

**Department of Transportation
Office of the Chief Information Officer**

**SUPPORTING STATEMENT
TRANSPORTATION OF HOUSEHOLD GOODS; CONSUMER PROTECTION**

INTRODUCTION

The Federal Motor Carrier Safety Administration (FMCSA) requests the Office of Management and Budget's (OMB) approval of a revised information collection (IC) entitled, "Transportation of Household Goods; Consumer Protection," covered by OMB Control Number 2126-0025, and currently due to expire on August 31, 2008. The agency must revise this IC to reflect the impacts of its non-significant direct Final Rule, RIN 2126-AA96, titled, "Amendments to Implement Certain Provisions of the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU)," (Attachment A). A draft copy of the Federal Register notice for this rulemaking is provided as a Supplementary Document in the Manage Documents section for this ICR. The publication date for this rulemaking is June 18, 2007.

This submission amends information collection requirements contained in title 49 CFR part 375 (Attachment B), Transportation of Household Goods in Interstate Commerce; Consumer Protection Regulations, as provided in the final rule (See Attachment C). The SAFETEA-LU provisions and amendment to the regulations with impacts to this IC are listed as follows:

- (1) Sec. 4205 Household Goods Carrier Operations amends § 375. 213, 401, 403, and 405
- (4) Sec. 4207 Liability of Carriers under Receipts and Bills of Lading amends § 375.201, 501, and 505
- (5) Sec. 4208 Arbitration Requirements amends § 375.211
- (6) Sec. 4210 Penalties for Holding Household Goods Hostage.

1. Circumstances that make collection of information necessary.

On August 10, 2005, the President signed into law the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU, Public Law 109-59, 119 Stat. 1144, August 25, 2005), which assist in addressing challenges facing our transportation system today. SAFETEA-LU promotes more efficient and effective Federal surface transportation programs by focusing on transportation issues of national significance, while giving State and local transportation decision makers more flexibility for solving transportation problems in their communities.

Accordingly, the final rule is based on the authority of the Federal Motor Carrier Safety Administration (FMCSA) to implement statutory provisions enacted by SAFETEA-LU, Subtitle B under the subtitle cited as the “Household Goods Mover Oversight Enforcement and Reform Act of 2005”. These provisions were effective August 10, 2005 based on the statute. It is necessary to make conforming changes in the regulations administered by FMCSA to ensure that these rules are consistent with the applicable statutes. The provisions enacted by SAFETEA-LU and implemented in the final rules with impacts to this IC are as follows:

A. Operations and estimates (part 375, subparts C and H)

Sec. 4205 of SAFETEA-LU (119 Stat. 1753) (Attachment D) amends 49 U.S.C. 14104(b) (Attachment E) by requiring the household goods motor carrier to conduct a physical survey of the household goods to be transported on behalf of the individual shipper. The carrier must then provide the shipper with a written estimate, based on the physical survey, of charges for the transportation and all related services. The statute permits two exceptions to this requirement.

First, the individual shipper may elect to waive a physical survey of the household goods. The waiver must be in writing; it must be signed by the individual shipper before the household goods shipment is loaded; and the motor carrier must retain a copy of the waiver as an addendum to the bill of lading. The copy of the waiver agreement is subject to the same record retention requirements that apply to the bill of lading, as provided in § 375.505(d).

Second, the motor carrier need not conduct a physical survey if the household goods are located beyond a 50-mile radius of the location of the carrier's household goods agent preparing the written estimate provided to the individual shipper. Section 4205 also codified or added certain requirements for household goods motor carriers to provide specified informational publications to individual shippers.

This change would result in an increased paperwork burden for the industry, which will be estimated below. Current rules require household goods carriers to present shippers with either written binding estimate for the cost of the move, or with a written non-binding estimate for the cost of the move. Current rules do not require the carrier to do a physical survey prior to providing shippers with written estimates.

The new requirement that the written estimate be based on a physical survey of the goods being shipped may increase the length of time needed to provide the shipper with a written estimate for the cost of a rule, and hence would increase the costs and burden on the industry. The Agency assumes that carriers always conduct a physical survey of the goods prior to providing shippers with binding estimates.

