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DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2001-9688]

Agency Information Collection Activities Under OMB Review: OMB Control No. 2126-0001 (Driver's Record of Duty Status)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FMCSA announces that the Information Collection Request (ICR) described in this notice is being sent to the Office of Management and Budget (OMB) for review and approval. The FMCSA is requesting approval of the information that is required for the Record of Duty Status (RODS) of drivers of commercial motor vehicles (CMVs). This information collection is necessary to ensure that motor carriers and CMV drivers comply with the limitations on maximum driving and duty time prescribed in the Federal Motor Carrier Safety Regulations (FMCSRs). The ICR describes the information collection and its expected burden. FMCSA is sending the ICR to OMB in accordance with the terms of the Paperwork Reduction Act of 1995. The FMCSA published the required **Federal Register** notice offering a 60-day comment period on this information collection on May 21, 2001 (66 FR 28017). Two comments were received during this comment period and are addressed below.

DATES: Please submit comments by February 11, 2002.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503, *Attention:* DOT Desk Officer. We particularly request your comments on whether the collection of information is necessary for the FMCSA to meet its goal of reducing truck crashes, including: whether the information is useful to this goal; the accuracy of the estimate of the burden of the information collection; ways to enhance the quality, utility and clarity of the information collected; and ways to minimize the burden of the collection of information on

respondents, including the use of automated collection techniques or other forms of information technology. OMB wants to receive comments within 30 days of publication of this notice in order to act on the ICR quickly.

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Schultz, Jr. (202) 366-2718, Driver and Carrier Operations (MC-PSD), Federal Motor Carrier Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:30 a.m. to 4:00 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Driver's Record of Duty Status

OMB Approval Number: 2126-0001

Background: The record of duty status (RODS) is the primary tool used by the FMCSA to determine the compliance of motor carriers and CMV drivers with the maximum driving and duty time limitations prescribed in the FMCSRs. States that receive Motor Carrier Safety Assistance Program (MCSAP) grants from the FMCSA employ these tools to determine the regulatory compliance of CMV drivers during safety inspections. The information contained in the RODS determines whether a driver can drive a CMV on any given day, based upon the duty hours and driving time recorded by the driver over the previous 7 to 8 days. The RODS is an important tool to help ensure the safety of the general public by reducing the number of tired drivers on the nation's highways.

On May 21, 2001, the FMCSA gave notice that the agency intended to seek OMB approval of the renewal of this information collection (66 FR 28017). The Notice solicited public comment; two comments were received. Both comments indicated that both drivers and carriers, in complying with the paperwork associated with the RODS, consume more time than FMCSA had estimated. The American Trucking Association (ATA) reported the results of a survey of its members. Member drivers estimated that it takes 10 to 15 minutes per day to properly complete a log sheet. Member motor carriers estimated that it takes 9 minutes per day to "review, check for accuracy, and file" each record of duty status. The Owner-Operators Independent Drivers Association (OOIDA) also provided estimates from its members. Member drivers estimated that it takes "approximately 15 minutes" per day to properly complete a log sheet. Member motor carriers estimated that it takes 9 to 10 minutes daily, per RODS, to receive, process and store the information.

In light of the comments received FMCSA has reconsidered the

assumptions we applied in developing our previous estimates. In addition, the agency conducted a small number of "time trials" to examine the process of completing a RODS more closely. The agency separated the standard RODS into three parts: the basic information at the top of the log, the large area for tracking the actual duty status through the day, and the summary portion. The agency determined that the industry average for each part of the RODS were as follows:

Date, name and address of the motor carrier, vehicle number and total miles—1 minute.

30 to 45 seconds per change of duty status (each individual grid entry) with 6 to 8 changes of duty status per day for most drivers—4 minutes and 30 seconds.

Addition of the total hours for each status line, and for the 24-hour period—1 minute.

FMCSA has previously estimated that 2 minutes daily are required for a driver to complete a RODS. We now estimate that 6.5 minutes daily are required to complete minimally compliant RODS. The agency does not doubt that for some drivers in some segments of the trucking industry the daily times are as great as the comments suggest. However, we feel that 6.5 minutes provides a more reasonable industry-wide average of the amount of time a driver requires to complete a RODS.

FMCSA has previously estimated that a motor carrier requires 30 seconds daily per driver to file a RODS. In light of the comments received from these two organizations, we have reconsidered the assumptions we applied in developing our estimate. We now estimate that 3 minutes daily per driver are required for a motor carrier to file each RODS. We are also guided by the fact that the regulations do not require the motor carrier to review each and every RODS of its drivers; it is sufficient if the carrier develops some form of systemic review of these records, such as periodic random spot checks, to assure that they are being completed properly.

