

**Justification for Nonmaterial/Nonsubstantive Change for
OMB Control Number 2126-0001 ICR**

Hours of Service of Drivers Regulations

Introduction

This Justification for a Nonmaterial/Nonsubstantive Change is to request the Office of Management and Budget's (OMB) approval of nonsubstantive changes to the burden estimates for OMB control number of 2126-0001 "Hours of Service of Drivers Regulations." The Federal Motor Carrier Safety Administration (FMCSA or "the Agency") is revising its estimates of the burden of these regulations to use updated estimates of the number of commercial motor vehicle (CMV) drivers subject to the hours of service (HOS) regulations and who incur paperwork burden because of them.

The Federal Motor Carrier Safety Regulations (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)). The HOS rules, found in Part 395 of the FMCSRs, 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 driver time off-duty. Two types of information are collected under this Information Collection: (1) the record of duty status (RODS), also 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 are referred to as "supporting documents," which the driver collects in the ordinary course of business as further discussed below.

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

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

Each time a driver's duty status changes, he or she must record the point that corresponds to both the time and the new duty status [49 CFR 395.8(h)]. When complete, the RODS reflects the driver's duty status at all times during the 24-hour period. Drivers are required to forward their RODS to their motor carriers within 13 days of completing them (49 CFR 395.8(i)). Motor carriers must review the RODS and supporting documents of their CMV drivers, and maintain these records for at least 6 months from the time of receipt [49 CFR 395.8(k)(1)].

CMV drivers who travel limited distances during their duty day ("short-haul drivers") are relieved by regulation of the requirements of using and possessing a RODS [49 CFR 395.1(e)(1)]. In lieu of a RODS, they must track three pieces of information by means of a "time card" record at the motor carrier's place of business. They are 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 based on regulations of the U.S. Department of Labor. Because the DOL reports the paperwork burden to OMB separately, FMCSA does not report it here.

Summary of Revision

FMCSA has reduced its estimate of the total annual burden of this IC by 72.71 million hours. This revision is the result of a lower Agency estimate of the number of drivers required to keep RODS.

Table 1: Revisions to Annual Burden Estimates (millions of hours)

| Task | Current Estimate | Previously Approved | Revision |
|---------------------|-------------------------|----------------------------|-----------------|
| Driver Tasks | 78.24 | 129.18 | -50.94 |
| Motor Carrier Tasks | 33.43 | 55.20 | -21.77 |
| Total | 111.67 | 184.38 | -72.71 |

The Agency also corrected an error in its count for the number of responses. In the previously approved estimate, the Agency counted each requirement as a separate response, resulting in a count of 3.979 billion responses. The Agency now recognizes that each RODS should be counted as a single response, and reduces its estimate of the total number of responses to 668.64 million (2.786 million drivers × 240 RODS per year). The number of responses also declined due to the downward revision in the estimated number of drivers.

The estimation of annual costs to respondents has also declined. HOS regulations require carriers to purchase RODS logbooks and store them in addition to required supporting documents. The revised CMV driver estimates reduce the cost of file cabinets from \$53,491,200 per year to \$7,791,386 per year, and the cost of logbooks from \$82.8 million per year to 50.1 million per year.

Detailed Description of Burden Estimate

In this revision, FMCSA updates its estimate of the number of drivers subject to RODS requirements. The previously approved burden calculation was based on an estimate of 4.6 million drivers. FMCSA has revised this estimate to 2.786 million drivers. This reduction reflects a lower estimated the total number of CMV drivers, a more accurate estimate of the number of drivers exempt from keeping RODS, and the exclusion of intrastate drivers not subject to the FMCSRs.

The previously approved burden estimate began with an estimate of 7 million CMV drivers, and then assumed that 34 percent, or 2.4 million, were exempt from keeping RODS under the short-haul provisions of the FMCSRs. This left 4.6 million drivers subject to the RODS requirements. FMCSA estimates that there are 5.6 million CMV drivers currently engaged in trucking operations. Current data from the Motor Carrier Information System (MCMIS) indicate that 4.224 million of these drivers work for motor carriers subject to the FMCSRs. MCMIS data also indicate that 0.846 million of them are exempt from the Federal HOS rules because they work in

intrastate operations—the Agency also believes most of these drivers are exempt from keeping RODS within their own States—or home-to-school or school-to-home operations [(390.3(f)(1)]. Last, FMCSA estimates that 0.592 million drivers who are subject to the federal HOS rules meet one of the short-haul exemptions for keeping RODS. Consequently, this current supporting statement uses an estimate of 2.786 million drivers subject to the RODS requirements (4.224 million total drivers – 0.846 million drivers exempt from HOS – 0.592 million short-haul drivers).

