

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

**SUPPORTING STATEMENT
Lease and Interchange of Vehicles**

INTRODUCTION:

This asks the Office of Management and Budget (OMB) to revise the information collection request (ICR) currently approved under OMB Control Number 2126-0056, "Lease and Interchange of Vehicles," which is due to expire on July 31, 2017, and to extend it for three years. This request is based upon new FMCSA program requirements in a final rule entitled, "Lease and Interchange of Vehicles; Motor Carriers of Passengers," (80 FR 30164 dated May 27, 2015 (Attachment A). The final rule will add leasing requirements for buses and motorcoaches. The current regulations require certain for-hire motor carriers of property to have a formal lease when leasing equipment. They require less paperwork for some leasing and interchange arrangements involving for-hire carriers.

Part A. Justification.

1. CIRCUMSTANCES THAT MAKE COLLECTION OF INFORMATION NECESSARY.

The rules were adopted to ensure that truck and bus carriers are identified (and in some cases protected) when they agree to lease their equipment and drivers to other carriers. They also ensure that the government and members of the public can determine who is responsible for a commercial motor vehicle (CMV). Prior to the regulations some equipment was leased without written agreements, leading to disputes and confusion over which party to the lease was responsible for charges and actions and, at times, who was legally responsible for the vehicle. These recordkeeping requirements are consistent with the provisions of the Motor Carrier Safety Act of 1984 for for-hire and private passenger carriers that operate CMVs, in order to enable the general public and investigators to identify the passenger carrier responsible for safety. Also, under 49 U.S.C. 14102(a), (Attachment B) FMCSA "may require a motor carrier providing for-hire transportation that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

- (1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;
- (2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;
- (3) inspect the motor vehicles and obtain liability and cargo insurance on them; and
- (4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier."

The Secretary has delegated authority pertaining to leased motor vehicles to FMCSA pursuant to 49 CFR part 1.87(a)(6) and (f) (Attachment C). The Agency's regulations governing leased motor vehicles are at 49 CFR Part 376 Lease and Interchange of Vehicles (property-carrying motor vehicles) and Part 390, subpart F—Lease and Interchange of Passenger-Carrying Commercial Motor Vehicles.

The rules specify what must be covered in the lease, and to some degree, responsibilities of the motor carrier. The parties to the lease determine much of the details between themselves.

This ICR supports the Department of Transportation's strategic safety goal by ensuring that FMCSA, our State partners, and the National Transportation Safety Board (NTSB) are better able to identify the responsible motor carrier and therefore correctly assign regulatory violations to the appropriate carrier during inspections, investigations, compliance reviews, and crash studies.

2. HOW, BY WHOM, AND FOR WHAT PURPOSE THE INFORMATION IS TO BE USED.

The government generally collects little information with this ICR. The leases and other agreements are developed and held by the lessor (e.g., those granting use of equipment) and lessee (e.g., party acquiring equipment). They are used to assign duties and responsibilities. The information may also be used by law enforcement to determine legal responsibility in the event that a leased vehicle is in violation of the regulations or is involved in an accident.

3. EXTENT OF AUTOMATED INFORMATION COLLECTION.

Leases may be created and maintained electronically. FMCSA estimates that 50% of the leases are electronic.

4. EFFORTS TO IDENTIFY DUPLICATION.

FMCSA knows of no duplicative regulations.

5. EFFORTS TO MINIMIZE THE BURDEN ON SMALL BUSINESSES.

The purpose of Part 376 is to protect small businesses by ensuring that the terms under which they lease their equipment to other motor carriers are specified in a legal document. Relatively few of the small trucking firms (less than 4 percent) lease vehicles from other carriers. The overall frequency of leasing and interchange of vehicles among the diversity of passenger carriers is mostly unknown. Anecdotal information and opinions of industry experts indicate the frequency of leasing and interchange of vehicles among private passenger carriers is low.

Comments to the rulemaking on passenger carrier leasing caused FMCSA to reduce the regulatory and paperwork burden on (1) passenger carrier vehicles exchanged between or among commonly owned and controlled motor carriers in that these entities will not be required to have leases and receipts when exchanging passenger vehicles; and (2) leases and receipts will not be

required when passenger carriers that are party to a revenue pooling agreement approved by the Surface Transportation Board exchange or interchange passenger vehicles between or among themselves on routes subject to the pooling agreement. A simple statement affirming responsibility for regulatory compliance and marking the vehicle appropriately will be required for these: (1) exchanges of passenger vehicles among commonly owned and controlled motor carriers; and (2) parties to revenue pooling agreement approved by the Surface Transportation Board. Also, FMCSA has added an emergency exception to the requirement that the lease or interchange agreement be signed before the vehicle begins operation. When a passenger vehicle is disabled during a trip, the lessor and lessee of the replacement vehicle may postpone the completion of a written lease for up to 48 hours to reduce regulatory and paperwork burdens and allow the passenger to resume their trip quickly.

6. IMPACT OF LESS FREQUENT COLLECTION OF INFORMATION.

Less frequent collections of information are infeasible by failing to fully serve the purpose of the vehicle leasing and interchange regulations for passenger carriers.

