Department of Transportation
Office of the Chief Information Officer

SUPPORTING STATEMENT
Lease and Interchange of Vehicles

INTRODUCTION

Federal Motor Carrier Safety Administration (FMCSA) vehicle leasing and interchange regulations in 49 CFR part 376 and part 390 ensure that commercial motor carriers that transport property or passengers in interstate commerce are identified (and in some cases protected) when they agree to lease their equipment and drivers to other carriers. These regulations also ensure that the government and members of the public can determine who is responsible for a commercial motor vehicle. These vehicle leasing and interchange regulations result in activities that constitute a collection of information under the Paperwork Reduction Act (PRA), and for which the Agency has in place a currently approved collection of information with Office of Management and Budget (OMB) Control Number 2126-0056 titled "Lease and Interchange of Vehicles" which was most recently approved on October 1, 2018, and which has an expiration date of October 31, 2021.

The FMCSA is to publish the final rule titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers." This final rule and it's NPRM amend the existing regulations in 49 CFR part 390 regarding the lease and interchange of passenger-carrying commercial motor vehicles (CMVs), eliminating certain provisions of the existing lease and interchange requirements for motor carriers of passengers, and reducing the applicability of those provisions that remain. In doing so, this final rule affects the burden associated with the existing currently approved collection of information (OMB Control No. 2126-0056). Furthermore, on December 4, 2018, the Agency also published a separate final rule, titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers; Extension of Compliance Date" (83 FR 62505) (Attachment A), that extended from January 1, 2019, to January 1, 2021, the compliance date of existing regulations in 49 CFR part 390 regarding the lease and interchange of passenger-carrying CMVs. This compliance date extension also affects the burden associated with the existing currently approved collection of information (OMB Control No. 2126-0056).

On September 20, 2018, the Agency published a Notice of Proposed Rulemaking (NPRM) titled, "Lease and Interchange of Vehicles; Motor Carriers of Passengers" (83 FR 47764) (Attachment B), and provided the public the opportunity to comment on its proposed revised collection of information under this information collection request (ICR). No comments concerning the proposed revised collection of information were received. The Agency hereby requests OMB approval of this revision of the existing currently approved collection of information with OMB Control Number 2126-0056 titled "Lease and Interchange of Vehicles."

Part A. Justification

1. CIRCUMSTANCES THAT MAKE THE COLLECTION OF INFORMATION NECESSARY

The vehicle leasing and interchange regulations were adopted to ensure that commercial motor carriers that transport property or passengers in interstate commerce are identified (and in some cases protected) when they agree to lease their equipment and drivers to other carriers. These regulations also ensure that the government and members of the public can determine who is responsible for a 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 C), FMCSA "may require a motor carrier providing transportation subject to jurisdiction under subchapter I of chapter 135 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 D). The Agency's regulations governing leased motor vehicles are at 49 CFR Part 376 Lease and Interchange of Vehicles (property-carrying motor vehicles) and 49 CFR Part 390, Subpart G—Lease and Interchange of Passenger-Carrying Commercial Motor Vehicles.[1]

The vehicle leasing and interchange regulations specify what must be covered in the lease, and to some degree, the responsibilities of the motor carrier. The parties to the lease determine much of the details between themselves. FMCSA needs to revise the annual burden for this ICR due to changes in the vehicle leasing and interchange regulations in part 390 for motor carriers of passengers, which eliminate certain provisions of the existing lease

1 The final rule titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers" that this supporting statement accompanies moved the regulations regarding the lease and interchange of passenger-carrying commercial motor vehicles from Subpart F to Subpart G of 49 CFR part 390.

and interchange requirements for motor carriers of passengers, and reduce the applicability of those provisions that remain.

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 IS THE INFORMATION USED

The leases and other agreements are developed and held by the lessor (e.g., the party granting the use of equipment) and lessee (e.g., the party acquiring the use of equipment). The government generally collects little information with this ICR. The leases 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 or any similar information already available that could be used or modified for the purposes described in Section 2 above.

5. EFFORTS TO MINIMIZE THE BURDEN ON SMALL BUSINESSES

The Agency's vehicle leasing and interchange regulations help 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 small trucking firms (less than 4 percent) lease vehicles from other carriers.

Among passenger carriers, the overall frequency of leasing and interchange of vehicles is mostly unknown, although anecdotal information and opinions of industry experts suggest that frequency of leasing and interchange of vehicles among the private passenger carrier segment of the industry is low. Comments and petitions received to the May 27, 2015, final rule titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers" (80 FR 30164) led to the development of the current final rule (also titled "Lease and Interchange of Vehicles; Motor Carriers of Passengers"). The current final rule eliminates certain provisions of the existing lease and interchange requirements for motor carriers of passengers, and reduces the applicability of those provisions that remain. In doing so, the current final rule substantially reduces the burden on motor carriers of passengers, many of which are small businesses.

