

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

**SUPPORTING STATEMENT**

**Hours of Service of Drivers Regulations**

Revised for “Electronic On-Board Recorders for Hours-of-Service Compliance”  
Final Rule

INTRODUCTION

The purpose of this supporting statement is to request the Office of Management and Budget’s (OMB) approval of a revised calculation of the information collection (IC) entitled, “Hours of Service (HOS) of Drivers Regulations,” formerly “Hours of Service (HOS) of Drivers Regulations, Supporting Documents,” (OMB Control Number of 2126-0001). As a result of Agency rulemaking, the Federal Motor Carrier Safety Administration (FMCSA or the Agency) is requesting a reduction in the total burden hours of this IC.

On June 30, 2008, FMCSA submitted its most recent calculation of the paperwork burden of the HOS rules (49 CFR 395) to OMB. The paperwork burden estimate of 184,380,000 hours contained in that submission was approved by OMB on December 9, 2008, and the expiration date revised to December 31, 2011.

FMCSA now requests a revision to that estimate to reduce the estimated paperwork burden by 3,110,000 burden hours. The reason for the revision is that the Agency has amended the HOS regulations by publication of a final rule, “Electronic On-Board Recorders (EOBR) for Hours-of-Service Compliance”, (EOBR rule) on April 5, 2010 (75 FR 17208) (**Attachment A**). FMCSA in the EOBR rule has permitted the use of EOBRs by all motor carriers, and mandated their use by some motor carriers. The FMCSA has taken a significant step away from paper-based recordation, and toward electronic recordation, of the information collected under this IC. FMCSA requests approval of a reduction in the total burden hours of this IC to account for the creation, transmission and storage of HOS records by EOBR.

**PART A. JUSTIFICATION.**

**1. Circumstances that make the collection of information necessary:**

Section 390.5 of the Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR 350 *et seq.*) (**Attachment B**) defines the term “commercial motor vehicle” (CMV) as “a self-propelled or towed vehicle used on the highways in interstate commerce to transport passengers or property, if the vehicle--

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|--|--|--|
| (1)  | (2)  | (4)  |
| has a gross vehicle weight rating or gross vehicle weight of at least 10,001 pounds, whichever is greater; | is designed or used to transport more than 8 passengers (including the driver) for compensation; or  | is used in transporting material found by the Secretary of Transportation to be hazardous under section 5103 of this title and transported in a quantity requiring placarding under regulations prescribed by the Secretary under section 5103." |
| or   | (3) is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or |  |

The FMCSRs are applicable to individuals who drive CMVs in interstate commerce, and to the motor carriers that employ those individuals (49 CFR 390.3(a))(**Attachment C**). The HOS rules are in Part 395 of the FMCSRs and apply to both property and passenger motor carriers. The HOS rules set limits on the on-duty time and driving time of CMV drivers, and mandate the amount, and frequency, of the time off-duty that such drivers must receive (73 FR 69567, November 19, 2008). Two types of information are collected under this IC: (1) the record of duty status (RODS), commonly referred to as a “logbook,” that CMV drivers are required to maintain, and (2) documents, such as gasoline and toll receipts, that may be used to verify the accuracy of the RODS. These “supporting documents,” generated by the driver in the ordinary course of business, must be retained by the motor carrier, with the RODS, for a period of 6 months from the date of receipt (49 CFR 395(k)(1)).

The RODS contains a 24-hour grid on which the CMV driver makes notation of his or her duty status. CMV drivers must record their duty status as one of the following:

1. On-duty/driving,
2. On duty/not driving,
3. Off duty, or
4. Sleeper berth.

Lines extending from the X-axis of the 24-hour grid represent the 24 hours of the day, and lines extending from the Y-axis permit entry of one of the four duty statuses. Each time a driver’s duty status changes, he or she must mark the point that corresponds to

both the time and the new duty status (49 CFR 395.8(h)) (**Attachment D**). Thus, both the new duty status, and the time the driver entered that status, are captured on the RODS. When complete, the RODS reflects the driver's duty status at all times during the 24-hour period.

Both the driver and the motor carrier must ensure that the RODS are accurate. If a RODS is inaccurate or falsified, both the driver and the motor carrier are in violation of the FMCSRs, and subject to the penalties prescribed by those rules (49 CFR 395.8(e)) (**Attachment E**).

Drivers must have the record of duty status (RODS), as well as supporting documents, with them in the CMV for the current day and for the most recent 7 days during which RODS were required (49 CFR 395.8(k)(2)). Drivers are required to forward their RODS to their motor carriers within 13 days of completing them (49 CFR 395.8(i)) (**Attachment F**).

Motor carriers must systematically review the RODS and supporting documents of their CMV drivers. They also must maintain these records for at least 6 months from the time of receipt (49 CFR 395.8(k)(1)) (**Attachment G**).

CMV drivers who travel limited distances ("short-haul drivers") during their duty day are relieved by regulation of the requirements of using and possessing a RODS (49 CFR 395.1(e)(1)) (**Attachment H**). In lieu of the RODS, however, they must track three pieces of information by means of a "time card" record at the motor carrier's place of business: the time they reported for duty, the time they were released from duty, and the total hours they were on duty that workday.

