potential for service interruptions resulting from requiring full compliance with the revised regulations on May 5, 2004, and that FMCSA had worked to avoid this situation since receiving the first industry petitions in August 2003. In her letter, Ms. Sandberg indicated that to address AMSA's concerns and assist the moving industry in complying with the new rule, she was establishing the following FMCSA enforcement policy:

1. For all household goods shipments contracted before May 5, 2004, the new regulations would not be enforced. All shipments for which contracts were signed on or after May 5, 2004, would be subject to the new requirements.

2. FMCSA would delay enforcement of regulatory provisions requiring changes to forms (such as bills of lading) until July 1, 2004. This provided the industry an opportunity to produce new forms and train employees in their use.

3. The industry was required to distribute the revised consumer pamphlet *Your Rights and Responsibilities When You Move* beginning on May 5, 2004.

4. Compliance with the shipper notification requirement for an arbitration program was required by May 5, 2004.

5. Compliance with all other provisions, including the collection of transportation charges and charges for additional services, was required beginning on May 5, 2004.

This household goods enforcement policy is posted under the ''What Happens When You Move?'' link on the FMCSA Web site. To view the policy, go to *http://www.fmcsa.dot.gov/factsfigs/hhg/enforcement_policy.htm*.

In a letter to FMCSA Administrator Sandberg dated May 26, 2004, AMSA expressed disappointment that we had not delayed the May 5, 2004, compliance date. The Association added, however, that its members would ''do their best to comply with the new regulations'' during the summer 2004 moving season and ''work with FMCSA to ensure that relocating consumers experience quality moves pursuant to the requirements of FMCSA.''

Incorrect Statutory Citation

As noted in the Background section above, attorneys for both Atlas World Group, Inc. and Wheaton Van Lines, Inc. called to our attention an incorrect statutory citation in four sections of Appendix A to part 375, the consumer pamphlet *Your Rights and Responsibilities When You Move*. The attorneys noted that the provision under which a person may seek judicial redress for alleged loss of or damage to household goods by a carrier is at 49 U.S.C. 14706, not 49 U.S.C. 14704 as cited in the pamphlet.

FMCSA Response: We corrected this error in ''Transportation of Household Goods; Consumer Protection Regulations; Corrections'' (69 FR 47386, Aug. 5, 2004).

Additional Services Requested by the Shipper

Several commenters—Arpin, UniGroup, and AMSA (through Venable LLP)—took issue with the requirement under 49 CFR 375.403(a)(8) that the mover defer billing for additional services requested by the consumer after the shipment is in transit. These commenters believe this provision is unfair to the mover.

AMSA stated, ''As discussed in the AMSA petition, the IFR [interim final rule] will require that carrier charges for any additional service requested by a shipper or necessary to service properly a shipment cannot be collected at delivery.'' The Association observed: ''The consensus of the moving industry is that this departure from the current requirement will have at least two unfavorable consequences. It will force movers to decline to perform additional services and it will require shippers to attempt to make other arrangements to meet all of their moving requirements. Neither consequence is acceptable and the FMCSA regulations should not be the catalyst for disruptive situations of this nature.'' In its previously mentioned letter of May 26, 2004,

AMSA noted that FMCSA had stated its intention to address this issue in notice-and-comment rulemaking. It urged the agency to publish this rulemaking as soon as possible.

UniGroup asserted the ''IFR strips from carriers their most effective collection tool, i.e., a possessory lien.'' It added, ''If movers cannot collect at delivery for requested or needed additional services, it would be to the shipper's advantage, when an estimate is being presented, not to request a service, but request it later or not inform a mover of possible problems that could arise.''

Ms. Angie Chen commended FMCSA for closing the additional services ''loophole.'' Ms. Chen wrote, ''I am pleased that the interim final rules make it clear that a moving company must relinquish the goods upon payment of no more than 100% for binding estimates and 110% for non-binding estimates, with no exceptions, and that the moving company must defer collection of any legitimate additional charges over that threshold for a period of 30 days.'' (Emphasis in original) This commenter included extensive materials related to the legislative and regulatory history on this issue. She asserted these materials support her position that the additional services loophole should not be reopened.

Mayflower Transit specifically addressed Ms. Chen's letter, arguing that in light of its timing with respect to a lawsuit Ms. Chen had filed against Mayflower, her submission ''should not be considered in this matter.''

Ms. Kay F. Edge commented that some movers make a practice of holding in hostage a shipper's goods (known colloquially as ''hostage freight'') while demanding payment for additional services allegedly requested by the shipper. Regarding AMSA's request for reconsideration and stay of enforcement of the ''additional services'' provision at § 375.403(a)(8), Ms. Edge contended: ''The problem with AMSA's view is that it considers 'services requested by the shipper' to include those services the mover has unilaterally decided are necessary to get the goods off the truck and into the destination residence (such as shuttles, long carries, and the catch-all 'extra labor'). * * * Thus, according to AMSA's view of 'services requested by the shipper,' a shipper is not free to decline these additional services—even if the extra amount makes the final charges exceed 100–110% of the original estimate.''