6. IMPACT OF LESS FREQUENT COLLECTION OF INFORMATION

If this information collection were conducted less frequently, the Agency’s vehicle leasing and interchange regulations could not be fully met, and information necessary for properly assigning duties and responsibilities of carriers operating as a lessor or lessee would not be available (e.g., if a leased vehicle is in violation of an FMCSA regulation or is involved in an accident).

7. SPECIAL CIRCUMSTANCES

There are no special circumstances associated with this information collection.

8. COMPLIANCE WITH 5 CFR 1320.8

On September 20, 2018, the Agency complied with 5 CFR 1320.8(d)(3) by asking for public comment on its proposed collection of information in the NPRM titled, “Lease and Interchange of Vehicles; Motor Carriers of Passengers” (83 FR 47764) (Attachment B). No comments concerning the collection of information were received to the NPRM.

9. PAYMENTS OR GIFTS TO RESPONDENTS

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

10. ASSURANCE OF CONFIDENTIALITY

There are no confidential reporting requirements associated with this information collection. The leases and other agreements are developed and held by the lessor and lessee.

11. JUSTIFICATION FOR COLLECTION OF SENSITIVE INFORMATION

The information requested and collected is not of a sensitive nature.

12. ESTIMATE OF BURDEN HOURS FOR INFORMATION REQUESTED

IC-1 and IC-2: Part 376, Property-Carrying Commercial Motor Vehicles

Part 376 applies only to certain property-carrying motor carriers operating 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 estimate the number of property-carrying motor carriers affected by the vehicle leasing and interchange regulations in 49 CFR part 376, FMCSA used data from its Motor Carrier Management Information System (MCMIS) database. 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 estimate all carriers that term-lease CMVs and that 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. Given these criteria, MCMIS data indicate that there are 17,804 for-hire property carrying carriers that lease 354,683 CMVs, as of a September 29, 2017 snapshot. These 2017 carrier and power unit counts are projected forward to the years 2018 through 2022. These projections are made using an estimated annual carrier growth rate of 0.275 percent, which is based on U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS), industry employment projections for the General Freight Trucking industry (North American Industry Classification System (NAICS) Code 484100) for the years 2016 through 2026.[2]

Table 1 shows the resulting estimated number of affected freight-carrying motor carriers and freight-carrying CMVs for the years 2017 through 2022. The three-year period covered by this ICR is 2020 through 2022, and over that three-year period the average annual number of affected freight-carrying motor carriers is 18,001, and the average annual number of affected freight-carrying CMVs is 358,599.

Table 1. Affected For-Hire Property-Carrying Commercial Motor Carriers and CMVs

	2017	2018	2019	2020	2021	2022	3-Year Average (2020-2022)
Number of Affected For-Hire Property-Carrying Motor Carriers	17,804	17,853	17,902	17,951	18,001	18,050	18,001
Number of Affected For-Hire Property-Carrying CMV Truck Tractors	354,683	355,658	356,635	357,615	358,598	359,584	358,599

Section 376.11 requires a for-hire carrier to do the following when the carrier (lessee) leases equipment from another carrier (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.

2 U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). “Employment Projections. Industry-occupation matrix data, by industry. Employment by industry, occupation, and percent distribution, 2016 and projected 2026. NAICS 484100 (General freight trucking).” Available at: https://www.bls.gov/emp/ind-occ-matrix/ind_xlsx/ind_484100.xlsx (accessed April 4, 2019).

- 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 carriers 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 affected carriers will engage in lease negotiation leading to a ‘master lease’ or repeat leases. 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 burden 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 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 estimated to be undertaken in 5 minutes (0.083 hours). This burden is applied to both the lessee and the lessor.

As noted above, the three-year period covered by this ICR is 2020 through 2022, and over that three-year period the average annual number of affected freight-carrying motor carriers is 18,001, and the average annual number of affected freight-carrying CMVs is 358,599. Given the assumptions noted above regarding the burden impact of the requirements in Section 376.11, the agency estimates the following burden for property-carrying commercial motor carriers and CMVs:

- The creation of master leases is estimated to result in 18,001 average annual burden hours (18,001 carriers × 0.5 hours × 2 entities).
- The creation of a statement or copy of the lease to be carried in each leased tractor/truck is estimated to result in 59,767 average annual burden hours (358,599 power units × 0.083 hours × 2 entities).

These results are presented in Table 2. In total, the average annual burden is 77,767 hours (18,001 hours + 59,767 hours) for property-carrying commercial motor carriers.