The Agency also believes that most carriers conduct physical surveys for non-binding estimates, but that there are a relatively small number of carriers who provide non-binding estimates based solely on information supplied by the shipper over the phone. This rule would require these carriers to conduct a physical survey instead of gathering information over the phone, provided the shipper is within a 50 mile radius of the carrier's base of operations and the shipper does not waive the right to a physical survey. Since a physical survey takes longer to conduct than a telephone survey, the burden hours associated with providing shippers with non-binding estimates would increase. This increase in burden hours is estimated below.

B. Information Provided to Individual Shippers - Your Rights And Responsibilities When You Move (Attachment F) and Ready to Move (Attachment G) (§ 375.213 and Appendix A) – Revisions updating pamphlet to reflect SAFETEA-LU provisions

Section 14104(b)(2) also contains a new requirement that the household goods motor carrier distribute a copy of Department of Transportation publication FMCSA-ESA-03-005 (or its successor publication) entitled "Ready to Move?" at the same time a written estimate is provided to an individual shipper.

It is anticipated that this requirement will increase the paperwork burden associated with household goods moves. The Ready to Move document is a trifold pamphlet that could be printed on two legal sized pieces of paper. The requirement that this document be provided at the time of a written estimate would increase the paperwork burden on carriers. They would have to produce this document and provide it to shippers each time they provide a shipper with a written estimate. The document can be downloaded from the FMCSA Web site, so carriers would simply have to print the document and make copies as needed. The burden hours and costs associated with this requirement are described below.

These statutory provisions are mandatory and straightforward, and do not require any exercise of discretion by the agency regarding their implementation. These statutory changes went into effect upon enactment of SAFETEA-LU on August 10, 2005. However, it is necessary to make conforming changes in the regulations administered by FMCSA to ensure these rules are consistent with the applicable statutes.

This information collection supports the DOT Strategic Goal of Safety.

2. How, by whom, and for what purpose is the information used.

The information set forth in this final rule will require motor carriers who transport household goods by motor vehicle in interstate commerce (movers) to

assist their individual customers who ship household goods. The assistance will include notifications and information about:

1. Who the movers are.
2. Whether the mover holds authority with the FMCSA to transport household goods.
3. What the movers' liabilities are for loss or damage of consumers goods.
4. What must be in their contracts with local agents who will deal directly with consumers.
5. How to handle consumer complaints and inquiries.
6. What must be in its arbitration program for consumers.
7. What information it must disseminate to consumers.
8. How to collect charges.
9. What the mover must do if it sells liability insurance.
10. How to estimate transportation and related service charges.
11. How to execute orders, inventories, and bill of lading contracts.
12. How to weigh consumer shipments.
13. What to do during the transportation service for timely delivery and service delays.
14. How to deliver shipments.
15. What penalties exist for violations.

The FMCSA will review the information collected by carriers from the shippers as a result of the agency's implementation of the final rule to determine if each mover is carrying out the provisions of the statute and regulations and is in "substantial compliance" with the MCSIA. The FMCSA will use the information provided by the shippers, as it deems necessary, when conducting reviews, audits and investigations of carriers to determine if a carrier/mover is in compliance with the Federal requirements. If this collected information were not available, the FMCSA will have no means of independently verifying each mover's compliance.

3. Extent of automated information collection.

The FMCSA will be capable of accepting 90 percent of the needed information electronically. The household goods program can use modern automated information collection technology, which will serve to reduce the burden of the program. The information collections can be transmitted by e-mail or facsimile transmissions, at the discretion of the consumer or mover. In addition, information is available and complaints can be submitted via the internet.

4. Efforts to identify duplication.

There is no duplication of existing data. The information submitted by the movers to demonstrate their compliance with 49 U.S.C. chapters 133 through 141 with respect to consumer protection regulations does not duplicate existing information collections.

5. Efforts to minimize the burden on small businesses.

In the household goods motor carrier industry, the Small Business Administration (SBA) defines small entities as those firms earning less than \$23.5 million in gross receipts annually. The FMCSA examined U.S. Census Bureau data from the 1997 Economic Census, in particular the revenue size of firms engaged in the "Used Household and Office Goods Moving" sector (North American Industry Classification System Code 484210). The vast majority of firms represented in the sample fall below the SBA annual revenue threshold for small entities. They represent over 99 percent of the firms in the sample and employ roughly 87 percent of the workers.