7. SPECIAL CIRCUMSTANCES.

There are no special circumstances related to this information collection.

8. COMPLIANCE WITH 5 CFR 1320.8.

On September 20, 2013 (78 FR 57822) (See Attachment D), FMCSA published an NPRM in the Federal Register requesting public comments on proposed additional lease and interchange requirements for passenger carriers using buses and motorcoaches. The FMCSA received no specific information collection comments in response to this proposal; however, many commenters believed exceptions and exemptions from the new rules should be adopted for various reasons.

Emergency Exception

American Bus Association (ABA), United Motorcoach Association (UMA), Greyhound Lines Inc. (Greyhound), and Coach USA noted that mechanical failures can unexpectedly strand passengers at places where safe accommodations may not exist. The commenters argued that, in order to minimize the resulting inconvenience and possible danger to passengers, the carrier must obtain a replacement vehicle as quickly as possible, sometimes from an unknown lessor, and without waiting to negotiate and exchange written lease documents. These commenters requested an exception to the proposed leasing requirements for emergency situations.

FMCSA agrees that negotiating and writing an emergency lease for a replacement vehicle (perhaps with a driver) from a local passenger carrier and exchanging the appropriate documents could unnecessarily prolong the delays and increase the risks experienced by passengers. On the other hand, the benefits the Agency expects to derive from this rule would be lost if the requirement for a lease were simply waived in these situations. FMCSA has therefore adopted an emergency exception to give the operating

carrier and the lessor up to 48 hours after the lessee takes possession of the replacement vehicle to reduce to writing the terms of their lease agreement [§ 390.303(a)(3)]. Because the replacement vehicle will pick up the stranded passengers and resume the interrupted trip almost immediately, a lessee that cannot transmit an electronic copy of the subsequently completed lease to the driver's smartphone, notepad or other computer may not be able to ensure that a copy of the lease is carried on the motorcoach, as required by § 390.303(f)(2). In this limited situation and for the duration of the lease, FMCSA will instead allow the lessee to carry a statement signed by the driver or any available company official that "[Carrier A] has leased this vehicle to [Carrier B] pursuant to 49 CFR 390.303(a)(2)."

Revenue Pooling Agreements

ABA pointed out that 49 U.S.C. 14302(b) authorizes the Surface Transportation Board (STB) to approve revenue pooling agreements among carriers. Adirondack Trailways indicated that it is a party to STB-approved revenue pooling agreements and that the requirements of the NPRM were inconsistent with the procedures authorized under the pooling agreements. Greyhound said that, in 2012, it "operated a total of 8,089 trips with buses leased on an interchange basis from its pool or interline partners."

FMCSA agrees that operations under revenue pooling agreements approved by the STB should be exempt from the lease and receipt requirements of this rule. The final rule therefore imposes only a few requirements to enable the Agency to track the safety performance of all members of the pool and specifically identify the carrier responsible for safety. Each vehicle must have available, either in hard copy or electronically, the number and date of the STB decision approving the pool and the names of the pool members. In addition, each vehicle must have available a list of (1) all routes covered by the pooling agreement, (2) the carrier or carriers authorized to operate on each route or portion of a route, (3) all points of origin, destination, or interchange (should interchanges be part of the agreement). However, all members of the revenue pool must mark the vehicles with the name of the operating carrier, as required by § 390.21(f). The advantage of this exception is that the parties to a pooling agreement need not exchange lease documents and receipts.

Common Ownership and Control

Coach USA, a non-carrier that controls many passenger carriers, requested "an exemption from the requirements of proposed section 390.303 for vehicle exchanges between affiliated companies. By 'affiliated companies,' Coach USA means companies that share a common parent company." Similar comments were submitted by Adirondack Trailways, which is commonly owned and controlled with two other carriers, Pine Hill Trailways and New York Trailways. Adirondack stated that "[t]hese three companies interchange buses and drivers on a regular basis every single day" and that operational agreements among these carriers were inconsistent with, and should be exempted from, the requirements of the NPRM."

FMCSA agrees that there is no need for individual leases and receipts when vehicles are interchanged between or among commonly owned and controlled passenger

carriers. Such a requirement would add nothing to these carriers' standard business practices and impose unnecessary paperwork. In most cases, all of the "family" members are likely to be operating according to the same administrative procedures and safety standards. The carrier responsible for safety and regulatory compliance can be readily identified by the less complex trip summary which § 390.301(b)(2) requires these exchanged or interchanged vehicles to carry. The trip summary is necessary since large holding companies seek to minimize their regulatory and tort exposure by dividing their motor carrier business into multiple limited liability companies (LLCs) while operating them very much like a single corporation. Therefore, each driver in a group of commonly owned and controlled motor carriers must carry a summary document listing all members of the corporate family, along with their USDOT numbers and business addresses. The document must also identify the operating carrier, the trip (by charter number, run number, or something similar), the vehicle (by the carrier's internal number or license plate number), and the date of the trip. These trip summaries are subject to the one-year record retention requirement of § 390.303(d). Like the parties to a pooling agreement, however, commonly owned and controlled carriers need not prepare leases or receipts when they exchange vehicles.