Table 2. Estimated Annualized Burden for Property-Carrying Commercial Motor Carriers and CMVs (IC1 and IC2)

Burden Category	Number of Property-Carrying Motor Carriers	Number of Property-Carrying Motor Vehicles (CMVs)	Number of Entities per Activity (Lessee and Lessor)	Estimated Annual Number of Respondents	Estimated Annual Number of Responses	Hours per Task	Annual Burden Hours
IC1: Lease Negotiation	18,001	(not applicable)	2	36,002	36,002	0.5	18,001
IC2: Preparing and Signing Written Lease Document	(not applicable)	358,599	2	36,002	717,198	0.083	59,767
				Totals	**753,200**		**77,767**

We assume that respondent occupations correspond to Business Operations Specialists, Standard Occupational Classification (SOC) Code 13-1000. The median hourly wage of Business Operations Specialists (SOC Code 13-1000) in the Truck Transportation industry (NAICS Code 484000) is $28.78.[3]

To arrive at a loaded wage, we first estimated a fringe benefits rate of 57 percent by dividing the total benefit costs ($14.09 per hour) by the wages and salaries ($24.73 per hour) for the transportation and warehousing industry.[4] We then estimated an overhead rate of 27 percent by dividing management and overhead costs ($0.107 per mile) by labor costs ($0.39 per mile) for the trucking industry.[5] Using these estimated fringe benefits and overhead rates, we calculated a fully loaded wage rate factor of 1.99 by multiplying the fringe benefits rate (1+0.57) by the overhead rate (1+0.27). Finally, multiplying the median hourly base wage of $28.78 by this fully loaded wage rate factor results in a fully loaded hourly wage of $57.17.

3 U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). "Occupational Employment Statistics (OES). National. May 2017. National Industry-Specific Occupational Employment and Wage Estimates. NAICS 484000 (Truck Transportation)." March 30, 2018. Available at: https://www.bls.gov/oes/2017/may/naics4_484000.htm#13-1000 (accessed February 26, 2019).

4 U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). "Employer Costs for Employee Compensation (ECEC). June 2016." September 8, 2016. Available at: https://www.bls.gov/news.release/archives/ecec_09082016.pdf (accessed April 4, 2019).

5 Mark Berwick and Mohammad Farooq of the Upper Great Plains Transportation Institute, North Dakota State University, August 2003. "Truck Costing Model for Transportation Managers", pages 41, 43, and 45. Available at: https://www.mountain-plains.org/pubs/pdf/MPC03-152.pdf (accessed April 4, 2019).

Given that the average annual burden is estimated at 77,767 hours (18,001 hours + 59,767 hours) for property-carrying commercial motor carriers, as noted earlier, applying the fully loaded hourly wage of $57.17 described above results in an estimated average annual cost to respondents of $4,445,566 (77,767 hours × $57.17 per hour).

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 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.

IC-1 and IC-2 Summary
Estimated Average Annual Burden: 77,767 hours
Estimated Average Annual Number of Respondents: 36,002
Estimated Average Annual Number of Responses: 753,200
Estimated Average Annual Burden Hour Cost to Respondents: $4,445,566

<u>IC-3, IC-4, IC-5: Part 390, Subpart G Passenger-Carrying Commercial Motor Vehicles</u>

The existing vehicle leasing and interchange regulations in 49 CFR part 390 have provisions that result in five separate information-collection activities for passenger carriers:

(1) One-time lease negotiation
(2) Lease documentation
(3) Lease copying
(4) Lease receipt copying
(5) Charter party notification

The current final rule amends the existing vehicle leasing and interchange regulations for passenger carriers in 49 CFR part 390, leading to the elimination of both the lease receipt copying and the charter party notification information-collection activities noted above. Furthermore, the current final rule also reduces the applicability of the remaining vehicle leasing and interchange regulations in 49 CFR part 390, leading to burden reductions for the one-time lease negotiation, lease documentation, and lease copying information-collection activities noted above.

To estimate the number of passenger carriers affected by the vehicle leasing and interchange regulations as amended by the current final rule, the Agency first estimated the number of passenger carriers that, in the absence of the current final rule, would be affected by the existing lease and interchange requirements. This estimate is based on the same data sources and methods as those developed and used in the evaluation of the May 27, 2015, final rule titled “Lease and Interchange of Vehicles; Motor Carriers of Passengers” (80 FR 30164)[6], but updated to incorporate more recently available data and information as reflected in the regulatory evaluation for the current final rule. More recent data from the FMCSA MCMIS database and the FMCSA Licensing and Insurance (L&I) system was used to develop a new baseline value for the reported number of all active interstate passenger carriers operating in the U.S. as of the end of calendar year 2017.[7] Based on this information, there were a total of 13,386 passenger carriers operating in the U.S. as of the end of calendar year 2017.[8]

Of this total population of 13,386 passenger carriers in the U.S. in 2017, the Agency estimates 7,774 of these passenger carriers would be affected by the vehicle leasing and interchange regulations in 49 CFR part 390 in the absence of the current final rule. This estimate is based on the assumption that under the existing vehicle leasing and interchange regulations in 49 CFR part 390, 100% of authorized for-hire passenger carriers, 100% of exempt for-hire passenger carriers, and 10% of private passenger carriers would be subject to