The time-card record is required by the regulations of the U.S. Department of Labor (DOL). Because that agency reports the paperwork burden to OMB separately, FMCSA does not report the paperwork burden to avoid overstating the burden of the time card. For more information, see Item 4 on page 5.

An EOBR is an automated electronic device installed on a CMV. It records the HOS of the driver; prior to this rule, the use of an EOBR to record HOS was not permitted. The use of an earlier type of electronic device – the automatic onboard recording device, or AOBR – has been permitted since September 30, 1988 (53 FR 38670).

The EOBR rule amends the HOS rules by adding section 395.16. It provides performance standards for EOBRs, and specifies the information the EOBR must collect (49 CFR 395.16(b) and (c)) (**Attachment I**). Motor carriers that have demonstrated serious noncompliance with the HOS rules are subject to mandatory installation of EOBRs. If FMCSA determines, based on HOS records reviewed during a compliance review, that a motor carrier has a 10 percent or greater violation rate of specified regulations, it will issue the motor carrier an EOBR remedial directive. The directive will require the motor carrier to install and use EOBRs in all its CMVs for a period of 2 years.

FMCSA estimates that each year approximately 5,700 motor carriers employing 129,000 drivers will be subject to an EOBR remedial directive. In the IC request approved by OMB on December 9, 2008, FMCSA divided the paperwork burden of drivers into three categories: “Filling Out the RODS,” “Forwarding the RODS to the Motor Carrier,” and “Forwarding the Supporting Documents to the Motor Carrier.” FMCSA divided the paperwork burden of motor carriers into three categories as well: “Reviewing the RODS,” “Maintaining the RODS,” and “Maintaining the Supporting Documents.” In this IC request, FMCSA estimates the paperwork burden of the electronic recordkeeping of motor carriers subject to an EOBR remedial directive.

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

The primary mission of the FMCSA is to reduce crashes, injuries and fatalities involving large trucks and buses. The Secretary of Transportation has delegated to FMCSA its responsibility under 49 U.S.C. §§ 31136 and 31502 (**Attachments J and K**) to prescribe regulations that ensure that CMVs are operated safely.

The safe operation of a CMV requires alert drivers. The FMCSRs state:

“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 (49 CFR 392.3) (**Attachment L**).

The operation of CMVs by drivers who are overly fatigued is a serious safety problem. The RODS and supporting documents of the HOS rules have historically provided the Agency with its most effective tool in combating driver fatigue. Enforcement officials at roadside employ the RODS and supporting documents to determine the amount of rest a driver has obtained prior to the driver’s current duty day. They also determine the amount of time the driver has been on duty that duty day, and the amount of time the driver has been behind the wheel driving during the duty day. Finally, they examine the RODS for as many as 8 of the immediately preceding days in order to determine compliance with the HOS rules. The RODS is an invaluable tool in the detection of inaccurate and falsified logs, and thus in getting fatigued, unsafe drivers off the road.

In addition, enforcement officials employ the RODS and supporting documents retained by the motor carrier when conducting on-site compliance reviews (CR) of motor carriers. The safety assessments that result from such reviews are public information, and many shippers routinely examine the assessments, as well as crash and regulatory compliance records, when selecting a motor carrier to retain. A negative rating on a CR can be damaging to a motor carrier’s business. In addition, courts of law typically find CR assessments important evidence in prosecutions of HOS violations.

Furthermore, the Motor Carrier Safety Assistance Program (MCSAP) requires States, as a condition of receiving grant funding, to adopt and enforce State CMV safety laws and regulations that are compatible with the FMCSRs (49 CFR 350.201(a)) (**Attachment M**). As a condition of receiving these grants, States agree to adopt State regulations that are compatible with the FMCSRs, including the HOS rules. States thereby embrace the Federal enforcement scheme for regulating safety in the operation of CMVs, and work closely with Federal investigators in enforcing the HOS rules.

Motor carriers also help FMCSA detect fatigued drivers. It is in their interest to be proactive in detecting inaccuracy or falsification of RODS by their CMV drivers in order to avoid the penalties resulting from such infractions. Motor carriers examine the supporting documents, such as fuel receipts, toll receipts, bills of lading, and repair invoices, and compare them to the entries on the RODS. This comparison of the supporting documents to the RODS helps the motor carrier verify the accuracy of the HOS reported by their CMV drivers. Motor carrier use of the RODS and supporting documents of their drivers enhances adherence to the HOS rules, keeps fatigued drivers off the road, and helps FMCSA protect the public.

This IC supports the Department of Transportation's Strategic Goal of Safety because the information helps the Agency improve the safety of drivers operating CMVs on our Nation's highways.

### **3. Extent of automated information collection:**

This revision to the information collection incorporates separate calculations of the burden associated with automated information collection. FMCSA estimates that each year approximately 5,700 motor carriers employing 129,000 drivers will be subject to the EOBR remedial directive and as a consequence will shift to automated information collection for many paperwork-related tasks required by the HOS regulations. In addition, some motor carriers will choose to begin recording the HOS of their CMV drivers electronically even though not required to do so. The number will likely be limited at the inception of this rule, in part because installation must be on CMVs manufactured on or after [two years from the effective date of the final rule].