Passenger Carriers Chartering Other Passenger Carriers

ABA said the NPRM "does not define, or even mention, the term 'charter' which is how motorcoach carriers of passengers view the hiring or interchange of vehicles." UMA commented that "Interstate passenger carriers routinely charter the services of other passenger carriers for emergencies or capacity reasons. . . . It is generally considered that the chartered company assumes all responsibilities for regulatory compliance. . . . This system is so effective, FMCSA should completely evaluate the positive attributes of these charter arrangements versus the possibilities that a lease may actually reduce an otherwise compliant chartered passenger carrier's responsibilities and motives; thereby reducing their safety and compliance concerns."

The NPRM did not specifically discuss "passenger carriers chartering other passenger carriers" because the Agency believed it was sufficiently clear that such arrangements, depending on their specific terms, either would not be subject to the proposed rule at all because they involved no leases, or would be subject to the rule because the "chartered" carrier was leasing vehicles and drivers to another passenger carrier. Based upon the comments received, it is apparent that clarification is needed.

A passenger carrier that agrees to transport a tour or travel group on a particular trip may find itself without the capacity to accommodate the group. In that case, the carrier might transfer the contract to a second carrier that has the necessary capacity. The second carrier may or may not pay a fee to the transferring passenger carrier. In any case, this rule would not apply to that transaction because the first carrier has not leased equipment from the second. The contract has been reassigned and the second carrier has undertaken the trip in its own name on its own authority with its own vehicle(s), and is therefore responsible for compliance with the FMCSRs. As a good business practice, the transferring passenger carrier should of course immediately notify the tour or travel group that another carrier will provide the transportation. Disgruntled customers have

occasionally contacted FMCSA when such notification does not occur and an unknown carrier arrives unexpectedly to pick up a group of passengers. While the final rule does not address communication when a passenger transportation contract is completely transferred to another carrier, the industry should note that the interests of tour operators and their customers are not adequately protected when such contracts are transferred among carriers without prior notice to the passengers affected by the change.

On the other hand, a passenger carrier that needs one or more additional vehicles may subcontract with another carrier to supply the vehicle(s) and possibly also driver(s) while still nominally performing the contract with the tour or travel group. When a passenger carrier hires or charters (i.e., contracts for) the services of another passenger carrier to help perform a contract, it has leased vehicles and services from that carrier. In these circumstances, a lease must be prepared and receipts exchanged in compliance with this rule to indicate that the prime contractor is responsible for the lessor's (i.e., subcontractor's) regulatory compliance. A copy of the lease or written agreement must be on the vehicle obtained from the subcontracted lessor, and the hiring passenger carrier's legal name and USDOT number must be marked on the vehicle as prescribed in 49 CFR 390.21. While the prime contractor (i.e., the lessee carrier) may require the subcontractor to comply with all applicable provisions of the FMCSRs and to indemnify it for any civil penalties assessed for violations of those provisions by the subcontracted lessor, FMCSA and its State partners will hold both the prime contractor and its subcontractor responsible for completion of the lease described in this final rule.

In this situation described above, the lessee carrier is fully responsible for the regulatory compliance of the lessor carrier and must mark the vehicles leased from the lessor with the information required by 49 CFR 390.21(f). However, because the name and/or logo of the chartered or hired passenger carrier is likely to be displayed prominently on the vehicles, passengers might overlook the smaller placard required by § 390.21(f)(2) and assume that a different carrier was providing the transportation. To reduce the possibility of confusion, FMCSA has added a provision to the rule that requires a passenger carrier that subcontracts all or a portion of a transportation service to notify the tour or travel group within 24 hours of establishing the subcontracting arrangement that all or some of the transportation will be performed by a lessor subcontractor.

This rule holds the lessee carrier directly responsible for violations of the FMCSRs. While UMA asserted that the chartered passenger carrier generally assumes all responsibilities for regulatory compliance, this final rule does not prevent the two carriers from including in the charter (i.e., lease) contract a provision making the chartered carrier responsible for such compliance, with appropriate indemnification language for penalties imposed by regulatory agencies. The relationship between the two parties remains that of a lessor and lessee. The "charter contract" described by UMA appears to involve negotiation and paperwork burdens similar to those associated with a lease. The net burden imposed by this rule therefore should be minor.

FMCSA published a final rule on May 27, 2015 (80 FR 30164) (See Attachment A).

9. PAYMENT OR GIFTS TO RESPONDENTS.

Respondents are not provided with any payment or gift for this information collection.

10. ASSURANCE OF CONFIDENTIALITY.

Not applicable. The leases and other agreements are developed and held by the lessor and lessee.

11. JUSTIFICATION FOR COLLECTION OF SENSITIVE INFORMATION.

There are no questions of a sensitive nature.