FMCSA Response: We believe the issue of ''additional services'' charges deserves further consideration through additional public notice and comment. Accordingly, we plan to consider this issue fully in a more focused rulemaking proceeding in the future.

Released Rates Valuation Statement

As noted in the Background section, Mr. James P. Reichert, General Counsel for Wheaton Van Lines, Inc., brought to our attention certain language in subpart E of Appendix A that was not fully consistent with 49 CFR 375.501(h) and 375.505(e), as amended on March 5, 2004. The amended regulations make clear that household goods carriers have the option of placing the Surface Transportation Board's required released rates valuation statement, and any charges for optional valuation coverage, on either the order for service or the bill of lading. In the appendix (consumer pamphlet) of the interim final rule, however, subparagraph (10) of the section *Must My Mover Write Up an Order for Service?* and subparagraph (12) of *Must My Mover Write Up a Bill of Lading?* implied that the carrier must include the released rates valuation statement and any charges for valuation coverage on the order for service *as well as* on the bill of lading.

FMCSA Response: In the corrections notice published on August 5, 2004 (69 FR 47386), we revised subparagraph (10) of *Must My Mover Write Up an Order for Service?* by adding to the first sentence an introductory clause clarifying that the order for service must include the released rates valuation statement and any valuation coverage charges *only* if the mover has not provided them on the bill of lading. Conversely, a new introductory clause in subparagraph (12) of *Must My Mover Write Up a Bill of Lading?* makes it clear that the bill of lading must include the released rates valuation statement and any valuation coverage charges *only* if these were not provided in the order for service. These corrections ensure that the information provided to consumers is consistent with amended §§ 375.501(h) and 375.505(e).

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 U.S. Department of Transportation regulatory policies and procedures (44 FR 11034, Feb. 26, 1979) because there is substantial public interest in the interstate transportation of household goods and related consumer protection regulations. FMCSA estimates that the first-year discounted costs to the industry of this rulemaking equal $14.6 million, while total discounted costs are estimated at $42.8 million over the 10-year analysis period. As such, the costs of this final rule do not exceed the $100 million annual threshold as defined in Executive Order 12866.

FMCSA's full Regulatory Impact Analysis explaining in detail how we estimated cost impacts of the final rule is in the docket. The Regulatory Impact Analysis is summarized below.

This final rule adopts the interim final regulations published in the **Federal Register** on June 11, 2003, governing the interstate transportation of household goods (68 FR 35064) and subsequent technical amendments published on March 5, 2004 (69 FR 10570), April 2, 2004 (69 FR 17313), and August 5, 2004 (69 FR 47386). These new regulations specify how motor carriers transporting household goods by commercial motor vehicle in interstate commerce must assist their individual customers who ship household goods. They revise, clarify, and augment the existing regulations governing matters such as when a mover is required to have an arbitration program, how notification of additional services proposed by the mover must be made, presentation of freight bills, collection of charges, and liability disclosure requirements. In addition, Appendix A to part 375—the consumer pamphlet *Your Rights and Responsibilities When You Move*—has been extensively revised. These changes to the appendix ensure uniformity with the rule text and increase the accuracy and clarity of the information provided to individual shippers.

FMCSA estimates these regulatory changes will produce five primary cost impacts on household goods carriers, as follows: (1) Costs of training certain employees on the proper application of the regulatory changes; (2) costs to revise carrier marketing materials, forms, and bills of lading, including technical writing and printing costs associated with incorporating in marketing materials the consumer information in the *Your Rights and Responsibilities When You Move* pamphlet (Appendix A to part 375); (3) costs to update online documentation and/or redesign carrier Web pages to incorporate new or revised information about the regulatory requirements; (4) additional paperwork costs associated with the new regulations; and (5) costs associated with deferred collection of ''additional services'' payments, which the new regulations prohibit carriers from collecting at delivery. FMCSA's estimates of the costs in these five impact areas are summarized below.

1. Training Costs

The 1997 Economic Census [1] indicates there are currently 8,279 motor carriers of ''Used Household and Office Goods Moving'' (NAICS Code 484210). These motor carriers employ a total of 121,550 workers (or almost 15 employees per firm). Since the Economic Census makes no distinction between intrastate and interstate household goods movers, we adjusted these totals to include only those household goods carriers operating in interstate commerce. According to our Licensing and Insurance (L&I) database of active interstate, for-hire carriers, there are currently 4,000 active motor carriers engaged in the movement of household goods in interstate commerce. The ratio of carriers identified in the L&I database to the number identified in the Economic Census (8,279) is 48.3 percent (or 4,000 divided by 8,279). Multiplying 48.3 percent by the 121,550 employees of household goods firms identified in the Economic Census, we estimated the 4,000 household goods carriers currently operating in interstate commerce employ 58,700 workers.