HOS Paperwork Burden on Motor Carriers and Drivers

The Agency derives its overall paperwork burden estimate for this information collection (IC) by combining six components of the burden. The six components correspond to tasks that are mandated by the HOS rules, as follows:

Table 2: Tasks Associated With the HOS Rules

| | 1 | 2 | 3 |
|----------------------|------------------|--------------------------------------|--|
| CMV Driver | Filling Out RODS | Forwarding RODS to the Motor Carrier | Forwarding Supporting Documents to the Motor Carrier |
| Motor Carrier | Reviewing RODS | Maintaining RODS | Maintaining the Supporting Documents |

Driver Task 1: Filling Out the RODS

Table 3: CMV Driver Filling Out RODS

| Daily Number of RODS (millions) | Minutes per Task | Number of Working Days Per Year | Annual Total Minutes on Task (millions) | Annual Total Hours On Task (millions) |
|---------------------------------|------------------|---------------------------------|---|---------------------------------------|
| 2.786 | 6.5 | 240 | 4,346 | 72.44 |

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”). FMCSA estimates that a CMV driver takes an average of 6.5 minutes each work day to fill out a RODS and works 240 days per year resulting in an annual burden from drivers filling out RODS of 72.44 million hours (2.786 million RODS daily × 6.5 minutes per RODS × 240 days ÷ 60 minutes per hour).

Driver Task 2: Forwarding the RODS to the Motor Carrier

Table 4: CMV Driver Forwarding the RODS

| Daily Number of RODS (millions) | Minutes per Task | Number of Times Task Performed Per Year | Annual Total Minutes on Task (millions) | Annual Total Hours On Task (millions) |
|---------------------------------|------------------|---|---|---------------------------------------|
| 2.786 | 5 | 25 | 348 | 5.80 |

CMV drivers are also responsible for forwarding RODS to the employing motor carrier within 13 days of its completion (49 CFR 395.8(i))(Attachment R). The Agency estimates that forwarding RODS requires 5 minutes each time it is undertaken. If drivers forward their RODS every 13 days, this task would occur roughly 28 times per year. However, these burden calculations use an assumption that this occurs 25 times per year to account for leave time, such as vacations. The annual total burden from drivers forwarding RODS is 5.80 million hours (2.786 million drivers × 5 minutes × 25 times per year ÷ 60 minutes per hour).

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

The information collection burden associated with forwarding RODS to the motor carrier was described in Task 2 above. Motor carriers are required by the HOS rules to maintain both the RODS and the supporting documents associated with the RODS [49 CFR 395.8(k)]. Consequently, CMV drivers in the normal course of their activities forward supporting documents to the motor carrier at the same time they forward the corresponding RODS. As a condition of employment, motor carriers require drivers to forward supporting documents because these records satisfy other carrier obligations, such as those imposed by the rules of the Internal Revenue Service pertaining to taxation of business income. Consequently, the forwarding of supporting documents by drivers is a “usual and customary” practice, and the Agency is required to exclude the burden associated with that practice from its burden estimate (5 CFR 1320.3(b)(2)).

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

The total annual paperwork burden for all CMV drivers is 78.24 million hours.

Table 5: Total Hourly Burden of Driver Tasks (millions)

| Task 1: Completing the RODS | Task 2: Forwarding RODS to the Motor Carrier | Task 3: Forwarding Supporting Documents to the Motor Carrier | Total Driver Burden |
|-----------------------------|--|--|---------------------|
| 72.44 | 5.80 | 0 | 78.24 |

Motor Carrier Task 1: Reviewing the RODS and Supporting Documents

Table 6: Motor Carrier Reviewing the RODS

| Daily Number of RODS Reviewed (50% of total) (millions) | Minutes per Task | Number of Working Days Per Year | Annual Total Minutes on Task (millions) | Annual Total Hours On Task (millions) |
|---|------------------|---------------------------------|---|---------------------------------------|
| 1.393 | 2 | 240 | 669 | 11.14 |

Motor carriers must ensure that the RODS of their CMV drivers are complete and accurate [49 CFR 395.8(e)]. Motor carriers are not required to review every RODS, but it is common practice for motor carriers to review systematically a portion of the RODS of their drivers for consistency with the corresponding supporting documents. Based on its experience, FMCSA estimates that motor carriers review approximately 50 percent of their drivers’ RODS and supporting documents, or 1.393 million RODS each working day. FMCSA estimates that the average motor carrier spends 2 minutes reviewing each RODS and examines an average of three supporting documents. (NOTE: The SNPRM proposes a limit, or cap, of 10 supporting documents that a motor carrier must maintain in support of a single RODS. The Agency believes the proposed requirement is necessary to enable enforcements officials to assess the accuracy of a RODS when conducting a compliance review at a carrier’s place of business or terminal. The SNPRM does not require motor carriers to examine all, or any specific number, of supporting documents in performing the systematic review being described in Motor Carrier Task 1). The annual total burden from carriers reviewing RODS is 11.14 million hours (1.393 million RODS × 2 minutes × 240 times per year ÷ 60 minutes per hour).

