

Federal Motor Carrier Safety Administration, DOT

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(2) Providing that the charges for the entire shipment have been determined, the carrier may collect at the time of delivery of any portion of the shipment that percentage of the charges represented by the portion of the shipment tendered for delivery; or,

(3) In the event that the charges due the carrier for the transportation of the entire shipment cannot reasonably be determined at the time any portion of the shipment is tendered for delivery, the carrier shall determine and collect the charges for the portion of the shipment being delivered. The total charges assessed by the carrier for the transportation of the separate portions of the shipment shall not exceed the charges due for the entire shipment.

(b) In the event of the loss or destruction of any part of a shipment being transported on more than one vehicle, the collection of charges as provided in paragraph (a) of this section shall also be in conformity with the requirements of § 375.15.

[46 FR 16218, Mar. 11, 1981. Redesignated at 61 FR 54707, Oct. 21, 1996; 62 FR 49941, Sept. 24, 1997]

§ 375.17 Advertising by motor common carriers of household goods.

(a) Every motor common carrier engaged in the transportation of household goods in interstate or foreign commerce, including any carriers providing any accessorial service incidental to or part of such interstate or foreign transportation, shall include, and shall require each of its agents to include, in every advertisement as defined in §375.1(b)(3), the name or trade name of the motor carrier under whose operating authority the advertised service will originate, and the certificate or docket number assigned to such operating authority by the Federal Motor Carrier Safety Administration.

(b) Such certificate or docket number shall be in the following form in every advertisement: "FMCSA No. _____" but shall not include any sub numbers which may have been assigned.

(c) No motor common carrier engaged in the transportation of household goods, as defined in §375.1(b)(1), or any agent or other representative of such a carrier, shall publish or cause to be published or use any advertisement

as defined in §375.1(b)(3), which is false, misleading or deceptive.

[46 FR 16218, Mar. 11, 1981. Redesignated at 61 FR 54707, Oct. 21, 1996; 62 FR 49941, Sept. 24, 1997]

§ 375.18 Preparation and filing of annual performance report.

(a) Filing requirement. Each motor common carrier for household goods as defined in §375.1(b) that delivers interstate shipments to individual C.O.D. shippers, during any calendar year shall, on or before March 31 of the following year, file with the Office of Enforcement and Compliance, Federal Motor Carrier Safety Administration, Washington, DC 20590, a report of the service performed during the report year. The report shall be submitted on Form OCE-101, and its accuracy must be verified by an official of the carrier. All carriers must complete part A of Form OCE-101, and those carriers transporting 100 or more shipments also must complete part B.

(b) Prescribed Annual Performance Report Form OCE-101.

FEDERAL MOTOR CARRIER SAFETY
ADMINISTRATION

OFFICE OF ENFORCEMENT AND COMPLIANCE

ANNUAL PERFORMANCE REPORT FOR YEAR
ENDED DECEMBER 31, 20__

Carrier's Name _____
Carrier's Address _____
USDOT or ICCMC Number _____

PART A

During the year, the total number of household goods shipments (1st proviso) delivered for each type of shipper was:

1. C.O.D. shipments delivered under your common carrier authority (excluding all Government, Freight Forwarder, and Interline shipments)
2. All other 1st proviso shipments (including all Government, Freight Forwarder, and Interline shipments)
3. Total of Lines 1 and 2 (NOTE: Total must agree with total 1st proviso shipments reported in your Annual Performance Report, Schedule 600, Line 7, Column d, if you are required to file that report)

PART B

Complete part B only if the C.O.D. delivered shipments reported in part A, Line 1, equals or exceeds 100 shipments. The questions and answers below deal only with the shipments reported in part A, Line 1.

- 4. Number of C.O.D. shipments where the order for service was based upon a written binding estimate (included are so-called hybrid estimates such as Guaranteed Price and Price Protection)
5. Number of C.O.D. shipments where the charges were based on a written non-binding estimate
6. Number of C.O.D. shipments where the charges were based on other than a written binding or non-binding estimate
7. Total of Lines 4, 5, and 6 (NOTE: Total should equal the shipment count reported in part A, Line 1)
8. Percentage of shipments delivered where the final charges exceeded the initial written binding estimate
9. Percentage of shipments delivered where the final charges exceeded the initial written non-binding estimate by 10% or more
10. Percentage of shipments that were picked up after the last date for pickup listed on the order for service or bill of lading
11. Percentage of shipments that were delivered after the last date of delivery specified on the order for service or bill of lading
12. Percentage of shipments delivered where there was a claim filed (in excess of \$200) for property damage or loss
13. Percentage of shipments delivered where there was a claim filed (in excess of \$200) for damages resulting from late pickup or delivery
14. Average number of days required to settle a claim (in excess of \$200)
15. Percentage of claims (in excess of \$200) that were resolved through the use of an arbitration program
16. Percentage of claims (in excess of \$200) that were resolved after the carrier received a legal notice of a lawsuit filed by the shipper