This rulemaking has a significant impact on small businesses but FMCSA hopes to minimize the burden on small businesses by identifying alternative approaches for providing consumer protection as follows:

FMCSA will continue to:

- 1) Evaluate the adequacy of agency enforcement efforts;
- 2) 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
- 3) Conduct public education efforts to promote consumer awareness of self-help measures.

6. Impact of less frequent collection of information.

The information in this proposal will be collected when a consumer requests that a mover provide an estimate and when a consumer decides to have a particular mover transport household goods. Certain information will be transferred to the consumer for the consumer to educate himself/herself of its rights and responsibilities in the commercial transactions with the mover. Therefore, frequency is based on the number of moves and is not a factor that FMCSA or the carrier can control.

7. Special circumstances.

The information is not collected more frequently than quarterly since the data is required only when services are requested by the consumer. This is to help the consumer understand each part of the commercial transaction and determine whether or not they are being defrauded or deceived by a mover.

8. Compliance with 5 CFR § 1320.8.

FMCSA published a notice in the Federal Register with a 60-day public comment period to announce its intent to revise this information collection on November 20, 2006, (71 FR 67198), (Attachment H). No comments regarding this information collection were received in response to the notice.

FMCSA published a notice in the Federal Register with a 30-day public comment period to announce that this information collection would be sent to OMB for approval on April 23, 2007, (72 FR 20164) (Attachment I).

On or about May 2007, FMCSA expects to publish a final rule, implementing the regulatory provisions required by the statutory provisions enacted by SAFETEA-LU, Title IV, Subtitle B – Household Goods Transportation.

9. Payments or gifts to respondents.

There are no payments or gifts to respondents for this information collection.

10. Assurance of confidentiality.

None of the information collected by movers will be confidential.

11. Justification for collection of sensitive information.

There are no questions of a sensitive nature.

12. Estimates of burden hours for information requested.

This submission updates information collections modified or added as a result of final regulations governing household goods transportation in 49 CFR Part 375 that are modified in accordance with SAFETEA-LU. Therefore, FMCSA will reflect the revisions of Part 375 and, if any, the new burden hours in the active information collection No. 2126-0025.

As stated above, the two provisions of this rule which will result in an increased paperwork burden are the requirement to provide the “Ready to Move?” document to shippers along with a written estimate of the cost of the move, and the requirement to do a physical survey of the goods to be moved prior to providing the shipper with a written estimate. These burden estimates are determined in part by the number of written estimates that are provided to shippers. The Agency estimates that there are approximately 600,000 household goods moves per year, and that for each move the shipper obtains written estimates from an average of 3 carriers for each move. This means that there are approximately $600,000 \times 3 = 1,800,000$ written estimates provided per year.

Total Annual Respondents: 5,400.

Total Annual Responses: 600,000.

Information Provided to Individual Shippers – Ready to Move? Pamphlet (§375.213 and Appendix A)

The Agency estimates that there are approximately 5,400 household goods carriers currently operating in the U.S. The Ready to Move pamphlet will have to be distributed approximately 1,800,000 times per year, once for each written estimate provided by a carrier. On average each carrier will have to provide 450 pamphlets to shippers ($1,800,000/5,400 = 333$). The Agency estimates that it will take each carrier 5 minutes to download this pamphlet from the FMCSA web site, and 25 minutes to make 333 copies of the document. On average, each carrier will incur an additional half-hour per year of paperwork burden hours to comply with this requirement. The total burden hours associated with this requirement is 2,700 (5,400 carriers x 30 minutes per carrier/60 minutes per hour = 2,700 hours).