The Agency expects to revise its compliance review procedures to permit its investigators to employ sampling procedures when reviewing HOS records created by EOBRs. But at this juncture, the Agency does not incorporate into this burden estimate projections of the extent that EOBRs will be voluntarily adopted by motor carriers. The Agency estimates that 8 percent of paperwork associated with this IC will be collected electronically each year; the Agency anticipates revisiting this issue after the EOBR rule has been in place for a few years.

### **4. Describe efforts to identify duplication:**

For a significant number of motor carriers, the information on the time card of the employer satisfies the HOS requirements. The FMCSA does not dictate the form in

which the data required by the “time card” exception must appear. Rules of the DOL require the employer to maintain this information (29 CFR 516.2) (**Attachment N**). FMCSA avoids duplication by employing the standards of the DOL regulations.

## **5. Efforts to minimize the burden on small businesses:**

Many motor carriers that qualify for the “time record” provision are small businesses. Many drivers working for these motor carriers are short-haul drivers, or those who operate commercial vehicles not requiring a CDL, operate 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. Drivers of these vehicles operating under such schedules are not the primary focus of this rulemaking, as current data indicate that fatigue is not a primary concern for them. Moreover, these vehicles are under-represented in truck-related fatal crashes. As such, the agency has created a new short-haul regulatory regimen for these drivers, where they (and the motor carriers that employ them) are not required to maintain the more complex RODS logs. The August 2007 HOS rule exempts at least 239,400 drivers each year from the requirement to maintain logs.

## **6. Impact of less frequent collection of information:**

The FMCSRs require CMV drivers to “keep their RODS current to the time shown for the last change of duty status” (49 CFR 395.8(f)(1)) (**Attachment O**). For example, if a driver begins the day working in an activity other than driving a CMV, the appropriate entry is “on duty/not driving.” If the driver operates a CMV at a later time that day, the appropriate entry for that activity is “on-duty/driving.” A driver must enter each change of duty status when it occurs, and retain for the motor carrier any supporting documents generated during the duty tour. Agency regulations do not dictate how supporting documents are to be maintained. The FMCSA believes this RODS information is more valuable to State and FMCSA enforcement personnel when it is entered at each change of duty status. This practice increases the likelihood that the RODS will not be altered in order to fraudulently gain driving time or on-duty time. If the information were collected less frequently, the task of identifying violations of the HOS rules, especially during roadside inspections, would be considerably more difficult.

## **7. Special circumstances:**

There are no special circumstances related to this information collection.

## **8. Compliance with 5 CFR 1320.8:**

On January 18, 2007, FMCSA published in the Federal Register, with a 60-day public comment period, a notice of proposed rulemaking (NPRM) entitled “Electronic On-Board Recorders for Hours-of-Service Compliance” to announce this proposed information collection (72 FR 2340) (**Attachment P**). The comments received in response to the NPRM are addressed in the final rule. The Agency received six comments regarding paperwork burden. Five comments addressed the Agency estimates of the reduction in paperwork burden associated with the use of EOBRs. Four of these advocated a broader mandate for EOBRs as a means of further reducing the burden of this IC. One comment offered that greater use of EOBRs would improve the quality, usefulness, and clarity of the information collected. None of the comments addressed the

calculations for paperwork burden of the HOS rules or the necessity of their paperwork burden.

Improvements in motor carrier safety arising from improvements in the HOS regulations are the primary motivation behind the EOBR final rule. Reduction of the paperwork burden and improvement of the quality of HOS data are secondary benefits. Any motor carriers can decide at any time to voluntarily adopt these devices to benefit their business and reduce their HOS paperwork burden.

**9. Payments or gifts to respondents:**

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

**10. Assurance of confidentiality:**

There is assurance of confidentiality for items included in this information collection. They are addressed in detail in the Privacy Impact Analysis (**Attachment T**) prepared for this rulemaking action.

**11. Justification for collection of sensitive information:**

This information collection includes Personally Identifiable Information, which is considered sensitive information. This is addressed in detail in the Privacy Impact Analysis (**Attachment T**) prepared for this rulemaking action.

**12. Estimate of burden hours for information requested:**

The HOS rules require the collection of certain information about the rest and duty hours of CMV drivers. The information is captured on three documents: RODS, supporting documents and time cards. The RODS is the log of driver's activity and rest; normally the driver is required to have it on-board the CMV at all times. The supporting documents contain information corroborative of the entries on the RODS; for example, a toll receipt may verify that at the time stamped on the receipt, the driver was "on duty/driving," and may verify his or her location at that time. Of course, it may indicate an inaccuracy; for instance, the toll receipt may indicate that at a certain time that the driver recorded as "off duty" on the RODS, he or she was actually "on duty/driving." Finally, under certain circumstances, CMV operators and motor carriers operating entirely in a local area are permitted to employ time cards in lieu of the RODS and supporting documents. The Agency does not report a paperwork burden for the time card information because the DOL already accounts for the burden associated with that information.

