

**Paperwork Reduction Act Analysis
Supporting Statement**

**Electronic On-Board Recorders for Hours-of-Service
Compliance**

Information Collection Clearance

The Supporting Statement

Electronic On-Board Recorders for Hours-of-Service Compliance

The Federal Motor Carrier Safety Administration (FMCSA) is submitting a preliminary estimate of a revision to its information collection (IC) titled, "Hours-of-Service (HOS) Drivers Regulations." This IC is covered by the Office of Management and Budget's (OMB) Control Number 2126-0001 which is due to expire on November 30, 2008.

This document accompanies a Notice of Proposed Rulemaking (NPRM) titled, "Electronic On-Board Recorders for Hours-of-Service Compliance (See Attachment A).

The agency estimates one provision of the NPRM, which would require certain motor carriers with severe HOS noncompliance to install and use electronic on-board recorders (EOBRs) to record and manage their drivers' HOS, would result in an estimated reduction of 665,000 burden hours annually.

1. Circumstances that make the collection of information necessary:

The Department of Transportation's (DOT or Department) safety goal is a rate of 1.0 fatalities per 100 million vehicle-miles-traveled (VMT) as a whole by 2008. This would constitute a drop of 41 percent from the Department's 1996 rate. To do its part in achieving this VMT rate of safety, the FMCSA has set a goal of reducing the number of deaths in bus and truck crashes by 41 percent by the year 2008.

The safe operation of a CMV requires drivers who are alert. The operation of a CMV is a dangerous task, and is inherently tiring over time. For many years, the agency has limited the number of hours that interstate CMV operators may drive, or be on-duty.

The Federal Motor Carrier Safety Regulations (FMCSRs) chapter III, title 49 of the Code of Federal Regulations (CFR)) state that:

"No driver shall operate a commercial motor vehicle, and a commercial motor carrier shall not require or permit a driver to operate a commercial motor vehicle, while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness, or any other cause, as to make it unsafe for him/her to begin or continue to operate the commercial motor vehicle." See 49 CFR § 392.3 (See Attachment B).

Statutory authority for regulating the hours-of-service of drivers that operate CMVs is derived from 49 U.S.C. §§ 31136 and 31502 (See Attachments C & D). The penalty provisions are located at 49 U.S.C. §§ 521, 522 and 526, as amended (See Attachments E, F, & G). The "Hours-of-Service" regulations are housed in part 395 of the FMCSRs. The regulations set forth the maximum number of hours a driver can be on-duty and drive between individual off-duty periods (up to 14 consecutive hours on duty, including not more than 11 hours of driving, following 10 consecutive hours off-duty), and over a multiday period (a driver must not drive after 60 hours on-duty in any seven consecutive days, or 70 hours in any eight consecutive days; the 60- and 70-hour periods may be "reset" by an off-duty period of at least 34 consecutive hours).

The HOS rules require CMV drivers to fill out a record of duty status (RODS) for every 24-hour period. Motor carriers also have a duty to ensure that these records are completed. The records are an important tool because the information contained in the RODS help enforcement personnel determine whether a driver is operating within compliance with the HOS rules. Carriers' adherence to the HOS requirements help FMCSA protect the general public by reducing the number of tired CMV drivers on the highways. Many safety professionals, labor unions, and State enforcement agencies support the use of a uniform time record as a necessary and important document.

Nearly all States receive grants from FMCSA under the Motor Carrier Safety Assistance Program (MCSAP). As a condition of receiving these grants, States agree to formally adopt the FMCSRs, including the HOS rules, as State law. They also agree to enforce such laws. As a result, State enforcement inspectors at the roadside use the RODS to determine whether both interstate and intrastate CMV drivers are in compliance with the hours-of-service rules.

In addition, FMCSA uses the RODS to assess the compliance of motor carriers with the HOS regulations during on-site compliance reviews (CRs). Compliance Reviews determine the overall safety rating of a motor carrier, and a safety rating of less than "Satisfactory" can be damaging to a motor carrier's CMV operation. This is because many shippers use the results of these CRs, as well as a carrier's crash and regulatory compliance records, to determine whether or not they want to use a particular firm to haul their freight. Finally, the RODS have traditionally been the principal document accepted by the court system to support actions for violations of the HOS regulations.

This information collection also supports the DOT's Strategic Goal of Safety because the information helps the agency improve the safe operation of drivers who operate CMVs in interstate commerce on our nation's highways. Under the MCSAP program, the FMCSA also embraces the safe operation of CMVs in intrastate commerce.