For purposes of this analysis, we assumed that, on average, approximately 50 percent of each employer's workforce will be trained in the new regulations (backroom employees would not require training). Therefore, of the estimated 58,700 workers employed by interstate household goods carriers, approximately 29,350 (or 50 percent) will receive new training as a result of these regulations. Based on information from FMCSA Household Goods Program staff, we estimated each of the 29,350 household goods employees will require, on average, four hours of new training.

At an April 26, 2004, meeting with FMCSA staff, AMSA representatives noted the need to ''train agents, sales personnel and drivers.'' (See FMCSA's Record of Meeting in the docket.) In a May 26, 2004, letter to FMCSA Administrator Annette M. Sandberg, AMSA reiterated that ''thousands of sales personnel, drivers and management personnel'' would need training in the new regulations. This information helped us to estimate the per-hour cost of training, using hourly wage information from the publication *Occupational and Employment Wages* (May 2003) produced by the U.S. Department of Labor, Bureau of Labor Statistics (BLS). The median hourly wage estimates used in our analysis are shown in Table 1.

TABLE 1.—OCCUPATION AND MEDIAN HOURLY WAGE DATA FOR EMPLOYEES REQUIRING TRAINING AS A RESULT OF THIS FINAL RULE

Occupation	Median hourly wage
Sales Representatives, Wholesale and Manufacturing, Except Technical and Scientific Products	$21.09
First-line Managers of Non-retail Sales Workers	26.78
Truck Drivers, Heavy & Tractor-Trailer	16.01
Average (Simple) of Above-Median Hourly Wages	21.29

Source: Occupational Employment and Wages, May 2003, U.S. Department of Labor, Bureau of Labor Statistics (BLS).

On the assumption that sales, driver, and management personnel will be trained in equal numbers, we calculated a simple average of the hourly wage rates shown in the table. This yielded an average hourly direct wage rate of $21.29. The addition of an estimated 31 percent to cover the cost of fringe benefits (a weighted average of the fringe benefits for private and for-hire carriers, based on data from the American Trucking Associations and BLS) brings total compensation to $27.89 per hour. This average hourly wage rate represents the ''opportunity cost'' to household goods movers. The opportunity cost constitutes the overall losses business sustain by pulling workers away from economically productive tasks to train them in the application of the new rules.

To the opportunity cost we added an estimate of the direct costs of training. Based on data from truck driver training schools, we estimated a direct cost of $25 per hour. This yielded an hourly training cost of $52.89. We multiplied the 29,350 employees requiring training by the $52.89 hourly cost to derive an estimated $1.55 million in costs for each hour of training for all affected employees. Multiplying this result by four (or the average number of training hours required per employee) yields a total first-year cost of training equal to $6.2 million (undiscounted). Using a ½-year discounting method and a seven-percent discount rate as recommended by the Office of Management and Budget (OMB) in its guidelines for regulatory analyses (OMB Circular A–4) [2], first-year discounted costs of training equal $6.0 million.

Based on information AMSA provided both during its April 26, 2004, meeting with FMCSA and in its April 29, 2004, letter to Administrator Sandberg, we assumed this training cost will be a one-time cost to employers. Any future training would be at the discretion of the employer and not a direct result of this regulation.

2. Costs To Revise and Reprint Forms, Bills of Lading, and Marketing Materials

It is our understanding that many household goods carriers, particularly the larger moving companies, develop their own marketing materials, forms, and/or bills of lading. Forms and bills of lading must be consistent with the new regulatory requirements, while FMCSA also requires that carrier marketing materials incorporate the information in the *Your Rights and Responsibilities When You Move* consumer pamphlet. Therefore, carriers will incur costs in updating and reprinting these forms and materials. (Carriers without proprietary marketing materials may download and print the consumer pamphlet from FMCSA's Web site at *http://www.fmcsa.dot.gov/.* These carriers will incur minimal costs in providing customers with the revised pamphlet.) We estimated an average cost of $5.00 to revise and reprint each packet of materials (containing the marketing pamphlet(s), forms, and/or bill of lading); this includes costs for

[1] The Economic Census is published by the U.S. Bureau of the Census. Copies may be found at *http://www.census.gov/epcd/www/econ97.html.*

[2] OMB Circular A–4 (September 17, 2003) provides guidance to Federal agencies on the development of regulatory analyses as required under Section 6(a)(3)(C) of Executive Order 12866, ''Regulatory Planning and Review.'' For a copy, see *http://www.whitehouse.gov/omb/inforeg/circular_a4.pdf.*

design, layout, and review, plus additional charges for printing the cover and for specifications such as high gloss. Using estimates from the FMCSA information collection approved by OMB for the interim final rule (see the Paperwork Reduction Act section below), we assumed the population of 4,000 interstate household goods carriers conducts 600,000 interstate moves annually. Multiplying the estimated $5.00 printing cost per marketing item by 600,000 yields first-year printing costs of $3.0 million (undiscounted). Using a ½-year discounting method and a 7 percent discount rate, we calculated first-year discounted costs of reprinted marketing materials as $2.9 million.

