

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