12. ESTIMATES OF BURDEN HOURS FOR INFORMATION REQUESTED.

IC-1: Part 376, Property-Carrying Commercial Motor Vehicles

Part 376 applies only to certain motor carriers in interstate commerce and only to certain leasing situations. The rules cover leasing between a for-hire carrier that does not hold an operating authority and another for-hire carrier that does hold operating authority. To determine the number of affected carriers, FMCSA used data from its Motor Carrier Management Information System (MCMIS) database from September 2012. Because straight trucks generally operate locally, FMCSA focused on carriers that lease CMVs that pull one or more trailers. Because household goods carriers have relatively low mileage per CMV (20,000 to 35,000 miles/year), FMCSA included in its estimates all carriers that term-lease CMVs and average more than 20,000 miles per CMV. This approach is conservative because it is likely that many of the leased vehicles/drivers are being leased from carriers that hold their own operating authority. Based on the MCMIS data, FMCSA estimates that about 16,500 for-hire carriers lease 311,000 CMVs annually.

Given that the carrier population is projected to increase at an annual rate of 2.17 percent per year,¹ then in 2017—the first year of the rule—the *Agency estimates that 18,000 for hire-carriers* ($18,370 = 16,500 \times (1.0217^5)$) *lease 339,000 CMVs* ($338,886 = 311,000 \times (1.0217^5)$).

¹ FMCSA's estimated annual growth rate of 2.17 percent is similar to the BLS estimate of 2.38 percent (Employment by industry, occupation, and percent distribution, 2010 and projected 2020 484000 Truck Transportation. http://www.bls.gov/emp/ep_table_109.htm). FMCSA used the growth rate obtained from MCMIS data because it captures the dynamic nature of the industry and allows for a separate growth rate for carriers with recent activity and new entrants.

Section 376.11 requires a for-hire carrier to do the following when the carrier (lessee) leases equipment from a person (lessor) that does not hold its own operating authority and that is not a private carrier:

- The lessor and lessee enter into a formal lease that specifies the terms and conditions (49 CFR 376.12).
- The lessee provides the lessor with receipts specifying the equipment being leased at the beginning of the lease and at the end of the lease if required by the lease.
- The lessee shall ensure that either a copy of the lease or a statement certifying its use is on each piece of leased equipment.
- The lessee shall prepare and keep documents for each trip for each piece of leased equipment. It should also carry papers on the equipment documenting each trip and retain the records; a master lease and freight documents can replace these records.

Most authorized carriers that lease equipment lease both power units and drivers, often from a (lessor) driver who owns a single CMV, and sometimes from many such drivers. The leasing carrier, or lessee, is assumed to have a master lease that it uses for all lessors rather than negotiating the terms with each lessor. Given this standardization, FMCSA assumes that time the lessor spends reviewing the lease is negligible in the trucking context. The lease or statement to be carried in the tractor will be standard documents that, once created, impose no additional burden. Because trip records can be met by freight records, which are generated in the ordinary course of business, they impose no additional burden. Similarly, receipts for the possession of the equipment are necessary documents that would be generated to establish legal responsibility at specific points in time. Therefore, the burden associated with § 376.11 is the following:

- The creation of master leases by for-hire carriers that lease equipment and drivers from people without operating authority.
- Creation of a statement or copy of the lease to be carried in each leased tractor/truck.

The analysis assumes that all impacted carriers will engage in lease negotiation leading to a ‘master lease’ or repeat leases.² The Agency believes this impact is minimal because several leases can be combined and negotiated as one (master) lease and many lease forms are available online and do not require legal assistance. Lease negotiation and documentation are assumed to be a burden of 30 minutes (0.5 hours) of a transportation manager’s time. This cost is applied to both the lessee and the lessor.

The number of statements issued to lessors annually is uncertain because some leases may be open-ended or self-renewing. Therefore, the burden of issuing copies of leases would be less for a motor carrier with a large percentage of owner-operators who automatically stay longer than one year. Conversely, the trucking industry regularly reports annual driver turnover rates around the 100 percent mark for large truckload fleets, which may lead to a greater number of leases per year, thus, lease statements. With many trucking carriers automatically renewing annual leases

² For multiple or complex lease agreements, it is assumed that such leases are already negotiated and finalized in writing. The CMV industry leasing practices differ between the trucking and busing sectors. The recently proposed rulemaking entitled, “Lease and Interchange of Vehicles: Motor Carriers of Passengers,” NPRM (78 FR 57872) (RIN 2126-AB44) dated September 20, 2013 and the related ICR contain different burden calculations based on variables such as number of leases utilized annually and the burden allocated to lessors versus lessees.

and many new lessors joining the industry, the Agency assumes that these two effects equally offset each other. For the purpose of this analysis, each lease has a term of 1 year, so that a new statement is issued annually, on average. A standard leasing statement will incur the burden of preparing the written documentation of the requisite information and signature of the lease agreement, which is undertaken in 5 minutes (0.083 hours). This cost is applied to both the lessee and the lessor.

Based on MCMIS data, FMCSA estimates that for 2017—the first year of the rule—there are about 18,000 for-hire carriers that lease 339,000 CMVs. Therefore, motor carriers are estimated to spend about 18,000 hours (18,000 carriers × 0.5 hours × 2 = 18,000 hours, rounded to nearest hundred) on average, every year to develop a master lease. Approximately 56,500 hours (339,000 power units × 0.083 hours × 2 entities = 56,481 hours, rounded to nearest hundred) will be spent annually on the creation of a copy of the standard leasing statement—this results in a total annual burden of about 74,500 hours (18,000 hours + 56,500 hours) for leasing and interchange of vehicles.