Many household goods carriers may use in-house technical writers to convert FMCSA regulations to layperson's language. Using wage information in the BLS May 2003 *Occupational and Employment Wages* report, we estimated the fully loaded median wage for technical writers (including fringe benefits) at $32.49 per hour. Assuming each technical writer requires 8 hours to rewrite the new rules, we derived a total technical writing cost of $260 per carrier. Multiplied by the population of 4,000 interstate household goods carriers, this yields total first-year costs of $1.04 million (undiscounted). Using a ½-year discounting method and a 7 percent discount rate, we calculated first-year discounted costs of rewriting marketing materials as $1.0 million.

In the aggregate, first-year discounted costs to motor carriers to rewrite and print marketing materials equal $3.9 million (after rounding). Again, we assumed this to be a one-time cost.

3. Online Documentation and Web Page Redesign Costs

An unpublished research study by the Volpe Center for FMCSA in calendar year 2000 indicated that 70 percent of existing motor carriers had direct access to the Internet and used that access for business purposes.[3] On the assumption that Web site usage for commercial purposes is likely approaching 100 percent, we believe the 4,000 interstate household goods carriers probably maintain Web sites for commercial purposes that contain information of interest to individual shippers.

To estimate the costs of updating household goods carriers' Web site content to reflect the new rules, we used the median wage for a computer support specialist (a category including Web site designer) of $18.96 per hour (from the BLS May 2003 *Occupational and Employment Wages* report). Applying a fringe benefits factor of 31 percent, we derived a fully loaded rate for a Web site designer of $24.84 per hour. On the assumption that Web site design work is performed by third-party contractors, we applied a factor of 100 percent to the fully loaded direct wage rate to account for third-party profit, overhead, and other administrative expenses associated with standard contractor fees. This yielded an hourly wage rate of $49.68.

We assumed that in-house technical writing costs (already incorporated in section 2 of this summary, *Costs To Revise and Reprint Forms, Bills of Lading, and Marketing Materials*) include costs for rewriting any documents and forms the carrier publishes online. Consequently, in estimating the present costs we focused strictly on information upload and Web site redesign. Based on discussions with FMCSA information systems staff, we estimated each site designer requires about 2 hours to update a carrier's Web site with the new information. Therefore, the total cost per carrier to update Web site information is estimated at $99.36 (or $49.68 per hour times 2 hours). Multiplying this per-firm cost by the 4,000 interstate household goods carriers yields a total first-year cost of $397,440 (undiscounted). Using a ½-year discounting method and a 7 percent discount rate, we calculated first-year discounted costs for Web updating and redesign as equal to $384,000. As with technical writing and printing costs, we assumed this is a one-time cost.

4. Paperwork Costs

The paperwork burden associated with this rule entails a permanent change in recordkeeping practices of household goods carrier personnel for the foreseeable future. Thus, unlike the costs for training personnel, revising and reprinting marketing materials, and redesigning carrier Web sites, this paperwork burden imposes recurring costs on the industry. The paperwork burden estimates provided by FMCSA to OMB in 2003 as part of the Supporting Statement to the June 11, 2003, interim final rule (see the Paperwork Reduction Act section below) estimated the new burden hours at 1,232,000 hours annually, with an accompanying annual cost of $2.61 million (undiscounted) to the 4,000 motor carriers engaged in interstate household goods movement. This total cost is primarily from the new paperwork burden associated with motor carriers' management of arbitration programs and non-binding estimates. Additionally, paperwork costs under each category are broken out by capital costs and operational/maintenance costs. The source material for estimating the paperwork burden hours and cost estimates was obtained from national averages developed by the Association of Records Managers and Administrators (ARMA).[4] Given the detail with which the paperwork-related costs were developed, FMCSA analysts adopted these cost figures for its Regulatory Impact Analysis.

First-year costs associated with this requirement equal $2.5 million (using a ½-year discounting method and a 7 percent discount rate). Recurring costs associated with paperwork burden in years 2 through 10 of the analysis period total $16.4 million (discounted using a 7 percent discount rate). When later-year, recurring paperwork-related costs ($16.4 million) are added to first-year costs ($2.5 million), the result is 10-year discounted costs of $19.0 million (after rounding).