6 Further details regarding the specific data sources and methods used previously in evaluating the May 27, 2015, final rule can be found in DOT FMCSA, “Lease and Interchange of Vehicles, Motor Carriers of Passengers, 2015 Final Rule Regulatory Evaluation.” Pages 9-12. Available at: https://www.regulations.gov/contentStreamer?documentId=FMCSA-2012-0103-0022&attachmentNumber=1&contentType=pdf (accessed April 5, 2019).
7 U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). Motor Carrier Management Information System (MCMIS), and Licensing and Insurance (L&I) system. Snapshots as of December 29, 2017 (DART request ID # 38883).
8 The total number of passenger carriers as of the end of 2017 of 13,386 actually represents 11,705 unique carriers, because some carriers provide passenger service in more than one operation classification. Consistent with the approach used in the regulatory evaluation for the May 2015 final rule, the larger number was used for the current analysis so as to not risk underestimating the number of affected passenger carriers.

the existing lease and interchange requirements.[9] These 2017 passenger carrier counts are then projected forward to the years 2018 through 2022 using an estimated annual carrier growth rate of 0.864 percent, which is based on U.S. DOL, BLS, industry employment projections for SOC 53-3021 (Bus drivers, transit and intercity) for the years 2016 through 2026.[10] The resulting estimated number of passenger carriers that, in the absence of the current final rule, would be affected by the existing lease and interchange requirements from 2017 through 2022 is presented in Table 3.

For the purposes of this revised ICR, we base our estimates on the 2020 to 2022 average population of 8,046 passenger-carrying motor carriers that would be affected by the vehicle leasing and interchange regulations in the absence of the current final rule, and then reduce that estimated population based on the reduced applicability of the leasing and interchange requirements for motor carriers of passenger under the current final rule.

Table 3 also presents the annual number of passenger-carrying CMV trips that would be affected by the vehicle leasing and interchange regulations in the absence of the current final rule. The Agency assumes that the average passenger carrier will engage in an average of 64 lease agreements per year, consistent with the regulatory evaluations for both the 2015 final rule and the current final rule. This estimate consists of 8 leases per peak month (May through August) and 4 leases per off-peak month (September through April). The Agency estimates that a three-year average of approximately 526,123 passenger-carrying CMV trips would be affected by the vehicle leasing and interchange regulations in the absence of the current final rule.

The estimated number of passenger-carrying CMV trips affected by the vehicle leasing and interchange regulations in the absence of the current final rule also incorporates a modest upward adjustment to reflect an annual average of 11,164 leased passenger-carrying CMV trips operated by Greyhound, one of the largest interstate passenger carriers operating in the U.S., that are estimated to be affected by the vehicle leasing and interchange regulations. This adjustment is consistent with the methods used in the regulatory evaluations for both the 2015 final rule[11] and again for the current final rule, and is based on data that was provided to FMCSA by Greyhound regarding trips performed by passenger-vehicles leased and interchanged in 2012.[12] The resulting final estimates of the number of passenger-carrying

9 U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). "Lease and Interchange of Vehicles, Motor Carriers of Passengers, 2015 Final Rule Regulatory Evaluation." Pages 9-12. Available at: https://www.regulations.gov/contentStreamer?documentId=FMCSA-2012-0103-0022&attachmentNumber=1&contentType=pdf (accessed April 5, 2019).

10 U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). "Occupational Employment Projections. Table 1.2: Employment by detailed occupation, 2016 and projected 2026." Available at: https://www.bls.gov/emp/ind-occ-matrix/occupation.xlsx (accessed April 4, 2019).

11 U.S. Department of Transportation (DOT), Federal Motor Carrier Safety Administration (FMCSA). "Lease and Interchange of Vehicles, Motor Carriers of Passengers, 2015 Final Rule Regulatory Evaluation." Pages 12 to 13. Available at: https://www.regulations.gov/contentStreamer?documentId=FMCSA-2012-0103-0022&attachmentNumber=1&contentType=pdf (accessed April 5, 2019).

12 "Lease and Interchange of Vehicles; Motor Carriers of Passengers. NPRM." September 20, 2013. Comments of Greyhound Lines, Inc. Docket ID number FMCSA-2012-0103-0010. Page 2. November 12, 2013. Available at: https://www.regulations.gov/contentStreamer?documentId=FMCSA-2012-0103-0010&attachmentNumber=1&contentType=pdf (accessed April 5, 2019). Greyhound reported 10,263 passenger-carrying CMV trips performed in 2012 by vehicles leased and interchanged. This 2012 value was then adjusted to

CMV trips affected by the vehicle leasing and interchange regulations in the absence of the current final rule is presented in Table 3.