On May 2, 2000, FMCSA proposed a comprehensive revision of the HOS Rules (65 FR 25539). The agency is continuing its review of more than 50,000 comments to these proposed rules. The agency also held eight public hearings and three roundtables, and is reviewing the transcripts of these proceedings. The review is continuing.

Earlier, on April 20, 1998, FMCSA published an NPRM (63 FR 19457) in response to a statutory mandate to amend the HOS regulations by defining and describing the supporting

documents necessary to substantiate the RODS. FMCSA incorporated this NPRM, and the comments received to it, into the proposed HOS Rules.

FMCSA is proposing changes to the HOS rules because the transportation system of the United States has changed significantly over the 65 years since the current rules were promulgated. Research today indicates that under the current HOS rules, drivers do not have sufficient opportunities to get restorative sleep. There is strong evidence that new rules could substantially reduce the fatalities and injuries that occur each year because of drowsy, tired, or fatigued CMV drivers. Legislation prohibited the Department from issuing a final rule in FY 2001, but allowed all other stages of the rulemaking to proceed. The new FMCSA Administrator, recently confirmed by the Congress, will review and direct the future of this effort.

Respondents: The respondents are CMV drivers and motor carriers. The burden is imposed on both. Drivers must complete an RODS, under the Hours-of-Service rules or compatible State regulations, and submit it to the motor carrier. Motor carriers must collect and store the RODS, and review it for accuracy.

Number of Drivers

FMCSA estimates that 6,436,430 CMV drivers are required to complete RODS, whether paper or timecard. FMCSA assumes no reduction in burden for the use of EOBRs. FMCSA believes that only motor carriers with large numbers of drivers employ this technology because it is not economically feasible for medium and small sized carriers. FMCSA believes that approximately five per cent of motor carriers currently use EOBRs, and that this number is not likely to rise significantly in the absence of a regulation mandating their use. The agency feels that the EOBRs play such a minor role that no adjustments to the estimates are necessary to account for their use; all subject motor carriers and drivers will be assumed to employ either paper or timecard RODS.

The estimate of 6,436,430 drivers includes interstate drivers and intrastate drivers. This estimate is currently being used by FMCSA for estimating other pertinent information collection burdens. Intrastate drivers are included because states electing to accept Federal grants under MCSAP must enact state laws which parallel the FMCSRs. Most states have such parallel laws mandating the completion and maintenance of RODS. The collection burden imposed by those state laws is

included in the Federal burden for purposes of this calculation.

The estimate of 6,436,430 drivers includes both commercial driver's license (CDL) 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 is making other efforts to determine the number of CMV drivers, and these efforts will help the agency to define this population.

CMV drivers engage in four categories of operation, as follows:

Type of operation	Number of drivers
Long-haul	424,804
Regional	823,863
Local delivery	3,997,023
Local, services	1,190,740
Total	6,436,430

FMCSA does not report the burden hours associated with the collection of time card information because DOL reports this burden under OMB No. 1215-0017, titled, "Records To Be Kept By Employers—FLSA." FMCSA believes that all "Local, Services" CMV drivers are eligible for, and employ, time cards. In addition, FMCSA believes that twenty-five per cent (25%) of the "Local, delivery" CMV drivers are eligible to use time cards. Thus the number of CMV drivers who are pertinent to these calculations is 4,246,434, as follows:

Type of operation	Number of drivers
Long-haul	424,804
Regional	823,863
Local delivery: $3,997,023 \times .75 =$	2,997,767
Local, services	0
Total	4,246,434

Number of Burden Hours: CMV Driver

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"). FMCSA estimates that CMV drivers take an average of six minutes and thirty seconds daily to complete the RODS.

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. Thus the total burden hours for CMV drivers is 110,407,284, as follows:

Number of drivers	Hours per year	Total burden hours
4,246,434	26	110,407,284

Number of Burden Hours: Motor Carrier

Motor carriers are required to retain RODS for a period of six months (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 (49 CFR 395.8(e)). 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. Thus the total burden hours for motor carriers is 50,957,208, as follows:

Number of drivers	Hours per year	Total burden hours
4,246,434	12	50,957,208

Total Burden Hours

The estimated annual burden of this information collection, for both the CMV driver and the motor carrier, is 161,364,492 burden hours, as follows:

Total burden hours: driver	Total burden hours: carrier	Total burden hours
110,407,284 ..	50,957,208	161,364,492

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.73.

Issued on: December 20, 2001.

Joseph M. Clapp,
Administrator.

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