2008



On June 30, 2008, FMCSA submitted to OMB its most recent estimate for this IC. OMB approved the estimate on December 9, 2008. The number of burden hours OMB approved was 184.38 million hours, calculated as follows:

Table 1: 2008: THE PAPERWORK BURDEN OF THE HOS RULES (millions)

DRIVER (rounded)	MOTOR CARRIER (rounded)	TOTAL BURDEN (rounded)
129.18 hours	55.20 hours	184.38 hours

This Revision

The FMCSA calculates the paperwork burden of the HOS rules with the EOBR rule in effect to be 181.27 million hours, calculated as follows:

Table 2: 2007: THE PAPERWORK BURDEN OF THE HOS RULES (millions)

DRIVER (rounded)	MOTOR CARRIER (rounded)	TOTAL BURDEN (rounded)
126.59 hours	54.68 hours	181.27 hours

In this revision, FMCSA updates its estimate of the paperwork burden of the HOS rules to reflect changes to data collections brought about by the EOBR final rule.

Approximately 5,700 motor carriers employing 129,000 drivers will be required to use EOBRs each year. EOBRs transfer paper-based HOS recordkeeping to an electronic format, thereby reducing the annual burden hours of this IC.

Number of CMV drivers

Table 3: NUMBER OF DRIVERS REQUIRED TO COMPLETE THE RODS and MAINTAIN SUPPORTING DOCUMENTS (millions)

<u>A</u> Drivers Subject to the HOS Rules	<u>B</u> Short-Haul Drivers Exempt from RODS and Supporting Documents Requirements	<u>A - B</u> Drivers Required to Complete the RODS and Maintain Supporting Documents	Drivers Required to Complete the RODS and Maintain Supporting Documents Using EOBRs
7.0	2.4	4.6	0.13

The number of CMV drivers required to complete the RODS is an estimate, and it changes over time. The FMCSA’s current estimate of the number of CMV drivers subject to the HOS rules is 7 million. This number includes intrastate drivers subject to State HOS rules compatible with the Federal HOS rules. These CMV drivers are included because the FMCSA requires the States to adopt HOS rules as part of the Agency’s MCSAP program. The Agency believes that approximately 34% of these drivers, or 2.4 million, are engaged in short-haul operations, and as such are exempt from the requirement to maintain RODS. This percentage was employed by the Agency in its 2005 and 2008 calculations of this burden. Those calculations were approved by OMB. The remaining 4.6 million CMV drivers (7 million drivers less 2.4 million drivers) are subject to the RODS and supporting documents requirements. Of these, the Agency estimates that 129,000 will use EOBRs.

A driver is required to fill out the RODS, keeping it current to the last change of duty status. The driver also is required to keep all his or her RODS for the most recent 7 days on which RODS were required, and have them available on the CMV at all times it is in operation. The driver must also forward a RODS to the motor carrier within 13 days of its completion, and include all supporting documents pertinent to it.

Although this revision to the paperwork burden accounts for mandatory use of EOBRs, the Agency believes it unnecessary to adjust the paperwork burden to account for voluntary use of EOBRs by drivers and motor carriers. Voluntary use of EOBRs in the industry is not so common as to warrant such treatment. However, the EOBR final rule contains provisions which the Agency believes would encourage voluntary adoption of electronic devices, and the Agency believes that voluntary adoption of this technology by the motor carrier industry will increase in the future. It should be noted that exclusion of voluntary use of EOBRs in calculating the paperwork burden probably results in overestimation of the burden associated with this IC.

HOS Paperwork Burden on Motor Carriers and Drivers

The Agency has organized its estimates by calculating each of six HOS information tasks separately, and then combining them. Three tasks are performed by drivers, and three tasks are performed by motor carriers. CMV drivers fill out the RODS, forward the RODS to the motor carrier, and forward related supporting documents to the motor carrier. Motor carriers review the RODS (including the supporting documents), maintain the RODS, and maintain the supporting documents. Carriers and drivers required to use EOBRs will experience a reduction in paperwork burden for some of these tasks, and the Agency will present separate estimates for EOBR users for these items.

Table 4: TASKS ASSOCIATED WITH THE HOS RULES

	1	2	3
CMV DRIVER	Filling Out the RODS	Forwarding the RODS to the Motor Carrier	Forwarding the Supporting Documents to the Motor Carrier

MOTOR CARRIER	Reviewing the RODS	Maintaining the RODS	Maintaining the Supporting Documents
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The Agency calculates the paperwork burden of the HOS rules in two parts: the burden imposed on CMV drivers and the burden imposed upon motor carriers. Later, to obtain the total paperwork burden of this IC, the two calculations are combined.

PAPERWORK BURDEN OF THE HOS TASKS OF CMV DRIVERS

The Agency has designated three driver tasks: Task 1, “Filling out the RODS”; Task 2, “Forwarding the RODS to the motor carrier”; and Task 3, “Forwarding the supporting documents to the motor carrier.” The Agency believes drivers using EOBRs will experience a diminished paperwork burden for Tasks 1 and 2.

Driver Task 1: Filling Out the RODS

Table 5: CMV DRIVER  
TASK 1: FILLING OUT THE RODS (rounded)

	DAILY: Number Of RODS (Millions)	Minutes On Task: One RODS	DAILY: Total Minutes On Task (Millions)	Number of Working Days Per Year	PER YEAR: Minutes On Task (Millions)	PER YEAR: Hours On Task (Millions)
Paper RODS	4.47	6.50	29.06	240	6,974.76	116.25
Electronic RODS	0.13	2.00	0.26		61.92	1.03
Revised Total*	4.60	6.37	29.32		7,036.68	117.28
Previously Approved Total (All Paper)						119.6
Change in Burden						-2.32
*Sum of rows except “Minutes on Task,” which is an average weighted by the number of drivers using paper and electronic records.						