5. Costs To Collect Payment for Additional Services

Under 49 CFR 375.403(a)(7) and (a)(8) and 375.405(a)(9) and (a)(10), a mover must wait 30 days after delivery to collect fees for additional services required to complete the move or provided at the shipper's request, and not included in the estimate (whether binding or non-binding). These are termed ''additional services'' charges. FMCSA believes that additional services charges would seldom exceed 20 percent of the estimated value of the move, as the shipper and carrier typically discuss such services before the carrier provides the estimate. Multiplying the average cost of a household goods move in 2003 ($3,900, based on a range of $3,800 to $4,000 as reported by AMSA), we estimated average ''additional services'' fees of $780 per binding estimate. If the carrier provided a non-binding estimate, however, the additional services charges would equal only 10 percent of the shipment value (or $390 for the average shipment) since the current regulations permit carriers to collect 110 percent of a non-binding estimate at delivery. Based on figures FMCSA used to estimate paperwork burden costs for the interim final rule, we assumed

[3] ''Internet Accessibility to Commercial Motor Vehicle Operators and Carriers,'' an unpublished report by the Volpe National Transportation Systems Center for the Federal Motor Carrier Safety Administration, 2000.

[4] ''Cost Indicators for Selected Records Management Activities (A Guide to Unit Costing for the Records Manager—Volume 1)'' (1993) by Griffiths, Jose-Marie, Ph.D. and King, Donald W.

household goods carriers provide binding estimates 60 percent of the time, with the remaining 40 percent of shipments moving under non-binding estimates. Therefore, the average value of additional services for which carriers must defer billing is estimated at $624, or ($780 × 60%) + ($390 × 40%).

For this analysis, we assumed that the shipper contests additional services charges 5 percent of the time, or in 30,000 of the 600,000 annual interstate household goods moves. We believe this assumption is reasonable, given that the amended ''additional services'' provision is aimed at the relatively small segment (20 percent) of annual interstate household goods moves that are transacted directly between the mover and shipper, rather than at the remaining 80 percent contracted through an employer (governmental or private sector) or other commercial entity. Therefore, the total estimated value of the portion of ''additional services'' charges contested by the shipper is equal to $18.7 million (30,000 shipments × $624). An AMSA marketing survey reported that, for large household goods carriers, a contested charge eventually had to be written off as bad debt in 10 percent of cases. This means the average annual amount of unrecovered charges for large carriers is equal to $1.87 million ($18.7 million × 10 percent). Using a ½-year discounting method and a 7 percent discount rate, we calculated first-year costs of this provision as equal to $1.81 million. These costs are assumed to recur throughout the 10-year analysis period, resulting in a total discounted cost of $13.6 million.

Total Costs

Total first-year, discounted costs associated with this final rule equal $14.6 million (the sum of all cost figures for each compliance cost item). Total discounted costs associated with this final rule over the 10-year analysis period equal $42.8 million.

Benefits

The agency was unable to quantify the benefits of this rule. While we identified categories of benefits, none of these categories is amenable to quantification. For example, we expect individual shippers with loss or damage claims to expend less time and effort in paperwork associated with recovering their losses, because the clear instructions in household goods carriers' revised forms and informational materials will direct them to the appropriate venue and forms. However, FMCSA does not have access to information regarding how much time consumers currently waste in searching for the correct venue and forms. What can be said with certainty is that putting more information in the hands of consumers cannot increase their out-of-pocket costs. Clearly, all household goods shippers will benefit from knowing the rules and remedies governing household goods transportation and from knowing what levels of service to expect.

In addition to increasing the transparency of the household goods regulations, this final rule ensures consumers are better protected against unfair practices and financial harm. This brings individual shippers increased peace of mind. Although important, ''peace of mind'' benefits are difficult to quantify in a meaningful and objective manner. Nevertheless, we expect these benefits to be substantial.

This rule is not intended to address motor carrier safety issues, and would not impact the number of truck-related crashes.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121, 110 Stat. 857), requires Federal agencies, as a part of each rulemaking, to consider regulatory alternatives that minimize the impact on small entities while achieving the objectives of the rulemaking. FMCSA has evaluated the effects of this rule on small entities as required by the RFA. We have determined this regulatory action will have a significant economic impact on a substantial number of small entities. Therefore, we have prepared the following Regulatory Flexibility Analysis.

The Regulatory Flexibility Analysis covers the following topics: (1) A description of the reasons why the agency is taking this regulatory action; (2) a succinct statement of the objectives of, and legal basis for, the rule; (3) a description of and, where feasible, an estimate of the number of small entities to which the rule will apply; (4) a description of the reporting, recordkeeping, and other compliance requirements of the rule, including an estimate of the classes of small entities that will be subject to the requirement and the type of professional skills necessary for preparation of the report or record; (5) significant alternatives considered that accomplish the stated objectives and minimize the impact on small entities; and (6) an identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap, or conflict with the rule.

1. *A description of the reasons why the agency is taking this regulatory action.*

FMCSA is amending its regulations governing the interstate transportation of household goods so that individuals who ship their personal effects may better understand their rights. Additionally, several regulatory changes were made to improve the balance between the rights of household goods movers and those of individual shippers (consumers). Such amendments will allow the shipper to make more informed decisions in selecting a mover and ensuring the mover conducts the delivery of goods in a satisfactory fashion.