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

The RODS are the primary tools used by motor carriers and CMV drivers to determine compliance with the maximum driving and on-duty time requirements of the HOS rules. A driver and motor carrier determine whether a driver is eligible to go on-duty, or drive, at any given time based upon the hours recorded over the previous 7 or 8 days. CMV drivers and motor carriers must be able to produce HOS records upon demand.

The logs are valuable to industry as instruments to assist them in avoiding costly accidents caused by fatigued drivers and to maintain Satisfactory ratings.

The HOS rule set forth the three forms of the RODS, as follows (See Attachment H :

PAPER LOG: This is a grid paper form that allows the driver to graph time and location over a 24-hour period (49 CFR § 395(a)(1)). The rules provide the form (49 CFR § 395.8(g)). It is referred to as a "paper log" and is by far the most common form of RODS.

AUTOMATIC ON-BOARD RECORDING DEVICE (AOBRD) means an electric, electronic, electromechanical, or mechanical device capable of recording driver's duty status information accurately and automatically as required by 49 CFR § 395.15. The device must be integrally synchronized with specific

operations of the commercial motor vehicle in which it is installed. At a minimum, the device must record engine use, road speed, miles driven, the date, and time of day.

ELECTRONIC ON-BOARD RECORDING DEVICE (EOBR) means an electronic device that is capable of recording a driver's duty hours-of-service and duty status accurately and automatically and meets the requirements of proposed 49 CFR § 395.16. An EOBR is not required to be integrally synchronized with the CMV in which it is installed, but it is required to record the location of the CMV at frequent time intervals.

TIME CARD: The HOS regulations allow certain CMV drivers to prepare and maintain a time record (time card). This time record is similar to the record employers maintain to comply with regulations of the U.S. Department of Labor (DOL)(29 CFR § 516.2) (OMB Control No. 1215- 0017 titled, “Records to be Kept by Employers — FLSA”). This form of RODS is less complex than a paper log. Four items of information must be recorded: The time the driver reports for duty each day; the total number of hours the driver is on duty each day; the time the driver is released from duty each day; and the total time for the preceding 7 days in accordance with 49 CFR § 395.8(j)(2) for drivers used for the first time or intermittently.

Two categories of drivers are allowed to use this option: those drivers operating in interstate commerce in commercial motor vehicles for which a commercial driver’s license (CDL) is required, and those operating vehicles in interstate commerce where a CDL is not required (i.e., typically those property-carrying vehicles of less than 26,001 pounds (lbs) gross vehicle weight rating (GVWR) where non-hazardous materials are being hauled).

In order to be eligible to use a time card, a CDL driver must: (1) operate within a 100 air-mile radius of the normal work reporting location, (2) return to that location for release from duty, which must occur within 12 consecutive hours after going on-duty, (3) take at least 10 consecutive hours off-duty between each period of 12 hours on-duty, and (4) not exceed 10 hours driving time following 10 consecutive hours off-duty (49 CFR § 395.1(e)).

In order to be eligible to use a time card, a non-CDL driver must: (1) operate within a 150 air-mile radius of the normal work reporting location, (2) return to that location for release from duty, which must occur within 14 consecutive hours after going on-duty (except for two on-duty periods within each seven-day consecutive work period, where the driver may work 16 consecutive hours), (3) take at least 10 consecutive hours off-duty between each period of 14 hours on-duty, and (4) not exceed 10 hours driving time following 10 consecutive hours off-duty (49 CFR § 395.1(e)).

3. Extent of automated information collection:

The Government Paperwork Elimination Act (GPEA) (Public Law 105-277, Title XVII, October 21, 1998) (See Attachment I) requires that agencies provide for the option of electronic submission of information and the use of electronic signatures, when

practicable. Since 1988, the FMCSA has allowed motor carriers and drivers to employ EOBR logs.

Some motor carriers require drivers to use EOBRs. The technology is readily available in the commercial market. Although start-up and maintenance costs are higher than with paper RODS, EOBR systems substantially reduce the time required for drivers to prepare the RODS, and also reduce the time required by motor carriers to review the records. In addition, they reduce the possibility of error or fraud.