The amount of time a CMV driver uses to fill out a RODS varies with the number of changes in his or her duty status (e.g. from “on-duty driving” to “on-duty not driving”). The Agency estimates that each of the 4.47 million CMV drivers who uses paper RODS takes an average of six and a half minutes each workday to fill out the RODS, or a total of 29.06 million minutes per day (4.47 million RODS daily x 6.5 minutes per RODS). The FMCSA estimates that, on average, CMV drivers work 240 days per year. Therefore, 116.25 million hours per year are expended filling out the paper RODS

((29.06 million minutes per day x 240 workdays)/60 minutes per hour). The Agency estimates that each of the 0.13 million CMV drivers who uses electronic RODS takes an average of two minutes each workday to fill out the RODS, or a total of 0.26 million minutes per day (0.13 million RODS daily x 2 minutes per RODS). Therefore, 61.92 million hours per year are expended filling out the electronic RODS ((0.26 million minutes per day x 240 workdays)/60 minutes per hour)..

FMCSA estimates the total paperwork burden associated with the driver filling out the RODS is 117.28 million hours (116.25 million hours for paper RODS + 1.03 million hours for electronic RODS). This represents a decrease of 2.32 million hours from the previously approved total of 119.6 million hours.

Driver Task 2: Forwarding the RODS to the Motor Carrier

Table 6: CMV DRIVER  
TASK 2: FORWARDING THE RODS (rounded)

	DAILY: Number Of RODS (Millions)	Minutes On Task: One RODS	DAILY: Total Minutes On Task (Millions)	Number Days Task is Performe d	PER YEAR: Minutes On Task (Millions)	PER YEAR: Hours On Task (Millions)
Paper RODS	4.47	5.00	22.36	25	558.88	9.31
Electronic RODS	0.13	0.00	0.00		0.00	0.00
Revised Total*	4.60	4.86	22.36		558.88	9.31
Previously Approved Total (All Paper)						9.58
Change in Burden						-0.27
*Sum of rows except “Minutes on Task” which is an average weighted by the number of drivers using paper and electronic records.						

The CMV driver also is responsible for forwarding the RODS to the employing motor carrier within 13 days of its completion (49 CFR 395.8(i)) (**Attachment Q**). The Agency estimates that forwarding the RODS requires 5 minutes each time it is undertaken. There are 4.47 million CMV drivers using paper RODS who are subject to this requirement, so 22.36 million minutes (rounded) are expended in forwarding the RODS (5 minutes x 4.47 million drivers). If the driver forwards the RODS every 13 days, the forwarding task would take place roughly 28 times in a year (365 days divided by 13). We reduce this to 25 times per year to allow for the fact that off-duty time, especially vacations, would create a few 13-day periods without a single RODS to be forwarded. Consequently, CMV drivers employ 558.88 million minutes per year (rounded) on this activity (22.36 million minutes per day x 25 times per year). The annual burden of the requirement that CMV drivers forward their paper RODS is estimated to be 9.31 million hours (rounded) (558.88 million minutes/60 minutes in an hour). The Agency estimates that each of the 0.13 million CMV drivers who uses electronic RODS has no paperwork

burden associated with this activity. An EOBR includes the capability to electronically transmit records either to a carrier or to a records storage system hosted by the EOBR service provider. Data transmissions generally occur automatically at scheduled times. Even when manual intervention by the driver is required, the Agency assumes that this will require insignificant additional time or will be included in Task 1, filling out the RODS.

FMCSA estimates the total paperwork burden associated with the driver forwarding the RODS is 9.31 million hours. This represents a decrease of 0.27 million hours from the previously approved total of 9.58 million hours.

### Driver Task 3: Forwarding the Supporting Documents to the Motor Carrier

The burden for forwarding the RODS to the motor carrier was described in Task 2, above; CMV drivers also submit supporting documents to the motor carrier simultaneously with submission of the corresponding RODS. The motor carrier must retain these supporting documents for a period of 6 months, as will be discussed under “Paperwork Burden of Motor Carriers” below. The Agency believes that OMB regulations permit the exclusion of the driver’s burden associated with forwarding the supporting documents because this is a “usual and customary” activity:

“the time, effort, and financial resources necessary to comply with a collection of information that would be incurred by persons in the normal course of their activities (e.g. in compiling and maintaining business records) will be excluded from the ‘burden’ if the agency demonstrates that the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary” (5 CFR 1320.3(b)(2)).

The FMCSA believes that CMV drivers would still forward these supporting documents to their employing motor carrier in the absence of Section 395.8(i) of the FMCSRs or if the requirements of Section 395.8(i) are met via electronic transmission of electronic RODS. As a condition of employment, motor carriers normally require drivers to deliver such documents. Motor carriers need these records to satisfy other legal obligations. One example of such an obligation is that imposed by the rules of the U.S. Internal Revenue Service pertaining to taxation of business income. Business entities may itemize the expenses of their operations as a deduction from gross income. The records of the purchase of items such as gasoline, lodging, repairs, and tolls are necessary to substantiate such deductions. The income taxation laws of most States also require such records as substantiation of deductions from business income taxes.