Table 3. Passenger-Carrying Commercial Motor Carriers and CMV Trips Affected by the Vehicle Leasing and Interchange Regulations in the Absence of the Current Final Rule

	2017	2018	2019	2020	2021	2022	3-Year Average (2020-2022)
Number of Affected Passenger-Carrying Motor Carriers	7,774	7,841	7,909	7,977	8,046	8,116	8,046
Number of Affected Trips by Passenger-Carrying CMVs	508,322	512,712	517,140	521,606	526,111	530,654	526,123

Consistent with the regulatory evaluation performed for the current final rule, the Agency estimates that under the current final rule approximately 75% of these passenger carriers and passenger-carrying CMV trips would no longer be affected by any of the lease and interchange regulations in 49 CFR part 390. The remaining 25% of the affected passenger carriers and passenger-carrying CMV trips would be subject to only three of the five information-collection activities that currently occur under the existing lease and interchange requirements for passenger carriers, because the current final rule eliminates both the lease receipt copying and the charter party notification information-collection activities, as noted earlier. Finally, in addition to the reduction in the applicability of the vehicle leasing and interchange regulations for passenger carriers to a smaller number of carriers, and the elimination of two of the three existing information-collection activities, as noted earlier the December 4, 2018, final rule, titled “Lease and Interchange of Vehicles; Motor Carriers of Passengers; Extension of Compliance Date” (83 FR 62505), extended from January 1, 2019, to January 1, 2021, the compliance date of existing regulations in 49 CFR part 390 regarding the lease and interchange of passenger-carrying CMVs. This compliance date extension also eliminates burden impacts resulting from the lease and interchange regulations for passengers carriers for the year 2020 during the three-year period covered by this ICR of 2020 through 2022.

The combined effects of the changes noted above to the existing vehicle leasing and interchange regulations for passenger carriers results in an estimated annual average of 1,347 passenger carriers and 88,064 passenger-carrying CMV trips that would still be affected by the vehicle leasing and interchange regulations in 49 CFR part 390 as amended by the current final rule and the December 2018 compliance date extension final rule.

We assume that respondent occupations correspond to Business Operations Specialists, SOC Code 13-1000. The median hourly wage of Business Operations Specialists (SOC Code 13-

reflect observed industry growth from 2012 to 2016 as represented by growth in employment for Standard Occupational Classification (SOC) Code 53-3021 (Bus drivers, transit and intercity), and then further adjusted to reflect employment growth projections for Standard Occupational Classification (SOC) Code 53-3021 (Bus drivers, transit and intercity).

1000) in the Interurban and Rural Bus Transportation industry (NAICS Code 485200) is $28.72.[13]

To arrive at a loaded wage, we first estimated a fringe benefits rate of 57 percent by dividing the total benefit costs ($14.09 per hour) by the wages and salaries ($24.73 per hour) for the transportation and warehousing industry.[14] We then estimated an overhead rate of 27 percent by dividing management and overhead costs ($0.107 per mile) by labor costs ($0.39 per mile) for the trucking industry.[15] Using these estimated fringe benefits and overhead rates, we calculated a fully loaded wage rate factor of 1.99 by multiplying the fringe benefits rate (1+0.57) by the overhead rate (1+0.27). Finally, multiplying the median hourly base wage of $28.72 by this fully loaded wage rate factor results in a fully loaded hourly wage of $57.05. This value is used to calculate the cost to respondents for each of the information collection activities analyzed below.

One-Time Lease Negotiation

The Agency estimates the burden resulting from the negotiation of lease agreements based on the number of affected passenger-carrying CMV trips, and the time expended by passenger carrier employees in negotiating the lease and developing the lease document.

In 2021 (the only year of the three-year period covered by this ICR in which one-time lease negotiations are estimated to occur), the total number of passenger carriers affected by the vehicle leasing and interchange regulations as amended by the current final rule is estimated to be 2,012. Similarly, the total number of affected passenger-carrying CMV trips (and thus one-time lease negotiations) in 2021 is estimated to be 131,528. Averaging these values over the three-year period covered by this ICR of 2020 through 2022 results in an estimated annual average of 671 affected passenger carriers, and 43,843 passenger-carrying CMV trips. The Agency assumes 30 minutes (0.5 hours) of negotiation time per lease agreement and that there are 2 parties per lease agreement (the lessor and the lessee). This results in an average annual burden of 43,843 hours (43,843 lease agreements × 0.5 hours per lease agreement × 2 parties per lease agreement).

To estimate the average annual number of respondents, we multiply the annual average of 671 affected passenger carriers by two to account for the burden incurred by both the lessee and the lessor. This results in an average annual number of respondents of 1,341 (671 × 2). Similarly, we multiply the average annual number of affected CMV trips (43,843) by two to obtain an average annual number of responses of 87,685 (43,843 × 2). We then divide the total average annual burden hours by the average annual number of respondents to obtain an average annual burden hours per respondent of 32.7 hours (43,843 hours ÷ 1,341

13 U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). “Occupational Employment Statistics (OES). National. May 2017. National Industry-Specific Occupational Employment and Wage Estimates. NAICS 484000 (Truck Transportation).” March 30, 2018. Available at: https://www.bls.gov/oes/2017/may/naics4_485200.htm#13-1000 (accessed February 26, 2019).

14 U.S. Department of Labor (DOL), Bureau of Labor Statistics (BLS). “Employer Costs for Employee Compensation (ECEC). June 2016.” September 8, 2016. Available at: https://www.bls.gov/news.release/archives/ecec_09082016.pdf (accessed April 4, 2019).