Motor carriers may use automated methods for collecting and maintaining timecards. DOL regulations permit employers subject to the Fair Labor Standards Act of 1938 (FLSA) (29 U.S.C. § 201, et seq.) to use any method for recording time as long as the pertinent information is recorded. The FMCSA believes that the prevalence of automated timecard systems would be approximately the same as in the population of employers nationwide, in all industries.

The agency has limited information pertaining to the extent of use of automated HOS recording devices in the motor carrier industry. In the past, the agency has estimated that five percent (%) of the responses are collected electronically. A recent study conducted for the agency by the Volpe National Transportation Systems Center (USDOT/RITA) estimated that as many as 400,000-450,000 CMVs are equipped with “EOBR-ready” devices that are components of vehicle tracking or logistics management systems. Although many of the devices may have features similar to those of AOBRDs or EOBRs, they might not necessarily be fully compliant with the provisions of § 395.15 or the proposed § 395.16, hence the term “EOBR-ready.”

In the NPRM, Electronic On-Board Recorders for Hours-of-Service Compliance (RIN-2126-AA89) the agency proposes to amend the FMCSRs in three areas: (1) to incorporate new performance standards for EOBRs voluntarily installed on commercial motor vehicles (CMVs) manufactured on or after two years from the effective date of a Final Rule; (2) to require use of EOBRs by motor carriers that have been determined to have hours-of-service violations in 10 percent or more of the records of duty status examined during two or more compliance reviews within a 2-year period; and (3) to encourage all other motor carriers to use of EOBRs by revising its compliance reviews procedures to examine a random sample of drivers’ records of duty status if certain conditions are satisfied.

Taken together, the three elements of the proposal would have the potential to increase the amount of automated information collection. Once fully implemented (years 2-10 of the analysis period), FMCSA estimates that the “remedies” provision of the NPRM would affect approximately 930 motor carriers with about 17,500 drivers annually. Since other motor carriers would still be able to make their own choice of whether or not to use (or to continue to use) AOBRDs or the proposed new-technology EOBRs, it is not possible at this time to estimate a revision to the amount of automated information collection associated with those provisions of the NPRM.

4. Describe efforts to identify duplication:

The FMCSA does not dictate the form in which the data required by the “time record” exception must appear. In many cases, the information on the typical time card is sufficient to comply with the HOS rules. The employer is already required by DOL rules

to maintain this data; FMCSA's flexibility helps avoid unnecessary duplication in maintaining DOL and FMCSA records of on-duty time.

5. Efforts to minimize the burden on small businesses:

The agency created in its August 2005 HOS final rule a revision to allow use of time cards by short-haul drivers who operate CMVs not requiring a CDL within a 150 air-mile radius from their home base, drive much less than 11 hours per day, and return to their reporting location each night. This was estimated to exempt at least 239,400 drivers each year from the requirement to maintain logs. The majority of motor carriers that would qualify for the "time record" provision are small businesses.

The "remedies" provision of the NPRM would only mandate EOBR use by those motor carriers that have demonstrated significant and intractable non-compliance with the HOS regulations. All motor carriers avoid the potential burden of this requirement by operating in compliance with the regulations.

The other provisions of the NPRM – technology and incentives – would continue to allow motor carriers to use EOBRs at their option.

6. Impact of less frequent collection of information:

The FMCSRs require CMV drivers to "keep their records of duty status current to the time shown for the last change of duty status." (See 49 CFR § 395.8(f(1))). Thus, the rules do not permit a driver to begin the day "on-duty, not driving," then at a later time period enter a status of "on-duty driving," and still later go to "off-duty," without making the appropriate RODS entry at the time the change of status occurred. Because the driver cannot enter all the changes of duty status at once, at the end of the day, when going off-duty, FMCSA believes the RODS logs of CMV drivers are most meaningful to enforcement personnel when the information contained on them is entered contemporaneously, as time lapses. This mitigates the temptation to alter the logs at a later point in time, thereby, disguising fatigue.

Federal and State inspectors sometimes review these records during roadside inspections to ensure that drivers are complying with the hours-of-service regulations. With less frequent records of duty status, it would be very difficult to determine whether a driver has violated the HOS rules. If this manner of recordkeeping were not required, inspectors would be forced to telephone motor carriers and request a facsimile transmission, or postal mailing, of the necessary information. This would be unduly burdensome to the driver, the officer, and the motor carrier.