In summation, the Agency sees no additional, measurable time or effort involved in including supporting documents in the RODS submission to the motor carrier. The supporting documents add additional paper, but a negligible amount of time and effort, to the task of forwarding the RODS to the motor carrier. We calculated the burden for that activity in Task 2. Task 3 creates no additional, reportable paperwork burden.

Total Burden for CMV Drivers (Tasks 1, 2, and 3)

The revised total annual paperwork burden for all CMV drivers is 126.59 million hours, annually. This represents a decrease of 2.59 million hours from the previously approved total of 129.18 million hours.

Table 7: CMV DRIVER  
TOTAL BURDEN OF TASKS 1, 2, and 3 (millions, rounded)

	TASK 1 Hours Completing the RODS	TASK 2 Hours Forwarding the RODS to the Motor Carrier	TASK 3 Hours Forwarding the Supporting Documents to the Motor Carrier	TOTAL DRIVER BURDEN
Paper	116.25	9.31	0	125.56
Electronic	1.03	0	0	1.03
Revised Total	117.28	9.31	0	126.59
Previously Approved Total	119.60	9.58	0	129.18
Change in Burden	-2.32	-0.27	0	-2.59

PAPERWORK BURDEN OF THE HOS TASKS OF MOTOR CARRIERS

The Agency has designated three motor carrier activities associated with the requirements of the HOS regulations: Task 1 “reviewing the RODS (including supporting documents)”; Task 2 “maintaining the RODS”; and Task 3 “maintaining the supporting documents.” The Agency believes motor carriers using EOBRs will experience a diminished paperwork burden for Task 2.

Motor Carrier Task 1: Reviewing the RODS and Supporting Documents

Table 8: MOTOR CARRIER  
TASK 1: REVIEWING THE RODS (rounded)

DAILY: Number of RODS Completed (Millions)	DAILY: Number of RODS Reviewed (50%) (Millions)	DAILY: Minutes To Verify One RODS	DAILY: Total Number of Minutes Reviewing RODS (Millions)	PER YEAR: Number of Working Days	PER YEAR: Number of Minutes Reviewing RODS (Millions)	PER YEAR: Number of Hours Reviewing RODS (Millions)
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4.60	2.30	2.00	4.60	240	1,104	18.40
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Motor carriers must ensure that the RODS of their CMV drivers are complete and accurate (49 CFR 395.8(e)) (**Attachment R**). Motor carriers are not required to review every RODS, but it is common practice for motor carriers to systematically review a portion of the RODS of their drivers for consistency with the corresponding supporting documents. The FMCSA, based upon its experience conducting compliance reviews of motor carriers, estimates that motor carriers review approximately 50% of their drivers' RODS and supporting documents. FMCSA believes that the paperwork burden of this task will not differ appreciably between paper and electronic RODS. In lieu of handling paper, motor carrier staff will have to recall electronic RODS stored either at its premises or perhaps on an Internet site hosted by its EOBR service provider, but otherwise FMCSA expects little difference in process and the amount of time devoted to reviewing either type of record. Consequently, the EOBR final rule does not produce a change in burden for this task.

There are 4.6 million CMV drivers completing a RODS each working day. Motor carriers review 50 percent of these or 2.30 million RODS each working day (4.6 million RODS x .50). The FMCSA estimates that the average motor carrier uses 2 minutes to conduct a review of a single RODS using an average of 3 supporting documents. Two minutes for each of 2.30 million RODS creates a total time burden of 4.60 million minutes per day for this review (2.30 million RODS reviewed x 2 minutes per review). The total for the 240 working days in a year is 1,104 million minutes (rounded) (4.60 million minutes x 240 days), or 18.40 million hours (1,104 million minutes/60 minutes in an hour).

Motor Carrier Task 2: Maintaining the RODS

Table 9: MOTOR CARRIER  
TASK 2: MAINTAINING THE RODS (rounded)

	DAILY: Number of RODS To Be Maintained (Millions)	DAILY: Minutes Required To Maintain one RODS	DAILY: Total Number of Minutes Maintaining RODS (Millions)	PER YEAR Number of Working Days	PER YEAR: Number of Minutes Maintaining RODS (millions)	PER YEAR: Total Number of Hours Maintaining RODS (millions)
Paper	4.47	1.0	4.47	240	1073.04	17.88
Electronic	0.13	0	0	240	0	0
Revised Total*	4.60	0.97	4.47	240	1073.04	17.88
Previously Approved Total (All Paper)						18.40

Change in Burden	-0.52
*Sum of rows except “Minutes on Task” which is an average weighted by the number of drivers using paper and electronic records.	

Motor carriers are required to maintain RODS for a period of 6 months after receipt (49 CFR 395.8(k)(1)). The Agency estimates an average burden of 1 minute per paper RODS maintained, or a total of 4.47 million minutes per day spent by all motor carriers (4.47 million drivers creating a paper RODS each day x 1 minute per paper RODS). Therefore, for the year of 240 working days, 1,073.04 million minutes (4.47 million minutes per day x 240 days), or 17.88 million hours (1,073.04 million minutes/60 minutes in an hour) are expended by motor carriers on Task 2. The Agency estimates that carriers required to use EOBRs have no paperwork burden associated with this activity. An EOBR includes the capability to electronically transmit records either to a carrier or to a records storage system hosted by the EOBR service provider. The total of 17.88 million burden hours for this task represents a decrease of 0.52 million hours from the previous total of 18.40 million hours.