Table 1 presents the burden hours covered by IC-1.

Table 1. Annual Burden Hours in 2017

	Carriers	Vehicles	Hours	Entities (Lessee and Lessor)	Total Hours
Master Lease	18,000		0.5	2	18,000
Standard Statement		339,000	0.083	2	56,500
Total					74,500

Section 376.12 enumerates specific and detailed requirements regarding the provisions of contracts between carriers and owner-operators. When taken as a whole, the main thrust of § 376.12 is to achieve specificity and transparency in lease contracts and transactions governed by those contracts. These rules require that all relevant terms of the arrangement be made clear to lessors and that lessors be given sufficient information so that they can determine whether or not carriers are complying with contracts. The information burden associated with this section is that leases must specify that an authorized carrier must provide the lessor a copy of the freight bill upon request in circumstances where a lessor’s revenue is based on a percentage of gross revenue for a shipment (49 CFR 376.12(g)). FMCSA has no basis for estimating how often such requests occur. Many long-haul drivers are paid by distance traveled and not by value of a shipment. For lessors paid a percentage of shipping charge, it is likely that the lessee would routinely provide documentation on the charges. FMCSA, therefore, has not estimated a burden for this requirement.

Section 376.22 requires that a for-hire carrier with operating authority or a private carrier leasing equipment to a for-hire carrier with operating authority have a written agreement between the parties that specifies which carrier is in control of the vehicle. A copy is carried on the equipment. The burden associated with this section is the creation of a copy to be carried in the vehicle. FMCSA has not estimated a burden for these copies because it is assumed to be

included in the burden associated with the lease agreement, as that covers all term-leased CMVs estimated to be operating outside of commercial zones.

Estimated Average Total Annual Burden Hours for IC-1 (in 2017): 74,500 (18,000 carriers × 0.5 hours × 2 entities + 339,000 vehicles × 0.083 hours × 2 entities = 74,460 hours, rounded to nearest hundred).

Estimated Annual Number of Respondents (in 2017): 36,000 (18,000 lessees + 18,000 lessors).

Estimated Annual Number of Responses (in 2017): 678,000 (339,000 lessee statements + 339,000 lessor statements).

IC-2: Part 390, Subpart F Passenger-Carrying Commercial Motor Vehicles

The final rule has five information-collection requirements for passenger carriers: (1) written lease agreements and receipts, (2) summary documents for passenger carriers having commonly owned and controlled buses, (3) summary documents for passenger carriers with STB-approved revenue pooling agreements, (4) a statement of regulatory responsibility for passenger carriers requiring an immediate replacement vehicle from another motor carrier for unforeseen contingency events, for example, a crash, the vehicle is disabled, or the driver is ill, and (5) notification of a tour or travel group within 24 hours after the passenger carrier originally contracted to provide service arranges for a subcontractor to transport the tour or travel group.

The affected carrier population in 2017, the first full year during which the rule will be in effect, is estimated at 7,518, which is the number of interstate passenger carriers, with recent activity, as of June, 2014, that fall under the registration categories of carriers that are authorized for-hire, exempt for-hire, and private (business and non-business), with 8 + vehicular passenger capacity. Note that the information-collection requirements for carriers having commonly owned and controlled buses as well as those with STB-approved revenue pooling agreements are lower than for other carriers covered by the final rule; however, the burden and cost to this subset of carriers resulting from this rule is conservatively estimated (on a per-carrier basis) to be equal to that of carriers not qualifying for either of these exceptions.

The estimate of 7,518 affected carriers is based on analysis of year 2014 carrier counts from which the Agency estimated that 7,049 carriers are affected by this rule—5,945 authorized for-hire (they have operating authority from FMCSA), 296 exempt 9+ for-hire motor carriers, 180 exempt 16+ for-hire motor carriers, 261 private business motor carriers, and 367 private non-business motor carriers. Applying the annual growth factor of 2.17 percent per year to the carrier count to project the value of 7,049 from year 2014 to year 2017 (shown in Table 2 below) results in a value of 7,518 carriers affected by this rule in 2017.

Leases

For *documentation* of the lease, the Agency estimates the cost of obtaining and preparing a standard generic template that is freely available on the internet, or through trade organizations or existing passenger carriers. The total number of pages of one such template is two, which is the number used in the Agency's estimate. The estimated annual number of burden hours depends on the estimated annual frequency of leasing. Assuming lease frequency is medium, the Agency assumes that the average passenger carrier (6.6 power units) will engage in 64 lease agreements per year. This estimate consists of 8 leases per peak month (May through August) and 4 leases per off-peak month (September through April). The total annual number of leases estimated in 2017 is 492,578—that is, 64 lease agreements for each the 7,518 carriers estimated to be affected by this rule in 2017 ($492,578 = 64 \times 7,518$ plus 11,426 leases for Greyhound). The Agency assumes 5 minutes of documentation time per lease agreement. This amounts to 5 and 1/3 hours per carrier per year ($5 \frac{1}{3} = 64 \times 5 \div 60$) and amounts to an industry total of about 41,048 hours ($41,048.2 = 492,578 \times (5 \div 60)$). This total is multiplied by two, since the cost burden applies to both the lessees and the lessors. Thus, the total is 82,096 hours ($82,096 = 41,048.2 \times 2$). Table 2 below presents these calculations.