2. *A succinct statement of the objectives of, and legal basis for, the rule.*

In the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Public Law 106–159, December 9, 1999, 113 Stat. 1749), Congress authorized FMCSA to regulate household goods carriers engaged in interstate operations for individual shippers. The objectives of today's final rule are to clarify the existing regulations and balance more equitably the rights of the individual shipper with those of the mover. This will enable consumers to make more informed decisions in selecting a mover and ensuring the delivery of goods is conducted in a satisfactory fashion.

3. *A description of and, where feasible, an estimate of the number of small entities to which the rule will apply.*

This regulation will apply to all motor carriers transporting household goods in interstate commerce. According to FMCSA's Licensing and Information (L&I) database, approximately 4,000 such carriers are currently in operation. Total discounted costs of the final rule are estimated at $42.8 million. Spreading the total discounted costs evenly over the 10-year analysis period yields average annual discounted costs of $5.9 million. Dividing this figure by the 4,000 affected firms yields an average compliance cost of $1,475 per firm. We anticipate the compliance costs of large firms will be higher than this average, while those incurred by small firms will be lower. This is because many of these costs (such as for training and printing) increase with the number of workers the firm employs and/or the number of household goods shipments it handles. Since this cost differential is not expected to be substantial, however, we will use the average compliance cost of $1,475 per firm for the purposes of this Regulatory Flexibility Analysis.

The 1997 Economic Census indicated a total of 8,279 firms operating in the ''Used Household and Office Goods Moving'' segment, or North American Industrial Classification System (NAICS) Code 484210. Of these, 6,764 firms (or 81 percent) had average annual receipts or revenues of less than $21.5 million. However, the Economic Census makes no distinction between firms operating in interstate and intrastate commerce. The agency's L&I database indicates that approximately 4,000 of these firms currently operate in interstate commerce. Therefore, for the purposes of this analysis, 81 percent of the 4,000 interstate household goods carriers, or 3,246 carriers, are considered small entities affected by this regulation.

According to the 1997 Economic Census, NAICS Code 484210, there are 1,177 firms with average annual revenues of less than $100,000, where average annual pre-tax profits are equal to $3,042 per firm. Average annual compliance costs of $1,475 per firm comprise 48.5 percent of these firms' average annual pre-tax profits, which we consider a significant impact. Additionally, there are 1,764 firms with $100,000 to $249,999 in average annual revenues, where average annual pre-tax profits are equal to $9,018. Average annual compliance costs of $1,475 per firm comprise 16.4 percent of these firms' average annual pre-tax profits, which we consider a significant impact. Firms with average annual revenues above $250,000 per year will not be significantly impacted by this rule, given that the compliance costs are less than 7 percent of these firms' average annual pre-tax profits. Therefore, according to the Economic Census data, a total of 2,941 small firms (or 1,177 + 1,764) will be significantly impacted by implementation of this rule. As noted earlier, the Economic Census makes no distinction between carriers operating in interstate and intrastate commerce. Thus, we adjusted downward the number of small firms calculated above to include only those entities operating in interstate commerce. Since the 4,000 household goods carriers currently operating in interstate commerce constitute 48.3 percent of the total population of 8,279 household goods carriers, we derived this lower figure by calculating 48.3 percent of 2,941 (the number of small firms significantly impacted according to the Economic Census), or 1,421 small interstate household goods carriers that will be significantly impacted by this regulation.

These 1,421 small entities represent a substantial segment of motor carriers currently hauling household goods in interstate commerce: 36 percent of all such carriers (4,000 firms), and 44 percent of small interstate household goods carriers (3,246 firms).

4. *A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities that will be subject to the requirement and the types of professional skills necessary for preparation of the report or record.*

This rule will result in additional information collection, retention, and dissemination by household goods carriers. For instance, the regulations will require motor carriers to: (1) Have written agreements with their prime agents stipulating that each advertisement by a motor carrier or its agent include the name or trade name of the originating-service motor carrier and its USDOT number; (2) establish and maintain a procedure for responding to complaints from shippers; (3) develop a concise summary of the carrier's arbitration procedures; and (4) update the consumer pamphlet *Your Rights and Responsibilities When You Move* to incorporate the new requirements. All these changes (and several others not listed above) will assist consumers in their commercial dealings with interstate household goods carriers, by enabling them to make better informed decisions about contracts with, and services to be ordered, executed, and settled with, the carriers. Approximately 3,246 small entities (interstate household goods carriers) will be subject to this regulation. While knowledge of household goods industry operations is required to explain the new information to consumers, no special skills or training are required to prepare or report on this information.

5. *Significant alternatives considered that accomplish the stated objectives and minimize the impact on small entities.*

This rulemaking effort is a direct result of the conclusions reached by the Government Accountability Office (GAO) in its 2001 report entitled ''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 regarding the interstate household goods moving industry and identify alternative approaches for providing consumer protection. The GAO report recommended FMCSA: (1) Study alternative dispute mechanisms required by the ICCTA; (2) evaluate the adequacy of agency enforcement efforts; (3) determine whether legislative changes are needed to supplement Departmental efforts, including authorizing the States to enforce Federal statutes and regulations and amending the Federal statute limiting carrier liability with respect to interstate shipments of household goods; and (4) conduct public education efforts to promote consumer awareness of self-help measures.