Motor Carrier Task 2: Maintaining the RODS

Table 7: Motor Carrier Maintaining the RODS

| Daily Number of RODS Maintained (millions) | Minutes per Task | Number of Working Days Per Year | Annual Total Minutes on Task (millions) | Annual Total Hours On Task (millions) |
|--|------------------|---------------------------------|---|---------------------------------------|
| 2.786 | 1 | 240 | 669 | 11.14 |

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 RODS maintained, resulting in a total annual burden of 11.14 million hours (2.786 million RODS × 1 minute × 240 times per year ÷ 60 minutes per hour).

Motor Carrier Task 3: Maintaining the Supporting Documents

Table 8: Motor Carrier Maintaining the Supporting Documents

| Daily Number of RODS With Supporting Documents (millions) | Minutes per Task | Number of Working Days Per Year | Annual Total Minutes on Task (millions) | Annual Total Hours On Task (millions) |
|---|------------------|---------------------------------|---|---------------------------------------|
| 2.786 | 1 | 240 | 669 | 11.14 |

Motor carriers are also required to maintain supporting documents for a period of 6 months after receipt [49 CFR 395.8(k)]. The Agency estimates an average burden of 1 minute for the task of maintaining the supporting documents of a single RODS, resulting in a total annual burden is 11.14 million hours (2.786 million RODS × 1 minute × 240 times per year ÷ 60 minutes per hour).

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

The total annual paperwork burden of motor carriers is 33.43 million hours annually.

Table 9: Total Burden of Motor Carrier Tasks (millions of hours)

| Task 1: Hours Reviewing the RODS (millions) | Task 2: Hours Forwarding the RODS to the Motor Carrier (millions) | Task 3: Hours Forwarding the Supporting Documents to the Motor Carrier | Total Driver Burden |
|---|---|--|---------------------|
| 11.14 | 11.14 | 11.14 | 33.43 |

Total Paperwork Burden

The Agency estimates the total paperwork burden for all tasks associated with the HOS rules to be 111.67 million hours.

Table 10: Total Burden (millions of hours)

| Driver | Motor Carrier | Total Burden |
|--------|---------------|--------------|
| 78.24 | 33.43 | 111.67 |

Estimated Total Annual Burden: 111.67 million hours (78.24 million driver hours + 33.43 million carrier hours).

Estimated Annual Respondents: 2.786 million drivers.

Estimated Annual Responses: 668.64 million (2.786 million drivers × 240 RODS per year).

HOS Estimated Annual Costs to Respondents:

Capital and Startup Cost

The Agency conservatively assumes for purposes of this calculation that all the logs and all the supporting documents are in paper form. Motor carriers must have sufficient filing capacity; an average filing cabinet can hold 2,500 paper records. The Agency had estimated that 4.416 billion records (1.104 billion RODS and 3.312 billion supporting documents) would require 1,766,400 filing cabinets. The reduced driver count and the way the Agency accounts for the number of responses lowers those estimates to 2,674,560,000 records (668,640,000 RODS and 2,005,920,000 supporting documents) that will require 1,069,824 filing cabinets. The estimated cost of each cabinet is \$50.00, for a total cost of \$53,491,200 for cabinets. The annualized cost of cabinets over the 20-year useful life is \$2,674,560 per year. These figures are reduced from a total cost of \$88,320,000, annualized at \$4,416,000 per year.

Total Operations, Maintenance, and Purchase of Services Cost

FMCSA obtained pricing information for pre-printed daily RODS forms. Suppliers charge an average of \$1.50 for a logbook covering 1 month of RODS. The Agency estimates that the annual cost to motor carriers for RODS for their drivers is \$18.00 per driver ($\1.50×12 months = \$18.00 per driver each year). The total estimated annual cost to respondents for RODS had been \$82.8 million ($\18.00 per driver \times 4.6 million drivers). The revised estimate is \$50.1 million ($\18.00 per driver \times 2.8 million drivers).