Binding or Non-binding Estimate of Transportation, Accessorial, and Incidental Charges (§ 375.401)

This rule changes the procedure under which certain motor carriers will issue estimates to shippers. This rule requires carriers to conduct a physical survey of the shipper’s goods prior to providing the shipper with a written estimate for the cost of the rule. The two exceptions to this rule are 1) if the shipper waives the right to a physical survey in writing, or 2) if the shipper is located outside a 50 mile radius of the carrier’s home base or the home base of any of the carrier’s agents. The Agency believes that most carriers currently conduct a physical survey prior to providing shippers with written cost estimates. However, there are some carriers who currently provide estimates over the phone based on information provided by the shipper during the telephone

conversation. These carriers are required by this rule to conduct physical surveys unless one of the two conditions noted above apply.

As noted above, the Agency estimates that there are approximately 600,000 household goods moves per year. The Agency also believes that each customer obtains an average of 3 written estimates prior to choosing a carrier to conduct the move, so the total number of estimates provided by the industry is $3 \times 600,000 = 1,800,000$. Of this number, approximately 60 percent (1.08 million) are estimated to be binding estimates, and the remaining 40 percent (720,000) are believed to be non-binding estimates. The Agency believes that all carriers conduct physical surveys prior to issuing binding estimates, and that carriers conduct physical surveys in 75 percent of non-binding estimates. This leaves approximately $720,000 \times 0.25 = 180,000$ moves for which physical surveys are not currently conducted. The Agency estimates that one of the two exceptions to the physical survey requirement would apply in half of these cases, so roughly 90,000 estimates would be exempt from the physical survey requirement. This leaves 90,000 estimates in which the carrier does not currently conduct a physical survey, but would be required to under this rule.

The Agency estimates that it takes a carrier an average of approximately 2.5 hours to conduct a physical survey and provide a shipper with a written estimate based on this survey. Surveys based on phone conversations are expected to be much shorter, both because there is no required travel time between the carrier's office and the shipper's residence, and because the information gathered in the phone survey is much less detailed. The Agency estimates that written estimates based solely on phone conversations take approximately one-half an hour to prepare. The difference in time is therefore $2.5 \text{ hours} - 0.5 \text{ hours} = 2 \text{ hours}$ per written estimate. Given that there are 90,000 moves that this change in preparation time would apply to, the additional burden imposed by this rule amounts to 180,000 additional hours to prepare the required documents.

Estimated Total Annual Burden Hours: 4,552,737 hours (4,370,037 currently approved total annual burden hours + 2,700 hours for "Ready to Move" pamphlet + 180,000 hours to prepare the binding and non-binding estimates documents = 4,552,737).

13. Estimates of total annual costs to respondents.

For the Ready to move document, the cost associated with the rule would involve the time needed to print this document, and the cost of materials and printing equipment for duplicating the document. We estimated above that the burden hours of complying with this requirement would be approximately 2,000 hours. The cost estimate associated with this burden hour calculation is based on the average compensation rate for a general office clerk, as estimated by the United States Bureau of Labor Statistics (BLS). According to the BLS, general

office clerks make an average of \$11.82 per hour, which is the best estimate available of their hourly monetary compensation, but excludes non-monetary benefits. BLS does not provide hourly benefit information for various occupations, but on average these benefits equal about 30 percent of a worker's monetary compensation. We therefore inflate the hourly wage rate by 30 percent to account for the value of these benefits, for a total hourly compensation rate of \$15.37. We multiply this figure by the burden hours estimated above to get an estimate of the cost associated with these burden hours. This cost is $\$15.37 \times 2,700 = \$41,499$. In addition, we assume 10 cents per copy for the cost of duplicating this document, and that 1,800,000 would have to be distributed per year. The total cost of this copying would be $\$0.10 \times 1,800,000 \text{ copies} = \$180,000$. The total cost of this provision is therefore \$221,499.

We estimate that the physical survey requirement in this rule would result in an extra 180,000 burden hours per year. This burden hour accounts for the relatively small number of written estimates per year that would require a physical survey due to this rule but for which physical surveys are not currently conducted. Since a written estimate is produced whether or not a physical survey is conducted, no additional paperwork is necessary, so the number of documents produced by the industry would not change. However, there is a change in the length of time it will take carriers to complete estimates, hence the increased burden hours. In addition to the costs of staff time, this requirement would impose additional travel costs on the motor carriers who do surveys over the phone. These carriers would have to send employees to each shipper's residence to conduct a physical survey prior to giving the shipper a written estimate. Given the 50 mile radius exception, we assume that on average the length of this trip would be approximately 20 miles one-way, or 40 miles round-trip.