FMCSA has acted on each of the GAO report recommendations. Our assessment of the agency's enforcement sufficiency and effectiveness led, as noted above under *Discussion of Public Comments*, to the hiring of seven additional enforcement staff in fiscal year 2004. We also implemented revised operating procedures for conducting investigations of household goods movers, and developed a comprehensive Household Goods Compliance and Enforcement Training course for safety investigators.

We have proposed and supported enforcement enhancements through legislative provisions under consideration in both the House and Senate. These include providing State agencies with expanded authority to enforce Federal regulations, increasing enforcement sanctions against rogue moving companies, and other provisions to bolster consumer protection against unscrupulous household goods transportation practices.

We are expanding our public education efforts. These include developing and implementing a comprehensive household goods education and outreach initiative, aimed primarily at individual shippers but also targeting carriers and brokers, consumer advocacy groups, and law enforcement agencies. We also recently completed a major revision and improvement of the FMCSA household goods Web site and the National Consumers Complaint database.

Finally, we are conducting an Alternative Dispute Mechanism Assessment focused on arbitration procedures and programs.

We believe these efforts are reinforcing the consumer protections provided in the regulations adopted as final in today's action. This final rule remains the centerpiece of FMCSA's household goods enforcement program, as it is the most effective way to provide consumers with enhanced protections without unduly impeding market competition within the moving industry.

6. *An identification, to the extent practicable, of all relevant Federal rules*

that may duplicate, overlap, or conflict with the rule.

In the agency's view, no Federal rules would duplicate, overlap, or conflict with this final rule.

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, Aug. 10, 1999). State Attorneys General submitted comments to the May 2, 1998, NPRM, which were considered and addressed in developing the interim final regulation. FMCSA certifies that this rule has federalism implications because it directly impacts the distribution of power and responsibilities among the various levels of government. The rule will not, however, impose significant additional costs or burdens on the States.

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 and 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 ICC in 1981 and subsequently transferred to DOT by the ICC Termination Act of 1995 wherein 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). The Carmack Amendment, now codified at 49 U.S.C. 14706, imposes a uniform regime of mover liability for interstate shipments of property designed to eliminate the uncertainty resulting from potentially conflicting State laws. Federal and State courts consistently have held that Carmack preempts a broad range of State consumer protection laws potentially applicable to interstate household goods carriers. As with the former ICC regulation amended by the interim final rule, under current case law this rule preempts all State regulations that purport to regulate interstate household goods transportation subject to Federal jurisdiction.

As AMSA commented, the NPRM's conclusion that this rule is not intended to preempt any State law or regulation was incorrect and likely to promote uncertainty and potential conflicts with States. AMSA stated, ''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. & L. Assn.* v. *de la Cuesta*, 458 U.S. 141, 73 L.Ed.2d 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 [National Association of Consumer Agency Administrators]. 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.''

FMCSA agrees that AMSA has correctly stated current case law on the preemption issue. AMSA is likewise correct that NACAA's suggestion to consider the Federal rules solely as supplementary law reflects a basic misconception of the Supremacy Clause.

Prior Consultations With State and Local Officials

As 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, however, 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 mover 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 3-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 FMCSA Has Addressed the Concerns of State and Local Officials

In response to these comments to the NPRM, the agency amended the proposed regulations in five respects. The interim final rule (and today's final rule): (1) Revises the consumer information pamphlet that movers must

give shippers to include guidance regarding the shipper's right to decline arbitration; (2) clarifies mover liability disclosure requirements; (3) requires movers to disclose the names and addresses, when known, of any other motor carriers that will participate in transportation of the shipment; (4) requires movers to make delivery (relinquish the shipment) and defer demanding payment for charges not in the estimate, if the mover could reasonably have determined such charges at the time of pickup; and (5) mandates a 3-day grace period for shippers to cancel orders for service without penalty.

Conclusion

FMCSA submitted State and local officials' comments to the docket and the federalism summary impact statement for the June 11, 2003, interim final rule to the Director of the Office of Management and Budget.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Public Law 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 that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $120 million or more (adjusted annually for inflation) in any one year must prepare a written statement incorporating various assessments, estimates, and descriptions that are delineated in the Act. FMCSA determined that the changes in the June 11, 2003, interim final rule will not have an impact of $120 million or more (as adjusted for inflation) in any one year. No significant additional impact is associated with today's adoption of the interim final regulations as a final rule.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), a Federal agency must obtain approval from OMB for each collection of information it conducts, sponsors, or requires through regulations. FMCSA sought approval of the information collection requirements in the ''Transportation of Household Goods; Consumer Protection Regulations'' interim final rule published on June 11, 2003. On June 19, 2003, OMB assigned control number 2126–0025 to this information collection, and the approval expires on June 30, 2006.