Motor carriers that would be subject to the proposed "remedies" provisions of the EOBR NPRM have already shown severe HOS non-compliance over an extended period of time. The proposal for EOBR use and increased FMCSA oversight for that small number of motor carriers that pose a significantly higher crash risk than their industry peers is FMCSA's attempt to provide these motor carriers one last opportunity to improve their safety posture before being subject to a declaration of unfitness to operate in interstate commerce. The oversight procedures and information collection proposed are considered the minimum necessary to achieve this safety outcome.

7. Special circumstances:

There are no special circumstances related to this information collection.

8. Compliance with 5 CFR § 1320.8:

On August 25, 2005, FMCSA published its final rule (70 FR 49978, at Attachment J) governing hours of service for commercial motor vehicle drivers, and notified the public that it was seeking comments regarding the burden imposed by this information collection. The final rule addressed requirements for driving, duty, and off-duty time, a recovery period, sleeper berth, and new requirements for short-haul drivers.

On January 24, 2005, FMCSA published a notice of proposed rulemaking (NPRM) (70 FR 3339, at Attachment K) that notified the public that it was seeking public comments, and currently reviewing and reconsidering the regulations on hours-of-service of drivers that were set forth in a final rule published on April 28, 2003 (68 FR 22456 at Attachment L) and amended on September 30, 2003 (68 FR 56208 at Attachment M). The regulations in the 2003 HOS final rule were vacated by the U.S. Court of Appeals for the District of Columbia Circuit on July 16, 2004 (Public Citizen et al. v. Federal Motor Carrier Safety Administration, 374 F.3d 1209). Congress subsequently provided that the 2003 regulations will remain in effect until the effective date of a new final rule addressing the issues raised by the court or September 30, 2005, whichever occurs first. FMCSA reconsidered the 2003 regulations to determine what changes may be necessary to be consistent with the holdings of the court's decision. FMCSA published the 2005 HOS NPRM concurrently with its ongoing research and analysis of the issues raised by the court in order to allow effective public participation in the process before the statutory deadline. Many comments were received in response to the NPRM, and they were addressed in the 2005 HOS final rule.

Concurrently with the January 2005 NPRM, FMCSA gave notice that the agency intended to seek OMB approval of the renewal of this information collection, including revisions to address changes in the reporting requirements for CMV drivers operating vehicles not requiring a CDL within a 150 air-mile radius of their normal work reporting location.

9. Payments or gifts to respondents:

There is no payment or gift to respondents associated with this collection.

10. Assurance of confidentiality:

The FMCSA offers respondents no assurances of confidentiality.

11. Justification for collection of sensitive information:

This information collection does not involve any sensitive information.

12. Estimate of burden hours for information requested:

The Supporting Statement submitted for the August 2005 HOS Final Rule estimated a decrease in the number of drivers required to complete RODS from 4,268,434 to 4,029,034.

The universe of drivers subject to FMCSA jurisdiction, including those drivers who are not subject to the RODS requirements, is 6,458,430. A breakdown by categories of operation appears in Table 1 below. The FMCSA is also making other efforts to estimate the number of CMV drivers, and these efforts will help the agency to more accurately define this population.

TABLE 1. Number of Drivers Subject To FMCSA Jurisdiction

TYPE OF OPERATION	NUMBER OF DRIVERS
Long-haul	424,804
Regional	823,863
Local delivery	3,997,023
Local services	1,190,740
Long-haul commercial vans	22,000
TOTAL	6,458,430

The estimate of 6,458,430 drivers includes both interstate drivers and intrastate drivers. Intrastate drivers are included because States electing to accept Federal grants under MCSAP must enact State laws which are in substantial conformance with the FMCSRs. Most States have such laws to require CMV drivers to prepare RODS and for motor carriers to maintain them. The information collection burden imposed by those State laws is included in the Federal burden for purposes of this calculation.

The estimate of 6,458,430 drivers includes both commercial driver's license and non-CDL drivers subject to FMCSA regulations. Data and sampling weights from the 1999 Controlled Substances and Alcohol Testing Survey were used to generate an estimate of the number of CDL drivers. An estimate of non-CDL drivers was obtained by calculating the ratio of CDL to non-CDL drivers in FMCSA's Motor Carrier Management Information System (MCMIS). FMCSA also employed figures derived from the Truck Inventory and Use Survey compiled by the Bureau of the Census, U.S. Department of Commerce.

FMCSA estimated the total annual responses at **1,538,263,800** [1,538,503,200 previously approved number of annual responses – 239,400 decrease in the number of drivers subject to the RODS due to the 2005 HOS final rule] = 1,538,263,800. We anticipate no change in this number due to the PRA requirements in the EOBR NPRM.