15 Mark Berwick and Mohammad Farooq of the Upper Great Plains Transportation Institute, North Dakota State University, August 2003. "Truck Costing Model for Transportation Managers", pages 41, 43, and 45. Available at: https://www.mountain-plains.org/pubs/pdf/MPC03-152.pdf (accessed April 4, 2019).

respondents). The Agency then multiplies the average annual burden hours per respondent (32.7 hours) by the median loaded hourly wage rate ($57.05) to obtain an annualized cost to respondents of $1,865 (32.7 hours × $57.05) per respondent. Lastly, multiplying the average annual burden hours (43,843) by the median loaded hourly wage rate ($57.05) results in an average annual cost to respondents of $2,501,047 (43,843 × $57.05).

<u>Lease Documentation</u>
The agency estimates the burden resulting from lease documentation based on the number of affected passenger-carrying CMV trips, and the time expended by passenger carrier employees in verifying the information on the lease and signing the lease.

The average annual number of passenger carriers affected by vehicle leasing and interchange regulations as amended by the current final rule for the three-year period cover by this ICR is estimated to be 1,347. Similarly, the average annual number of affected passenger-carrying CMV trips is estimated to be 88,064. The Agency assumes 5 minutes (0.083 hours) of documentation time per lease agreement and that there are 2 parties per lease agreement (the lessor and the lessee). This results in an average annual burden of 14,677 hours (88,064 lease agreements × 0.083 hours per lease agreement × 2 parties per lease agreement).

To estimate the average annual number of respondents, we multiply the annual average of 1,347 affected passenger carriers by two to account for the burden incurred by both the lessee and the lessor. This results in an average annual number of respondents of 2,694 (1,347 × 2). Similarly, we multiply the average annual number of affected CMV trips (88,064) by two to obtain an average annual number of responses of 176,127 (88,064 × 2). We then divide the total average annual burden by the average annual number of respondents to obtain an average annual burden hours per respondent of 5.4 (14,677 hours ÷ 2,694 respondents). The Agency then multiplies the average annual burden hours per respondent (5.4 hours) by the median loaded hourly wage rate ($57.05) to obtain an annualized cost to respondents of $311 (5.4 hours × $57.05) per respondent. Lastly, multiplying the average annual burden hours (14,677) by the median loaded hourly wage rate ($57.05) results in an annualized cost to respondents of $837,279 (14,677 × $57.05).

<u>Lease Copying</u>
The currently approved burden hour estimate for the lease copying provision assumes there are *de minimis* hours required to copy leases, and therefore there is no burden hours or cost to respondents under the currently approved information collection. Because of this, there is no change in burden hours or cost to respondents estimated for this burden category as a result of the current final rule. There is, however, a modest amount of cost burden associated with this burden category, which is described and estimated later in Section 13 of this Supporting Statement.

To estimate the average annual number of respondents, we multiply the annual average of 1,347 affected passenger carriers by two to account for the burden incurred by both the lessee and the lessor. This results in an average annual number of respondents of 2,694 (1,347 × 2). Similarly, we multiply the average annual number of affected CMV trips (88,064) by two to obtain an average annual number of responses of 176,127 (88,064 × 2).

Table 4 presents in detail the calculation of each component of the IC-3, IC-4, and IC-5 burden for all of the individual tasks necessary to comply with the vehicle leasing and interchange regulations as amended by the current final rule. We estimate the affected passenger carrier industry will incur an average of 58,520 annual burden hours, with a corresponding cost to respondents of $3,338,327 (58,520 hours × $57.05 per hour).

Table 4. Estimated Annualized Burden for Passenger-Carrying Commercial Motor Carriers and CMVs (IC-3, IC-4, IC-5)

Burden Category	Estimated Annual Number of Respondents	Estimated Annual Number of Responses	Estimated Total Annual Burden Hours
IC-3: One-Time Lease Negotiation	1,341	87,685	43,843
IC-4: Lease Documentation	2,694	176,127	14,677
IC-5: Lease Copying	2,694	176,127	0
	TOTALS	**439,940**	**58,520**

IC-3, IC-4, and IC-5 Summary
Estimated Average Annual Burden: 58,520 hours
Estimated Average Annual Number of Respondents: 2,694
Estimated Average Annual Number of Responses: 439,940
Estimated Average Annual Burden Hour Cost to Respondents: $3,338,327

Total for all ICs
Estimated Average Annual Burden: 136,287 (77,767 + 58,520)
Estimated Average Annual Number of Respondents: 38,696 (36,002 + 2,694)
Estimated Average Annual Number of Responses: 1,193,140 (753,200 + 439,940)
Estimated Average Annual Burden Hour Cost to Respondents: $7,783,892 ($4,445,566 + $3,338,327)

13. ESTIMATE OF TOTAL ANNUAL COST BURDEN

<u>IC-1 and IC2: Part 376, Property-Carrying Commercial Motor Vehicles</u>

Capital and Startup Costs:

<u>Lease Copying and Lease Receipt Copying</u>
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 cost burden in this regard.

Operation and Maintenance Costs:

<u>Lease Copying</u>
Lease copying costs under the vehicle leasing and interchange regulations in 49 CFR part 376 are calculated based on the number of affected property-carrying motor vehicles, and an estimated cost per copy.