OMB approved 600,000 annual responses, 4,370,037 annual burden hours, and an annual information collection burden of $37,247,000. It also approved FMCSA form number MCSA–2P to be used as part of the information collection process.

The collected information encompasses that which is generated, maintained, retained, disclosed, and provided to, or for, the agency under 49 CFR part 375. It 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 will 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 regulations issued by the former ICC. When these items transferred from the ICC to FMCSA, however, no OMB control number was assigned to cover this information collection transfer. It was therefore necessary to calculate the old information collection burden hours for these items approved under the ICC rules versus the new burden generated by the interim final rule and subsequent amendments and adopted in today's final rule.

Assumptions used for calculation of the information collection burden 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 requirement for an arbitration report proposed in the NPRM was not retained in the interim final rule.

The following table summarizes the information collection burden hours by correlating the information collection activities with the sections of part 375 in which they appear. (The total annual burden hours of 4,370,037 represent a 441,090-hour decrease from the 4,811,127 burden hours estimated in the NPRM.) The table shows whether each information collection activity was required under ICC regulations. A detailed analysis of the burden hours can be found in the OMB Supporting Statement for this rule. The Supporting Statement and its attachments are in the docket.

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	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	

Type of burden	Proposed section	Hourly burden	New burden?
Total Burden Hours for Information Collection		4,370,037	

*Making inventories is a usual and customary moving industry practice that FMCSA adopted on June 11, 2003, at the suggestion of the National Association of Consumer Agency Administrators (NACAA) and the American Moving and Storage Association (AMSA). The PRA regulations at 5 CFR 1320.3(b)(2) allow FMCSA to calculate no burden when the agency demonstrates to OMB that the activity needed to comply with the specific regulation 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 the May 5, 2004, compliance date for the interim final regulations.

National Environmental Policy Act

The agency has analyzed this final rule for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*). We have determined under our environmental procedures Order 5610.1, published March 1, 2004, that this action is categorically excluded (CE) under Appendix 2, paragraph 6.m. of the Order from further environmental documentation. This CE relates to regulations implementing procedures applicable to the ''operations,'' including specified business practices, of motor carriers engaged in the transportation of household goods. In addition, the agency believes that the action includes no extraordinary circumstances that would have any effect on the quality of the environment. Thus, we believe the action does not require an environmental assessment or an environmental impact statement.

We have also analyzed this action under section 176(c) of the Clean Air Act (CAA), as amended (42 U.S.C. 7401 *et seq.*), and implementing regulations promulgated by the Environmental Protection Agency. We have preliminarily determined that approval of this action would be exempt from the CAA's General Conformity requirement since it is merely an adoption of an existing interim final rule as a final rule. See 40 CFR 93.153(c)(2). We believe that it will not result in any emissions increase, nor will it have any potential to result in emissions that are above the general conformity rule's *de minimis* emission threshold levels. Moreover, we believe it is reasonably foreseeable that the rule will not increase total commercial motor vehicle mileage, change the routing of commercial motor vehicles, change how commercial motor vehicles operate, or change the commercial motor vehicle fleet-mix of motor carriers. This rule merely revises and clarifies certain requirements for interstate household goods carriers to ensure individual shippers of household goods are better protected against unfair practices and financial harm. It also ensures these individual shippers are better informed about the new regulations.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property or otherwise have takings 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 in 49 CFR Part 375

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

Final Rule

The interim regulations published June 11, 2003, at 68 FR 35064, part 375 of Title 49 of the Code of Federal Regulations, are adopted as amended without further revision. For the current version of part 375, you may refer to the electronic Code of Federal Regulations on the Internet at *http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=6480bc2da610cfedac650114c5e44fef&rgn=div5&view=text&node=49:4.1.2.2.17&idno=49.* The technical amendments published on March 5, 2004 (69 FR 10570) clarified certain provisions, sought to provide full uniformity between the rule text and the appendix, and ensured the rule reflects current industry practice. The clarifying technical amendments published on April 2, 2004 (69 FR 17313) chiefly affected the rule appendix. The appendix was further corrected on August 5, 2004 (69 FR 47386).

Issued on: July 6, 2005.

Annette M. Sandberg,

Administrator.

[FR Doc. 05–13608 Filed 7–11–05; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–2003–15712]

RIN 2127–AJ43

Federal Motor Vehicle Safety Standards; Glazing Materials

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Final rule; response to petitions for reconsideration; correction.

SUMMARY: NHTSA published a final rule in July 2003 that updated the Federal motor vehicle safety standard on glazing materials. The agency received several petitions for reconsideration of the rule, and has published documents that have delayed the rule's effective date. Today's document completes the response to the petitions by amending provisions on shade band requirements; by providing a compliance option to certain aftermarket glazing materials; by delaying the compliance date of the rule for motor vehicle manufacturers by two months so that they can deplete glazing