In the past, the FMCSA has estimated that only approximately 5 percent of motor carriers currently use AOBRDs. Even though a larger number of motor carriers and drivers may elect to use AOBRDs and EOBRs, the agency does not have sufficient information to develop an estimate of those entities that would use the device voluntarily.

The next step in the calculation of this burden statement is an examination of the number of drivers who are required to complete a RODS. First, the FMCSA does not report any paperwork burden for those drivers and carriers who employ time records. The agency believes that the vast majority of these motor carriers use the DOL timecard for this purpose, and the DOL reports this paperwork burden under OMB Control No. 1215-0017 titled, “Records To Be Kept By Employers — FLSA.” The FMCSA also believes that all “Local Services” CMV drivers are eligible for, and employ, time records; and that twenty-five per cent (25%) of the “Local Delivery” CMV drivers are eligible for, and employ, time records. The agency believes that nearly all long-haul commercial van drivers do not qualify for the time record exception for several reasons, but principally because they do not return to the working report location within twelve hours of dispatch. Those drivers and their motor carriers would be unlikely to use AOBRDs or EOBRs.

The total number of drivers subject to the RODS burden at this point in the calculation appears in Table 2.

TABLE 2. INTERMEDIATE ESTIMATE OF NUMBER OF DRIVERS

TYPE OF OPERATION	NUMBER OF DRIVERS
Long-haul	424,804
Regional	823,863
Local delivery 3,997,023 X .75 =	2,997,767
Local services	0
Long-haul commercial vans	22,000
TOTAL	4,268,434

The final step in this calculation account for the changes brought about by the 2005 HOS final rule. The final rule resulted in an increase of 600 long-haul and regional sector drivers subject to RODS. The final rule also resulted in a decrease of 240,000 short-haul drivers that would be required to file RODS. The net effect of these two changes is a decrease of 239,400 in the number of drivers subject to RODS.

Thus, the total number of CMV drivers subject to RODS under the new HOS rules is **4,029,034** [4,268,434-239,400 = 4,029,034 drivers subject to RODS.].

Number of Burden Hours: CMV Driver HOS final rule.

The amount of time required to fill out a RODS varies with the number of stops and with changes in a driver’s status (e.g. from “on-duty driving” to “on-duty not driving”). The

FMCSA estimates that CMV drivers take an average of six minutes and thirty seconds daily to complete the RODS. The FMCSA believes that CMV drivers subject to these regulations work 240 workdays per year. Six and a half minutes for each of 240 days creates a total time burden of 26 hours per year for the average CMV driver [6.5 minutes x 240 days, divided by 60 minutes = 26 hours per year]. Thus, the total burden hours for CMV drivers is **104,754,884** (4,029,034 drivers x 26 hours per year), as follows:

Number Of Drivers	Hours Per Year	TOTAL BURDEN HOURS
4,029,034	26	104,754,884

Number of Burden Hours: CMV Driver EOBR NPRM.

FMCSA estimates that, on an annual basis after full implementation of the EOBR “remedies” provision of the NPRM, 17,500 CMV drivers of motor carriers subject to that provision would use EOBRs. The estimated reduction in information collection burden would be 455,000 burden hours [17,500 CMV drivers using EOBRs x 26 hours per year to complete RODS] = 455,000 burden hours.

Total Annual Burden Hours for CMV Drivers: 104,299,884 [104,754,884 total burden hours in HOS final rule – 455,000 hours reduction due to use of EOBRs].

Number of Burden Hours: Motor Carrier for HOS final rule.

Motor carriers are required to retain RODS for a period of six months (See 49 CFR § 395.8(k)). The motor carrier must also systematically review the RODS of its drivers to ensure that they are complete and accurate (See 49 CFR § 395.8(e)). The FMCSA estimates a motor carrier spends an average of three minutes per driver per day complying with these requirements. Three minutes for each of 240 days creates a total time burden for motor carriers of 12 hours per year for each CMV driver [3 minutes x 240 days, divided by 60 minutes = 12 hours per year]. Thus, the total burden hours for motor carriers to review RODS is **48,348,408** (4,029,034 x 12) as follows:

Number of Drivers	Hours Per Year	TOTAL BURDEN HOURS
4,029,034	12	48,348,408

Number of Burden Hours: Motor Carrier for EOBR NPRM.