The average annual number of property-carrying motor vehicles affected by the vehicle leasing and interchange regulations in 49 CFR part 376 is estimated at 358,599, shown in IC-2. For each affected CMV, it is assumed that one copy of the lease receipt is made for the lessor, and one copy is made for the lessee, each at a cost of $0.15 per copy, for a total cost of $0.30 per affected property-carrying CMV. These assumptions result in an estimated average annual cost burden of $107,579 (358,599 lease agreements × $0.15 per lease agreement × 2 parties per lease agreement) over the three-year period covered by this ICR is 2020 through 2022.

<u>Lease Receipt Copying</u>
Lease receipt copying costs under the vehicle leasing and interchange regulations in 49 CFR part 376 are calculated based on the number of affected property-carrying motor vehicles, and an estimated cost per copy.

The average annual number of property-carrying motor vehicles affected by the vehicle leasing and interchange regulations in 49 CFR part 376 is estimated at 358,599. For each affected CMV, it is assumed that one copy of the lease is made for the lessor, and one copy is made for the lessee, each at a cost of $0.15 per copy, for a total cost of $0.30 per affected property-carrying CMV. It is also assumed that there are two receipts copied per lease (one when obtaining the vehicle and one when surrendering the vehicle). These assumptions result in an average annual cost to the industry of $215,159 (358,599 lease agreements × $0.15 per lease agreement × 2 parties per lease agreement × 2 receipts copied per lease) over the three-year period covered by this ICR is 2020 through 2022.

IC-1 and IC-2 Summary
Estimated Average Annual Capital and Startup Cost Burden: $0
Estimated Average Annual Operation and Maintenance Cost Burden: $322,739
[(358,599 lease agreements × $0.15 per lease agreement for lease copying × 2 parties per lease agreement) + (358,599 lease agreements × $0.15 per lease agreement for lease receipt copying × 2 parties per lease agreement × 2 receipts copied per lease)]

IC-3, IC-4, IC-5: Part 390, Subpart G Passenger-Carrying Commercial Motor Vehicles

Capital and Startup Costs:

One-time Lease Negotiation
The Agency finds there are no capital or startup costs 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 costs associated with this burden. It involves no special equipment or training.

Lease Copying
The Agency concludes that passenger-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.

Operation and Maintenance Costs:

One-time 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.

Lease Copying
Lease copying costs are calculated based on the number of affected passenger-carrying CMV trips, and an estimated cost per copy.

The average annual number of passenger carriers affected by this activity is estimated at 1,347. Similarly, the average annual number of passenger-carrying CMV trips affected by this activity is 88,064. For each affected trip it is assumed that one copy of the lease is made for the lessor, and one copy is made for the lessee, each at a cost of $0.15 per copy, for a total cost of $0.30 per affected passenger-carrying CMV trip. These assumptions result in a total average annual cost burden to the industry of $26,419 (88,064 lease agreements × $0.15 per lease agreement × 2 parties per lease agreement) over the three-year period covered by this ICR is 2020 through 2022. In IC-5 there are 88,064 trips x 2 parties per lease =176,127 responses.

IC-3, IC-4, IC-5 Summary
Estimated Average Annual Capital and Startup Cost Burden: $0.
Estimated Average Annual Cost Operation and Maintenance Cost Burden: $26,419 [88,064 lease agreements × $0.15 per lease agreement for lease copying × 2 parties per lease agreement].

Total for IC-1, IC-2, and IC-3, IC-4, IC-5
Total Average Annual Capital and Startup Cost Burden: $0.
Total Average Annual Operation and Maintenance Cost Burden: $349,158 [$322,739 cost burden for lease copying and lease receipt copying for IC-2 + $26,419 cost for lease copying for IC-5].

14. ESTIMATE OF COST TO THE FEDERAL GOVERNMENT

None. Property-carrying CMV leases and passenger-carrying CMV leases are maintained by the motor carriers and are not submitted to FMCSA.

15. EXPLANATION OF PROGRAM CHANGES OR ADJUSTMENTS

Table 5 presents the burden for the currently approved information collection, the new burden estimates from this revision, and the resulting total change in burden from the currently approved information collection to this revision.

Table 5. Total Change in Burden from Currently Approved ICR

Information Collection Version	Annual Number of Responses	Annual Burden Hours	Annual Cost Burden
Currently Approved under OMB Control Number 2126-0056	5,494,093	1,136,114	$54,174,467
Revised Estimates	1,193,139	136,287	$349,158
Total Change in Burden from Currently Approved ICR	**-4,300,954**	**-999,826**	**-$53,825,309**

Next, the Agency differentiates the total change in burden that is presented in Table 5 into the program change portion, and the adjustment change portion. The program change portion of the total change in burden is that which is the result of deliberate Agency action, in this case the new NPRM and final rule “Lease and Interchange of Vehicles; Motor Carriers of Passengers” that is the basis for this ICR revision. The adjustment portion of the total change in burden is the result of factors other than deliberate Agency action, and may include, for example, changes resulting from the availability of new or improved data, the use of enhanced analysis or estimation methodologies, or the correction of arithmetic or other errors made previously when calculating the burden for the currently approved information collection.