CARRIER'S OATH (MUST BE COMPLETED BY A CARRIER OFFICIAL)

I, (name and title of company official), verify under penalty of perjury, under the laws of the United States of America, that all information supplied on this form or relative to the data contained in the form is, to the best of my knowledge and belief, true, correct and complete, based on all the information required to be included therein, of which I have any knowledge, and these representations are made in good faith. Further, I certify that I am qualified and authorized to certify the accuracy of the data. I know that willful misstatements or omission of material facts constitutes Federal crime violations punishable under 18 U.S.C. 1001 by imprisonment up to 5 years and fines up to \$10,000 for each offense.

Signature

Title

Date

(c) Instructions for Preparation of Annual Performance Report, Form OCE-101.

INSTRUCTIONS FOR PREPARATION

General Instructions

1. Data for completion of Form OCE-101 may be obtained by random sampling providing that in every instance, the universe sampled is all shipments delivered under your common carrier authority (excluding Government, Freight forwarder, and Interline traffic) during the report year or all claims arising out of the transportation of those shipments that were received or settled, as appropriate, during the report year.

2. When random sampling is used, the minimum sample size in every instance shall be 400 shipments or claims, as appropriate, in replicates of 100 shipments or claims each. All samples must conform to standard deviation with a 95% confidence level.

3. Carriers submitting Form OCE-101 shall retain and make available for review by an authorized FMCSA employee all working papers, notes, and other files relating to the preparation of each report for a period of not less than 24 months following the date of filing such a report.

4. The data in Form OCE-101 must be verified by a sworn statement signed by an official of the company.

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SPECIFIC INSTRUCTIONS

Part A

- Line 1: Only report those 1st proviso C.O.D. shipments moved under your common carrier authority after excluding all Government, Freight forwarder and Interline traffic.
- Line 2: Report all other 1st proviso shipments, including those moving under contract carriage provisions and all Government, Freight forwarder and Interline traffic.
- Line 3: Sum lines 1 and 2. The total should agree with total 1st proviso shipments reported in your Annual Performance Report, Schedule 600, Line 7, Column d, if you are required to file that report.

Part B

It is not necessary to complete Part B if the total of C.O.D. shipments reported on Part A, Line 1, did not equal or exceed 100 shipments. If completion of Part B is not required, sign the Certification and return the form to the Federal Motor Carrier Safety Administration.

- Line 4: Report only those C.O.D. shipments where the order for service was signed after the receipt of a written binding estimate. Include in this computation all so-called hybrid estimates (*e.g.*, Guaranteed Price and Price Protection options).
- Line 5: Report the total number of C.O.D. shipments where the order for service was signed after the receipt of a written non-binding estimate. In the case of non-binding estimates, the actual charges are determined after the shipment has been picked up and weighed.
- Line 6: Report only those C.O.D. shipments where there was no requirement for the preparation of a binding or non-binding written estimate by the carrier. As with non-binding estimates, the charges here are determined after the shipment has been picked up and weighed.
- Line 7: Sum of Lines 4, 5, and 6. The number of shipments reported on Line 7 should be the same as those reported in Part A, Line 1.

COMPUTATION OF PERCENTAGES OR AVERAGES

You must determine the number of shipments falling into each of the categories described in Lines 8 and 9, respectively, and divide these shipments by the number of shipments reported on Lines 4 and 5, respectively.

You must determine the number of shipments falling into each of the categories described in Lines 10 through 16 and divide these shipments by the number of shipments reported on Line 7. (Exception: Line 13 is an average, not a percentage.)