For the estimated 17,500 drivers used by motor carriers required to use EOBRs, the reduction in burden hours is (17,500 x 12 hours) or 210,000 burden hours.

Total Annual Burden Hours for Motor Carriers: 48,138,408 [48,348,408 previous total burden hours in HOS final rule – 210,000 hours reduction due to use of EOBRs] = 48,138,408.

Total Burden Hours: Motor Carrier and Driver HOS final rule.

The estimated annual burden of this information collection, for both the CMV driver and the motor carrier, is **153,103,292 hours** (104,754,884 + 48,348,408), as follows:

Total Burden Hours: Driver	Total Burden Hours: Carrier	TOTAL BURDEN HOURS
104,754,884	48,348,408	153,103,292

Total Burden Hours : Motor Carrier and Driver EOBR NPRM.

The estimated annual burden of this information collection, for both the CMV driver and the motor carrier, is **152,438,292** (104,299,884 + 48,138,408), as follows:

Total Burden Hours: Driver	Total Burden Hours: Carrier	TOTAL BURDEN HOURS
104,299,884	48,138,408	152,438,292

The estimated reduction in total burden hours associated with the motor carriers and drivers is therefore **665,000 burden hours** [153,103,292 total burden hours for HOS final rule – 152,438,292 total burden hours for EOBR NPRM] = 665,000.

13. Estimate of total annual costs to respondents:

The FMCSA obtained price information from two suppliers of pre-printed forms for the recordation of the RODS by CMV drivers. These are commonly referred to as “logbooks.” Both of these suppliers charge about \$1.25 for a logbook covering one month. The agency estimates that the annual cost for carriers to supply the logbook to its drivers will be \$15.00 per driver (\$1.25 x 12 months = \$15.00 per driver each year). Thus, the total estimated annual cost to respondents is **\$60,435,510**.

Total annual costs to respondents in HOS final rule: \$60,435,510 per year [4,029,034 (number of drivers employing logbooks) x \$15 per year per driver (cost for carriers to supply the logbook) = \$60,435,510 per year].

For those motor carriers and their drivers that would be subject to the “remedies” provision of this NPRM, there would be costs for acquiring and installing EOBRs, and of training drivers and back-office staff in their use. Based on past compliance review data, FMCSA staff estimated that on average, 465 motor carriers per year would meet the 2X10 criteria and be required to install and use EOBRs. These motor carriers operate an estimated 7,965 power units, and employ 8,762 drivers. In the first year of the program, then, these 465 carriers and their power units and drivers would be the only ones affected by Option 3. In the second year, an additional 465 carriers would be identified as meeting the 2X10 criteria, and would be required to install and use EOBRs. This change would bring the total in the program to 930 carriers, with 15,930 power units and 17,524 drivers. In the third year, yet another cohort of 465 carriers would be added. The first year’s cohort, however, would reach the end of its required two years of EOBR use.

Though they could well decide to continue to use the EOBRs, the costs and impacts at that point would be voluntary, and have therefore been excluded from this analysis. Their exit leaves 930 carriers, 15,930 power units, and 17,524 drivers in the program for the third year, and for all of the subsequent years – each year 465 carriers are assumed to enter the program, and another 465 leave. Over the 10-year timeframe of the analysis, the average number of carriers is 884, and the average numbers of power units and drivers are 15,134 and 16,648, respectively.

The net costs for motor carriers are estimated to be \$9,280,700 [$\$632 \text{ EORB composite costs per power unit} \times 15,100 \text{ power units} - \$15 \text{ per RODS} \times 17,500 \text{ CMV drivers}$] = \$9,280,700.

Estimate Total Annual Cost to Respondents for EOBR NPRM: \$69,716,210

[\$60,435,510 per year for HOS final rule + \$9,280,700 costs for EOBR NPRM] = \$69,716,210.

Consequently, this program change resulted in a cost increase to respondents of **\$9,280,700 per year** [$\$69,716,210 \text{ costs for EOBR NPRM} - \$63,435,510 \text{ costs for HOS final rule}$] = \$9,280,700.