Regarding documentation of receipts, the Agency estimates the cost of their transcription, but does not assign burden hours to the task. The receipts do not have to adhere to a certain format, length or complexity, as long as they meet the requirements of the rule. The receipts are sometimes replicas or portion of 'master leases,' which make for easy and quick documentation.

Notification

The final rule includes a notification requirement: when a passenger carrier with a charter contract leases vehicles from a subcontractor carrier to perform the charter, it must notify the charter party within 24 hours after hiring the subcontractor that the transportation will be provided by the subcontractor. This requirement may be satisfied by notifying the tour operator or group of passengers about the role of and information about the subcontracted motor carrier.

FMCSA lacks data with which to directly quantify the annual number of passenger carriers that subcontract with other carriers to provide charter service, to which this notification requirement is applicable. The *Motorcoach Census 2013*, published by the American Bus Association, characterizes three types of motorcoach transportation services for which an unknown fraction of trips may require such notification:³

- Charter – A preformed group (organization, association, tour company, shuttle service, church, school, etc.) who hires a motorcoach for exclusive use under a fixed contract.
- Packed/Retail Tour – A planned or prearranged trip offered for sale by a motorcoach transportation company (including a tour company that leases/owns and operates motorcoaches) at fixed price to leisure travelers. Price usually includes lodging, meals, sightseeing, and transportation.
- Sightseeing – A service offered by motorcoach or tour companies to view points of interest within a specified area.

Together, these three categories comprised 56.3% of total motorcoach service mileage in 2012.⁴ In the same year, most passenger carriers (97.4%) offered charter service, while

³ See <http://www.buses.org/files/Foundation/Census2013.pdf> (accessed February 13, 2015).

⁴ Ibid, Figure 2-4, p.12.

packaged/retail tour service and sightseeing service were offered by 45.0% and 20.8% of passenger carriers, respectively. To estimate the number of passenger carriers that subcontract with other carriers to provide charter service, this analysis assumes that as of 2014, all 7,049 carriers *might* engage in subcontracting, though only half (3,525) do, as discussed in the following paragraph.

The assumption that half of the carrier population subject to the charter group notification requirement (3,525 carriers) utilizes subcontracting is based on several considerations: 1) the prevalence of leasing throughout the passenger carrier industry, 2) the distribution of total motorcoach vehicle miles traveled (VMT) by fleet size in 2012, in which carriers operating fleets with fewer than 25 vehicles (that is, 94.3% of carriers) accounted for 40.6% of vehicle mileage, and 3) the fact that larger fleets accrue relatively more VMT in scheduled services and commuter services than smaller fleets that depend more on charter, packaged/retail tour, and sightseeing services as the core of their business.⁵

It is assumed that virtually all carriers will comply with this requirement by means of electronic notification (email) as it is standard business practice for a charter group's organizer to provide the carrier with contact information. Although the notification requirement may be satisfied through providing the required information to the charter group's organizer, carriers may have contact information for some portion the charter group's passengers through online ticket sales, enabling direct passenger notification. However, this analysis assumes carriers will maintain electronic communication with a sole representative of each charter group responsible for disseminating notifications to the charter group's members. This is the lowest-cost compliance strategy for carriers and provides the greatest assurance that all members of the charter group will receive the notice.

Given that the rule is set to begin in 2017 and the annual increase in the carrier population is assumed to be 2.17 percent, the Agency estimates 3,759 carriers may be affected by the notification requirement during the first year of the rule ($3,759 = 3,525 \times (1.0217^3)$). The number of notifications in the first year is the product of the number of impacted carriers (3,759) and the average number of subcontracted charters per impacted carrier. The Agency assumes the average carrier impacted by the charter group notification requirement engages in 64 subcontract agreements per year that consequently require 64 separate notifications. At this rate, the total number of notifications required in the year 2017 is 240,576 ($240,576 \text{ notifications} = 3,759 \text{ impacted carriers} \times 64 \text{ notifications per impacted carrier}$). Factoring in data provided by Greyhound, documenting that in 2012, Greyhound leased 2,174 buses on a trip lease basis for use primarily as extra sections during peak periods, the estimated number of notifications is increased accordingly. Projecting Greyhound's trip lease frequency to 2017 using the 2.17 percent per year growth factor applied to the motor carrier population, it is estimated that Greyhound may have up to 2,420 chartered trips in 2017 ($2,420 = 2,174 \times 1.0217^5$) for which this notification requirement applies. Therefore, the number of notifications projected in year 2017 is incremented by 2,420 and estimated at 242,996 ($242,996 = 240,576 + 2,420$).