Motor Carrier Task 3: Maintaining the Supporting Documents

Table 10: MOTOR CARRIER  
TASK 3: MAINTAINING THE SUPPORTING DOCUMENTS (rounded)

DAILY: Number of RODS With Supporting Documents (Millions)	DAILY: Minutes Required To Maintain Supporting Documents of one RODS	DAILY: Total Number of Minutes Maintaining Supporting Documents (Millions)	Number of Working Days in a Year	PER YEAR: Number of Minutes Maintaining Supporting Documents (millions)	PER YEAR: Total Number of Hours Maintaining Supporting Documents (millions)
4.60	1	4.60	240	1,104	18.40

Motor carriers are also required to maintain supporting documents for a period of 6 months after receipt (49 CFR 395.8(k)). Carriers required to install and maintain EOBRs under an EOBR remedial directive will receive no relief from maintaining supporting documentation for RODS. Consequently, the burden associated with this task will be the same for both paper and electronic RODS and the EOBR final rule results in no change in burden for this task. The Agency estimates an average burden of 1 minute is necessary to maintain the supporting documents of a single RODS. This equates to 4.6 million minutes per day expended on this task (4.6 million CMV drivers creating supporting documents x 1 minute each), or 1,104 minutes per year (4.6 million minutes x 240 working days). This computes to a total of 18.40 million hours expended by motor carriers for maintaining the supporting documents (1,104 minutes/60 minutes per hour).

Total Burden for Motor Carriers (Tasks 1, 2, and 3)



The revised total annual paperwork burden for all motor carriers for Tasks 1, 2, and 3 is 54.68 million hours annually. This represents a decrease of 0.52 million hours from the previously approved burden of 55.20 million hours.

Table 11: MOTOR CARRIER  
TOTAL BURDEN OF TASKS 1, 2 and 3 (millions, rounded)

	Task 1 Hours Reviewing the RODS	Task 2 Hours Maintaining the RODS	Task 3 Hours Maintaining the Supporting Documents	TOTAL MOTOR CARRIER BURDEN
Revised Total	18.40	17.88	18.40	54.68
Previously Approved Total	18.40	18.40	18.40	55.20
Change in Burden	0	-0.52	0	-0.52

TOTAL PAPERWORK BURDEN

The Agency estimates the revised total paperwork burden for all tasks associated with RODS and supporting documents to be 181.27 million hours (rounded). This represents a decrease of 3.11 million hours from the previously approved burden of 184.38 million hours.

Table 10: TOTAL BURDEN (millions)

	DRIVER	MOTOR CARRIER	TOTAL
Revised Total	126.59	54.68	181.27
Previously Approved Total	129.18	55.20	184.38
Change in Burden	-2.59	-0.52	-3.11

**Estimated Total Annual Burden:** 181,270,000 hours [126,590,000 driver hours + 54,680,000 motor carrier hours]. The decrease in the Total Annual Hours requested is 3,110,000 burden hours [184,380,000 currently approved annual burden hours - 181,270,000 estimated annual burden hours requested due to this revision]. The 3,110,000 decrease in Total Annual Hours is wholly attributable to a reduction in time required for CMV Driver Tasks 1 and 2 and Motor Carrier Task 2 as a result of the fact that 5,700 motor carriers, employing 129,000 CMV drivers, will be required to use EOBRs under remedial directives implemented by the EOBR rule.

**Estimated Annual Respondents:** 4,930,000 [4,600,000 drivers + 330,000 motor carriers that review RODS and supporting documents = 4,930,000].

**Estimated Annual Responses:** 3,944,815,000 [(1,104,000,000 drivers completing RODS + 111,775,000 drivers forwarding RODS to motor carriers) + (552,000,000 motor

carriers reviewing RODS + 1,073,040,000 motor carriers maintaining the RODS + 1,104,000,000 motor carriers maintaining the supporting documents) . This represents a decrease of 34,185,000 annual responses as compared to the previously approved number of 3,979,000,000. This decrease is attributable to the elimination of burden for driver Task 2 “forwarding RODS to motor carriers” and carrier Task 2 “maintaining the RODS” for the 129,000 CMV drivers and 5,700 motor carriers who will be required to use EOBRs.

### **13. Estimate of total annual costs to respondents:**

#### Capital and Startup Cost for Records Storage

Motor carriers must store paper RODS and supporting documents. The “average” filing cabinet holds 2,500 paper records. The Agency estimates that 4,385,040,000 records will be stored, which is 1,073,040,000 paper RODS and 3,312,000,000 supporting documents (three supporting documents for each of the 1,104,000,000 paper and electronic RODS). These records will require 1,754,016 filing cabinets (4,385,040,000 records/2,500 records per cabinet) for proper storage. Each cabinet costs \$50.00, for a total cost of \$87,700,800 for cabinets (1,754,016 × \$50 per cabinet). The annualized cost of cabinets over the 20-year useful life is \$4,385,040 per year (\$87,700,800/20). This annualized cost represents a decrease of \$30,960 from the currently-approved figure of \$4,416,000. This decrease is attributable to the conversion of 30,960,000 RODS from paper to electronic format pursuant to the EOBR rule.

