

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 than 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.