The analysis assumes an average of 5 minutes per email notification. This value is multiplied by the projected number of notifications per year, which is determined as the average number of subcontract agreements per year (64) multiplied by the projected number of impacted carriers (3,759), plus the projected number of Greyhound trip-leases (2,420), to

⁵ Ibid, p.12. "Fixed-route services' share of motorcoach service mileage increases with fleet-size category, accounting for only 10.4% of mileage for the smallest carriers to 79.5% for the largest carriers."

estimate the total annual notification burden. The total number of notifications estimated per year as of 2017 is 242,996 (242,996 = 64 agreements per affected carrier × 3,759 affected carriers + 2,420 Greyhound-specific agreements). The total annual notification burden is therefore 20,250 hours (20,250 = 242,996 notifications × 5 minutes per notification ÷ 60 minutes per hour).

Table 2 below presents in detail the calculation of each component of the IC-2 burden hours and costs for all of the individual tasks necessary to comply with the rule.

Table 2: Burden Hours by Task in Year 2017		
Basics		Notes
Carrier Population Increase	1.0217	2.17% Increase (see footnote 2)
Affected Carriers in 2014	7,049	
Carriers Affected in 2017	7,518	$7,049 \times (1.0217^3)$
Carriers Affected by Charter Group Notification Requirement in 2014	3,525	$7,049 \div 2$
Carriers Affected by Charter Group Notification Requirement in 2017	3,759	$3,525 \times (1.0217^3)$
Leases Per Carrier Per Year	64	Medium Lease Frequency
Total Greyhound Leases 2017	11,426	$10,263 \times 1.0217^5$
Total Leases Per Year	492,572	$(64 \times 7,518) + 11,426$
Master Lease Creation		Notes
Hours Per Lease	$\frac{1}{2}$	30 minutes
Agents Per Lease	2	Lessee and Lessor
Total Negotiations	15,036	$7,518 \times 2$
Total Hours	7,518	$15,036 \times 1/2$
Lease Negotiation		Notes
Hours Per Negotiation	$\frac{1}{2}$	30 minutes
Negotiations Per Lease	2	Lessee and Lessor
Total Negotiations	985,144	$492,572 \times 2$
Total Hours	492,572	$985,144 \times 1/2$
Lease Documentation		Notes
Hours Per Transaction	$1/12$	5 minutes
Agents Per Lease	2	Lessee and Lessor
Total Transactions	985,144	$492,572 \times 2$
Total Hours	82,095	$985,144 \times 1/12$
Lease Copying		Notes
Agents Per Lease	2	Lessee and Lessor
Total Transactions	985,144	$492,572 \times 2$
Hours Per Transaction	0	Negligible Time Burden

Table 2: Burden Hours by Task in Year 2017		
Notification by Carriers to Charter Groups		Notes
Notifications Per Year	242,996	3,759 × 64 + 2,420 (Greyhound)
Hours Per Notification	1/12	5 minutes
Total Hours	20,250	1/12 × 242,996
Grand Total Hours	602,435	7,518 + ... + 2,827

IC-2 Summary

Annual Burden Hours (in 2017): 602,000 [602,435 = 7,518 (master lease) + 492,572 (negotiation) + 82,095 (documentation) + 20,250 (charter group notification)]

Annual Number of Respondents (in 2017): 2,887,000 [2,886,912 = 7,518 carriers × up to 6 people per lease × 64 leases annually per carrier]

Annual Number of Responses (in 2017): 2,706,000 [2,705,796 = 492,572 (leases) + 985,144 (transcription of lease agreements) + 985,144 (transcription of receipts) + 242,996 (charter group notification)]

Total for Both IC-1 and IC-2

Estimated Average Total Annual Burden Hours (in 2017): 677,000 [= 74,500 + 602,500]

Estimated Annual Number of Respondents (in 2017): 2,923,000 [= 36,000 + 2,887,000]

Estimated Annual Number of Responses (in 2017): 3,384,000 [= 678,000 + 2,706,000]

13. ESTIMATE OF TOTAL ANNUAL COST TO RESPONDENTS

IC-1: Part 376, Property-Carrying Commercial Motor Vehicles

Capital and Startup Costs:

Transcription

The Agency concludes that property-carrying commercial motor vehicle operators have access to basic office equipment such as a computer, a printer and/or a copying machine necessary to complete these tasks. These are standard pieces of office equipment and respondents face no added burden in this regard.

Operation and Maintenance Costs:

Transcription

The estimated unit-cost of transcribing one lease agreement double-sided (i.e., a two page agreement) is \$0.15 (incorporates cost per page of paper, ink used in printing, printer depreciation, etc.). The estimated unit-cost corresponding to the lease receipts is \$0.30. This assumes two transactions, and hence two receipts: one for the delivery (or surrender) of the vehicle and one for the return of the vehicle. This cost is applied to both the lessee and lessor. An estimated 339,000 vehicles leased every year would require 339,000 lease statements; therefore, the total cost of generating copies of lease statements would be \$203,000 (= 339,000 statements × \$0.30 per page × 2 entities).