The Bureau of Labor Statistics estimates that the individuals who conduct estimates for household goods movers make an average of \$20.02 per hour, including benefits and wages. The cost of the additional burden hours to carriers would therefore be approximately $180,000 \times \$20.02 = \$3,603,600$. Combined, the carriers would make 90,000 trips. This amounts to a total mileage of $90,000 \times 40 = 3,600,000$ miles. The current mileage reimbursement rate for the Federal government is 45 cents per mile. The total cost of this travel is therefore estimated at $\$0.45 \times 3,600,000 \text{ miles} = \$1,620,000$. Combined, this provision of the rule would result in costs of $\$1,620,000 + \$3,603,600 = \$5,223,600$. Combining this cost with the cost estimated above for the Ready to Move? requirement results in a grand total cost of \$5,445,099.

Estimated Total Annual Costs to Respondents: \$42,692,099
(\$37,247,000 currently approved total annual cost burden + \$5,445,099 new cost burden = \$42,692,099).

14. Estimates of cost to the Federal Government.

Since the annual performance report and the proposed annual arbitration report will not be collected, the Federal Government will not have a review function. The cost to the Government will be the time spent by staff responding to complaints submitted on the Household Goods - Consumer Complaint Form MCSA-2P (Attachment G). We estimate this cost to be approximately \$100,000 per year.

15. Explanation of program changes or adjustments.

This revision resulted in a program increase of 182,700 annual burden hours [4,552,737 proposed annual burden hours - 4,370,037 OMB approved annual burden hours = 182,700 hours]. The increase is due to the SAFETEA-LU Sec 4205 requirement for every motor carrier within a 50-mile radius of the location of the carrier's household goods agent preparing the estimate to conduct a physical survey of the household goods to be transported on behalf of a prospective individual shipper along with a written estimate of charges for the transportation and all related services, unless it is waived by the individual shipper. The previously approved 60,000 Annual Number of Responses was adjusted by 540,000 to reflect the correct number of 600,000 responses. The program increase in costs to respondents is due to \$5,445,009 in new cost due to the rulemaking.

16. Publication of results of data collection:

The FMCSA does not plan to publish any results.

17. Approval for not displaying the expiration date of OMB approval:

The FMCSA is seeking approval to not display the expiration date of OMB approval on the publication "Your Rights and Responsibilities When You Move". This publication will be printed by the vast majority of the 4,000 household goods carriers. It will be a burden on them to have to re-print the document every 3 years.

However, we are **not** seeking approval to not display the expiration date of OMB approval on form MCSA-2P, Household Goods - Consumer Complaint Form. Because this form will be available from FMCSA's web site, it will be easy to update the form with a new approval date when appropriate.

18. Exceptions to certification statement:

The FMCSA is claiming no exception to any element of the certification statement identified in Item 19 of OMB form 83-I.

Part B. Collections of Information Employing Statistical Methods.

This information collection does not employ statistical methodologies.

Attachments:

- A. Final Rule, entitled, "Amendments to Implement Certain Provisions of the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA-LU),"Public Law 109-59,119 Stat. 1144, August 10, 2005.
- B. 49 CFR 375, Transportation of Household goods In Interstate Commerce; Consumer Protection Regulations, June 11, 2003.
- C. Final Rule entitled "Transportation of Household Goods; Consumer Protection Regulations (70 FR39949), July 12, 2005."
- D. Sec. 4205 of SAFETEA-LU, Public Law 109-59 (119 Stat. 1753), August 10, 2005.
- E. 49 U.S.C. 14104(b), Household Goods Carrier Operations.
- F. Your Rights and Responsibilities When You Move
- G. Ready to Move pamphlet.
- H... 60-day Comments Request Federal Register Notice (71 FR 67198), dated November 20, 2006.
- I. 30-day Comments Request Federal Register Notice (72 FR 20164).

Form MCSA-2P, Household Goods – Consumer Complaint Form.