- Line 8: Compute the percentage of those shipments delivered where the final charges exceeded the written estimate initially provided to the shipper because of changes agreed to by the carrier and shipper in commodities transported and services provided.
- Line 9: Compute the percentage of those shipments delivered under a non-binding written estimate where the final charges exceeded the written estimate provided to the shipper by 10% or more. The 10% figure is used because every C.O.D. shipper is required to have available 110% of the estimate at the time of delivery.
- Line 10: Compute the percentage of those shipments where the actual pickup date occurred after the last date for pickup promised on the order for service or bill of lading.
- Line 11: Compute the percentage of those shipments where the actual delivery date occurred after the last date for delivery promised on the order for service or bill of lading.
- Line 12: Compute the percentage of those shipments where there was a claim filed within 60 days of the actual date of delivery to the residence. Only count those claims where the dollar value of the amount claimed by the shipper exceeded \$200 and resulted from property damaged or lost. This excludes claims for late pickups and deliveries which are reported on line 13.
- Line 13: Compute the percentage of those shipments where there was a claim filed within 60 days of the actual date of delivery to the residence. Only count those claims where the dollar value of the amount claimed by the shipper exceeded \$200 and resulted from a late pickup or delivery. Late pickups and deliveries are defined in Instructions 10 and 11.
- Line 14: Enter the average number of days required to pay, decline, or make a firm compromise offer of settlement of all claims exceeding \$200 during the report year. For the purpose of this report, a claim shall be considered to be a "claim filed" if it meets the criteria set forth in Lines 11 and 12, and shall be considered as paid, declined, or compromised on the date on which a written offer is mailed or delivered in person to a claimant.
- Line 15: Compute the percentage of the claims exceeding \$200 arising out of the transportation of shipments which were resolved during the report year through the use of a dispute resolution or arbitration procedure maintained or participated in by the carrier.
- Line 16: Compute the percentage of the claims exceeding \$200 arising out of the transportation of shipments which were resolved during the report year as a result of

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legal notice of suit to recover being filed by the shipper.

[59 FR 2305, Jan. 14, 1994, as amended at 59 FR 34392, July 5, 1994; 62 FR 49941, Sept. 24, 1997]

§ 375.19 Use of charge card plans.

Motor common carriers of household goods, as defined in 49 CFR 375.1(b)(1), may provide in their tariffs for the acceptance of charge cards for the payment of freight charges whenever shipments are transported under agreements and tariffs requiring payment by cash, certified check or money order. Payment by charge card shall be considered the same as payment by cash, certified check or money order. Any tariff rule or item permitting the acceptance of charge cards shall identify the charge card plans participated in by the carrier.

[46 FR 16218, Mar. 11, 1981. Redesignated at 61 FR 54707, Oct. 21, 1996; 62 FR 49941, Sept. 24, 1997]

PART 376—LEASE AND INTERCHANGE OF VEHICLES

Subpart A—General Applicability and Definitions

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376.2 Definitions.

Subpart B—Leasing Regulations

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Subpart C—Exemptions for the Leasing Regulations

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Subpart D—Interchange Regulations

376.31 Interchange of equipment.

Subpart E—Private Carriers and Shippers

376.42 Lease of equipment by regulated carriers.

AUTHORITY: 49 U.S.C. 13301 and 14102; and 49 CFR 1.73.

49 CFR Ch. III (10–1–02 Edition)

SOURCE: 44 FR 4681, Jan. 23, 1979, unless otherwise noted. Redesignated at 61 FR 54707, Oct. 21, 1996.

EDITORIAL NOTE: Nomenclature changes to part 376 appear at 66 FR 49871, Oct. 1, 2001.

Subpart A—General Applicability and Definitions

§ 376.1 Applicability.

The regulations in this part apply to the following actions by motor carriers registered with the Secretary to transport property:

(a) The leasing of equipment with which to perform transportation regulated by the Secretary.

(b) The leasing of equipment to motor private carrier or shippers.

(c) The interchange of equipment between motor common carriers in the performance of transportation regulated by the Secretary.

[44 FR 4681, Jan. 23, 1979. Redesignated at 61 FR 54707, Oct. 21, 1996, as amended at 62 FR 15423, Apr. 1, 1997]

§ 376.2 Definitions.

(a) *Authorized carrier.* A person or persons authorized to engage in the transportation of property as a motor carrier under the provisions of 49 U.S.C. 13901 and 13902.

(b) *Equipment.* A motor vehicle, straight truck, tractor, semitrailer, full trailer, any combination of these and any other type of equipment used by authorized carriers in the transportation of property for hire.

(c) *Interchange.* The receipt of equipment by one motor common carrier of property from another such carrier, at a point which both carriers are authorized to serve, with which to continue a through movement.

(d) *Owner.* A person (1) to whom title to equipment has been issued, or (2) who, without title, has the right to exclusive use of equipment, or (3) who has lawful possession of equipment registered and licensed in any State in the name of that person.

(e) *Lease.* A contract or arrangement in which the owner grants the use of equipment, with or without driver, for a specified period to an authorized carrier for use in the regulated transportation of property, in exchange for compensation.