IC-1 Summary

Estimated Capital and Startup Cost to Respondents: \$0

Estimated Average Annual Cost (Operation and Maintenance) to Respondents: \$5.64
[\$203,000 total cost ÷ 36,000 respondents = \$5.64]

IC-2: Part 390, Subpart F Passenger-Carrying Commercial Motor Vehicles

Capital and Startup Costs:

Master Lease Creation

The Agency determines there are no capital or startup cost associated with this burden. Lease templates are readily available on the Internet at no cost.

Lease Negotiation

The Agency finds there are no capital or startup cost associated with this burden. Lessors and lessees already engage in these negotiations independent of whether they formalize terms in written lease agreements. Negotiations are a standard practice among passenger motor vehicle carriers and the associated skill set is prevalent across the industry.

Lease Documentation

The Agency finds there are no capital or startup cost associated with this burden. It involves no special equipment or training.

Transcription

The Agency concludes that property-carrying commercial motor vehicle operators have access to basic office equipment such as a computer, a printer and/or a copying machine necessary to complete these tasks. These are standard pieces of office equipment and respondents face no added burden in this regard, and therefore the Agency finds there are no capital or startup costs associated with this requirement.

Notification of Charter Groups by Carriers

There are no capital or start-up costs associated with email notification messages to charter groups. The acquisition, operation, and maintenance of electronic devices, such as computers, laptops, tablets, ePads, or smartphones, that would be used to send electronic messages (email) to notify charter groups in the event that some portion or all of the chartered service has been subcontracted to another passenger carrier is considered a usual and customary business practice and is not calculated for this information collection burden estimate.

Record Retention

The rule requires the retention of lease agreements for one year after their termination. The Agency finds that the storage of work documents is a requisite part of doing business. Thus, the requirement to retain a copy of the written lease agreement for one year after its termination does not impose a significant startup cost or burden on the affected carriers. A two-inch stack of 8 1/2" × 11" sheets of 200-pound paper (a ream) could amount to 500 double-sided copies of lease agreements. This would amount to more than one lease per day in a given year.

Operation and Maintenance Costs:

Master Lease Creation

There are no ongoing operating or maintenance costs resulting from this burden – the creation of a master lease is a one-time event.

Lease Negotiation

The Agency determines that there are no ongoing operating or maintenance costs associated with this task as it requires only a means of communication which may be in person, electronic, or in written format, none of which impose marginal costs.

Lease Documentation

Lease documentation is assumed to follow the template of carriers' master lease agreements, with modifications where needed, a task for which no marginal cost burden is incurred.

Transcription

The Agency estimates the annual cost of transcribing lease agreements and vehicle exchange receipts at \$296,000. Transcription of lease agreements assumes \$0.15 per page (double-sided two page standard agreement). Transcription of vehicle exchange receipts assumes \$0.30 per exchange (one page for each receipt) for each event (surrender of leased vehicle by lessor and return of vehicle to the lessor) or \$0.60 per lease. With 492,578 leases per year, the cost is \$296,000 ($\$295,547 = 492,578 \text{ leases} \times \0.60 per lease).

Notification of Charter Groups by Carriers

There are no ongoing operation or maintenance costs associated with this requirement as all businesses covered by this requirement regularly communicate via electronic methods and there is no additional marginal cost per e-mail sent.

Record Retention

The storage of work documents is a requisite part of doing business; therefore the retention requirement poses no ongoing cost burden to retain nominal amounts of records as per standard business practices.

IC-2 Summary

Estimated Capital and Startup Cost to Respondents: \$0

Estimated Average Annual Cost (Operation and Maintenance) to Respondents: \$39.37
($\$39.37 = \$296,000 \div 7,518 \text{ carriers}$)

Total Capital and Startup Costs for Both IC-1 and IC-2: \$0

Total Estimated Average Annual Cost to Respondents: \$499,000 [$\$203,000 \text{ cost for transcribing lease agreements and vehicle exchange receipts for IC-1} + \$296,000 \text{ cost for transcribing lease agreements and vehicle exchange receipts for IC-2} = \$499,000$]

14. ESTIMATE OF COST TO THE FEDERAL GOVERNMENT

None. These truck and trailer leases are maintained by the motor carriers and are not submitted to FMCSA.

15. EXPLANATION OF PROGRAM CHANGES OR ADJUSTMENTS

This program change increase of 608,900 estimated annual burden hours [677,000 proposed estimated annual burden hours - 68,100 currently approved estimated annual burden hours = 608,900] is due to program requirements in a final rule entitled, "Lease and Interchange of Vehicles; Motor Carriers of Passengers." The final rule adds leasing requirements for buses and motorcoaches. These new regulations will require certain for-hire motor carriers of passengers to have a formal lease when leasing equipment. They require less paperwork for some leasing and interchange arrangements.

16. PUBLICATION OF RESULTS OF DATA COLLECTION.

The results of this ICR will not be published.

17. APPROVAL FOR NOT DISPLAYING THE EXPIRATION DATE FOR OMB APPROVAL.

Not applicable.

18. EXCEPTION TO CERTIFICATION STATEMENT.

There are no exceptions to the certification statement.