The Agency believes that storing electronic RODS will not entail capital or startup costs. Electronic RODS will be stored on computer equipment that a carrier already possesses as a standard piece of business equipment or on a computer system served by an Internet site hosted by an EOBR service provider that stores records. The cost of an EOBR service provider is included in the monthly fee it charges the motor carrier. These fees are discussed below under “Cost of EOBRs.”

#### Cost of Paper RODS (“Logbooks”)

The FMCSA obtained pricing information for pre-printed daily RODS forms. Suppliers charge an average of \$1.50 for a logbook covering one month of RODS. The Agency estimates that the annual cost to motor carriers for RODS for their drivers is \$18.00 per driver (\$1.50 x 12 months = \$18.00 per driver each year). Thus, the total estimated annual cost to respondents for RODS is \$80,478,000 (\$18.00 per driver x 4.471 million drivers using paper RODS). This represents a decrease of \$2,322,000 attributable to 129,000 drivers converting from paper RODS to electronic RODS.

#### Cost of EOBRs

In the regulatory impact analysis (RIA) (**Attachment S**) prepared for the EOBR rule, FMCSA detailed its calculation of an estimate of the annual per unit cost of adopting EOBRs. FMCSA based this estimate on the price of the lowest-cost EOBR that meets the technical requirements set forth in the EOBR rule. The monthly service fee charged

by EOBR providers includes the lease of the device and hosting of electronic records, so there are no up-front costs for purchasing the EOBR unit itself. The Agency's calculation of monthly fees includes the costs of data transmission, which occurs via driver cellular telephones. The annualized amount of monthly fees was calculated at \$402 per unit. FMCSA conservatively assumed that motor carriers would incur one-time costs to upgrade driver phones to phones compatible with the EOBR. The annualized cost of this upgrade was estimated to be \$31 per phone. In total, motor carriers required to use EOBRs are expected to incur annual costs of \$433 per unit (\$402 monthly fee + \$31 cell phone upgrade). The total annual costs to carriers of acquiring and operating EOBRs is estimated to be \$55,857,000 (129,000 drivers using EOBRs × \$433 per EOBR).

Total Estimated Annual Cost to Respondents: \$140,720,040

[cabinets: \$4,385,040 per year + RODS: \$80,478,000 per year + EOBRs: \$55,857,000]. This represents a \$53,504,040 increase from the cost estimate presented in the previously approved IC. EOBRs represent new costs of \$55,857,000, which are offset somewhat by \$30,960 in saving in the cost of file cabinets, and \$2,322,000 in saving in the cost of paper RODS. It should be noted that the Agency has estimated that labor savings resulting from EOBRs are \$64,055,800.

**14. Estimate of annual cost to the Federal government:**

This IC imposes no collection, transmission or storage costs on the Federal government.

**15. Explanation of program changes or adjustments:**

Program changes brought about by the EOBR rule would, FMCSA estimates, require an average of 5,700 motor carriers per year with severe HOS noncompliance issues to install and use EOBRs to record and manage HOS; these motor carriers employ approximately 129,000 CMV drivers. The result of this change is a 3.11 million hour reduction in annual burden. The rule is estimated to increase the cost to respondents by \$53,504,040 per year. However, the Agency believes these cost increases are justifiable in light of the fact that the monetary value of the reduction in paperwork burden is estimated to be \$64,055,800.

**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:**

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

**PART B. COLLECTIONS OF INFORMATION EMPLOYING STATISTICAL METHODS.**

This IC does not employ statistical methodologies.

**Attachments:**

- A. Final rule, “Electronic On-Board Recorders for Hours-of-Service Compliance,” (75 FR 17208) April 5, 2010).
- B. 49 CFR 390.5 Definitions.
- C. 49 CFR 390.3(a) General applicability.
- D. 49 CFR 395.8(h) Graph grid preparation.
- E. 49 CFR 395.8(e) Driver’s record of duty status.
- F. 49 CFR 395.8(i) Filing driver’s record of duty status.
- G. 49 CFR 395.8(k)(1) Retention of driver’s record of duty status.
- H. 49 CFR 395.1(e)(1) Short-haul operations.
- I. 49 CFR 395.16(b) and (c). Information to be recorded; Duty status categories.
- J. 49 U.S.C. §31136, United States Government.
- K. 49 U.S.C. § 31502, Requirements for qualification, hours of service, safety, and equipment standards.
- L. 49 CFR 392.3 Ill or fatigued operator.
- M. 49 CFR 350.201(a) What conditions must a State meet to qualify for Basic Program Funds.
- N. 29 CFR 516.2, Records to be kept by employers.
- O. 49 CFR 395.8(f)(1) Entries to be current.
- P. Notice of proposed rulemaking, “Electronic On-Board Recorders for Hours-of-Service Compliance,” (72 FR 2339, January 18, 2007).
- Q. 49 CFR 395.8(i), Time base to be used.
- R. 49 CFR 395.8(e), Failure to complete the record of activities.
- S. Regulatory Impact Analysis (RIA).
- T. T. Privacy Impact Assessment (PIA).