Note that the above estimates of paperwork burden do not take into account potential paperwork savings associated with voluntary use of EOBRs by motor carriers. Drivers employed by, and owner-operators leased to, such carriers would have a reduced paperwork burden to meet the RODS requirement at § 395.8 of the FMCSRs (because the RODS would be electronically generated), and the motor carrier's time-and-cost burden associated with reviewing and maintaining the RODS and supporting documents would be similarly reduced. Proposed 49 CFR 395.11 provides partial relief from the supporting documents requirements for motor carriers maintaining time and location data produced by § 395.16-compliant EOBRs. Under the proposed rule, these carriers need only maintain such supporting documents as are necessary to verify on-duty not-driving activities and off-duty status to fully meet the supporting documents requirements in 395.8(k). Depending on the number of commercial motor vehicles these carriers operate, their paperwork savings could be substantial.

14. Estimate of Annual cost to the Federal government:

This information collection imposes no cost to the Federal government.

15. Explanation of program changes or adjustments:

Program changes were brought about by the attached EOBR NPRM entitled “Electronic On-Board Recorders for Hours-of-Service Compliance.” FMCSA estimates one provision of the NPRM would require certain motor carriers with severe HOS noncompliance issues to install and use EOBRs to record and manage their drivers’ HOS, and result in an estimated reduction of **665,000 burden hours annually** [$17,500 \text{ CMV drivers} \times 26 \text{ hours per year to complete RODS} + 17,500 \text{ CMV drivers} \times 12 \text{ hours per year for motor carriers to comply with the HOS requirements}$] = 665,000. The NPRM is estimated to increase the cost to respondents by **\$9,280,700 per year** [$\$69,716,210 \text{ costs for EOBR NPRM} - \$63,435,510 \text{ costs in 2005 HOS final rule}$] = \$9,280,700.

16. Publication of results of data collection:

There are no plans to publish this collection of information.

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

The FMCSA is not seeking OMB approval to not display the expiration date.

18. Exceptions to certification statement:

Section 1320.9(c) of title 5, C.F.R., reduces to the extent practicable and appropriate the burden on persons who shall provide information to or for the agency, including with respect to small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. § 601(6)), the use of such techniques as:

(1) Establishing differing compliance or reporting requirements or timetables that take into account the resources available to those who are to respond;

(2) The clarification, consolidation, or simplification of compliance and reporting requirements; or

(3) An exemption from coverage of the collection of information, or any part thereof.

The FMCSA believes further reductions to burdens for small entities may be possible. These reductions will be addressed as part of future rulemakings.

Section 1320.9(d) of title 5, CFR, is written using plain, coherent, and unambiguous terminology and is understandable to those who are to respond.

The FMCSA believes that this significant proposed revision to the HOS regulations concerning electronic recording of driver records of duty status will improve the terminology in the rules, and render them more understandable to industry and the general public.

Section 1320.9 of title 5, CFR, to the maximum extent practicable, uses appropriate information technology to reduce burden and improve data quality, agency efficiency and responsiveness to the public.

The FMCSA believes this proposal, if promulgated as a final rule, would reduce information collection burdens, improve the quality and timeliness of information, increase agency efficiency, and improve the agency's responsiveness to the public by improving highway safety through reducing crashes involving CMV driver fatigue brought about by noncompliance with the hours-of-service regulations.

Attachments:

A. NPRM entitled, "Electronic On-Board Recorders for Hours-of-Service Compliance," [72 FR 2340], January 18, 2007.

B. 49 CFR 392 – 392.71, Drivers of Commercial Motor Vehicles, October 1, 2001.

C. 49 U.S.C. § 31136, United States Government Regulations, January 7, 2003.

- D. 49 U.S.C. § 31502, Requirements for Qualification, Hours of Service, January 7, 2003.
- E. 49 U.S.C. § 521, Civil Penalties, January 7, 2003.
- F. 49 U.S.C. § 522, Reporting and Recordkeeping Violations, January 7, 2003.
- G. 49 U.S.C. § 526, General of Criminal Penalty When Specific Penalty not Provided, January 7, 2003.
- H. 49 CFR 395-395.15, Hours of Service of Drivers, October 1, 2006.
- I. GPEA, P.L. 105-277, Title XV11, Government Paperwork Elimination Act, October 21, 1998.
- J. Hour of Service of Drivers; Final Rule [70 FR 49978], August 25, 2005.
- K. Hour of Service of Drivers, NPRM [70 FR 3339], January 24, 2005.
- L. Hour of Service of Drivers; Driver Rest and Sleep for Safe Operations, Final Rule [68 FR 22456], April 28, 2003.
- M. Hours of Service of Drivers, Final Rule; technical amendment [68 FR 56196], September 30, 2003.