To differentiate between the program change portion and the adjustment portion of the total change in burden, the Agency first calculated updated burden estimates based on the currently approved information collection, incorporating only updated information regarding industry population and growth projections as presented earlier, and if necessary making certain methodological or arithmetic amendments or enhancements. This first set of updates does not, however, reflect the NPRM and final rule “Lease and Interchange of Vehicles; Motor Carriers of Passengers.” Therefore, this first set of updates includes only adjustment impacts on burden, and excludes any program change impacts. Next, the Agency then further revised these adjusted estimates to reflect the NPRM and final rule “Lease and Interchange of Vehicles; Motor Carriers of Passengers” which eliminates certain provisions of the existing lease and interchange requirements for motor carriers of passengers, and reduces the applicability of those provisions that remain. Therefore, this second further revision includes only the program change impacts on burden. The resulting program change portion and adjustment change portion of the total change in burden from the currently approved IC are presented separately in Table 6 below.

Table 6. Changes Due to Agency Discretion and Adjustment in Agency Estimate

Component of Total Change	Change in Annual Number of Responses	Change in Annual Burden Hours	Change in Annual Cost Burden
Total Change in Burden from Currently Approved IC	**-4,300,954**	**-999,826**	**-$53,825,309**
Program Change due to Agency Discretion	-713,835	-63,055	-$3,626,061
Change due to Adjustment in Agency Estimate	-3,587,119	-936,771	-$50,199,248

The NPRM and final rule to be published eliminate two existing provisions in 49 CFR part 390 regarding the lease and interchange of passenger-carrying CMVs, that for lease receipt copying, and that for charter party notification. Furthermore, the applicability of those provisions that remain is substantially reduced, affecting approximately 75 percent fewer motor carriers of passengers and CMV trips. Combined, these changes result in the substantial reductions in the number of responses, burden hours, and cost burden due to program change.

As presented in Table 6, there is a small adjustment change increase in the number of responses that results from slightly revised estimates of the populations of property-carrying and passenger-carrying motor carriers and the growth rates applied to these carrier populations.

There is a substantial adjustment change decrease in burden hours due to amendments made in the currently approved ICR. For example, in the currently approved ICR, the estimates the number of affected passenger-carriers and passenger-carrying CMV trips inadvertently uses the full population of all passenger-carriers and passenger-carrying CMV trips, rather than only the portion estimated to be involved in leasing or interchange arrangements. The change reduces the burden hours for the passenger-carrying carriers by approximately half. Furthermore, an annual industry growth rate of 2.8% is applied to the estimates of the population of affected property-carrying carriers and CMVs. However, that growth rate, which is from the DOL BLS, actually represents the entire growth over a 10-year time span, and the equivalent annual growth rate is therefore much lower. A similar discrepancy appears in the currently approved ICR in the calculations made for the passenger carriers. Adjustments result in the substantial adjustment change decrease in burden hours as shown in Table 6.

Finally, there is also a substantial adjustment change decrease in cost burden that is the result of the currently approved information collection inadvertently including the cost to respondents in the reported value for cost burden. Adjusting this results in a substantial adjustment decrease in cost burden of $50,199,248 as shown in Table 6.

16. PUBLICATION OF RESULTS OF DATA COLLECTION

The results of this ICR will not be published.

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

Not applicable.

18. EXCEPTIONS TO CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

ATTACHMENTS

A. U.S. DOT FMCSA. “Lease and Interchange of Vehicles; Motor Carriers of Passengers; Extension of Compliance Date.” Final rule; extension of compliance date. 83 FR 62505. December 4, 2018.
B. U.S. DOT FMCSA. “Lease and Interchange of Vehicles; Motor Carriers of Passengers.” Notice of proposed rulemaking (NPRM); request for comments. 83 FR 47764. September 20, 2018.
C. 49 U.S.C. 14102. “Leased motor vehicles.”
D. 49 CFR 1.87. “Delegations to the Federal Motor Carrier Safety Administration.”

ACRONYMS LIST

BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations
CMV	Commercial Motor Vehicle
DART	Data Analysis Reports Team
DOL	Department of Labor
DOT	Department of Transportation
ECEC	Employer Costs for Employee Compensation
FMCSA	Federal Motor Carrier Safety Administration
FR	Federal Register
IC	Information Collection
ICR	Information Collection Request
L&I	Licensing and Insurance
MCMIS	Motor Carrier Management Information System
NAICS	North American Industry Classification System
NPRM	Notice of Proposed Rulemaking
NTSB	National Transportation Safety Board
OES	Occupational Employment Statistics
OMB	Office of Management and Budget
PRA	Paperwork Reduction Act
RISC	Regulatory Information Service Center
SOC	Standard Occupational Classification
U.S.C.	United States Code