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DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2014-0189]

Agency Information Collection Activities; Revision of an Approved Information Collection: Hours of Service (HOS) of Drivers Regulations

AGENCY: FMCSA, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval and invites public comment. The FMCSA requests approval to revise and extend an ICR entitled, “Hours of Service (HOS) of Drivers Regulations.” The HOS rules require most commercial motor vehicle (CMV) drivers to maintain on the CMV a record of duty status (RODS) current to the last change in duty status. The RODS is critical to FMCSA’s safety mission because it helps roadside enforcement officials determine if CMV drivers are complying with the HOS rules limiting driver on-duty and driving time and requiring periodic off-duty time. The information helps FMCSA protect the public by reducing the number of tired CMV drivers on the highways.

DATES: We must receive your comments on or before **[INSERT DATE 60 DAYS**

AFTER THE DATE OF PUBLICATION OF THIS NOTICE IN THE FEDERAL REGISTER FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2014-0189 using any of the following

methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Fax: 1-202-493-2251.
- Mail: Docket Operations; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the Federal Register on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdfE8-794.pdf>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division Department of Transportation, FMCSA, West Building 6th Floor, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: 202-366-4325. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background:

Statutory authority for regulating the HOS of drivers operating CMVs in interstate commerce is derived from 49 U.S.C. 31136 and 31502. The penalty provisions are located at 49 U.S.C. 521, 522 and 526, as amended. On November 28, 1982, the Federal Highway Administration (FHWA), the agency responsible for administration of the Federal Motor Carrier Safety Regulations (49 CFR 350 et seq.)(FMCSRs) at that time, promulgated a final rule requiring motor carriers to ensure that their drivers record their duty status in a specified format and verify the accuracy of the HOS of each driver (47 FR 53383). The rule is codified at 49 CFR 395.8. The FMCSRs also 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).

The FMCSA regulates the amount of time a CMV driver may drive or otherwise be on duty, in order to ensure that adequate time is available to the driver for rest. A driver must accurately record his or her duty status (driving, on duty not driving, off duty, sleeper berth) at all points during the 24-hour period designated by the motor carrier (49 CFR 395.8(a)(1)). This record of duty status (RODS) must be made on a specified grid (Section 395.8(g)). The term "logbook" is often used in the industry to denote the collection of the most recent RODS of the driver. A driver must have the RODS for the previous 7 consecutive days in the CMV at all times (Section 395.8(k)(2)). The RODS must be submitted to the motor carrier along with any supporting documents, such as fuel receipts and toll tickets that could assist in verifying the accuracy of entries on the RODS. The HOS rules do not require motor carriers to submit this information to FMCSA. However, motor carriers must retain these records for a minimum of 6 months from the date of receipt and make them available to enforcement officials upon request (Section 395.8(k)(1)). The HOS rules provide three methods of recording driver duty status:

(1) Paper RODS: This grid form requires the driver to graph time and location on a paper record over a 24-hour period (Section 395.8(g)). It must be present on the CMV in the absence of a regulatory exception.

(2) Time Record: "Short haul" CMV drivers do not have to maintain a RODS onboard the vehicle if their motor carrier maintains a time record showing for each duty

day when driver reported for duty, when he or she was released from duty, and the total hours on duty (Section 395.1(e)).

(3) Automatic On-Board Recording Device (AOBRD): An electronic record is permitted if it is created and maintained by an AOBRD as defined by Section 395.2. The record must include all the information that would appear on a paper log, and the driver or carrier must be capable of producing this information upon demand.

On March 28, 2014, the Agency published a supplemental notice of proposed rulemaking proposing rules that would require motor carriers to use on-board technology to record their HOS regulations, and seeking public comment on them (79 FR 17656). This rulemaking does not affect this ICR because compliance with the final rule, when published, will not be required until after the 3-year timeframe of this PRA estimate.

As a condition of receiving certain federal grants, States agree to adopt and enforce the FMCSRs, including the HOS rules, as State law. As a result, State enforcement inspectors use the RODS and supporting documents to determine whether CMV drivers are complying with the HOS rules. In addition, FMCSA uses the RODS during on-site compliance reviews (CRs) and targeted reviews of motor carriers. And, Federal and State courts rely upon the RODS as evidence of driver and motor carrier violations of the HOS regulations. This information collection supports the DOT's Strategic Goal of Safety because the information helps the Agency ensure the safe operation of CMVs in interstate commerce on our Nation's highways.

The PRA burden estimate is currently 181.28 million hours, approved by OMB on December 11, 2011. The expiration date of this ICR is December 31, 2014. Through this ICR, FMCSA requests a revision of the paperwork burden of 2126-0001. The Agency

requests a reduction in the burden hours. The reduction is the result of two program adjustments and is not the result of amendments of the HOS rules. The program adjustments are: (1) A lower estimate of the number of CMV drivers who are subject to the HOS rules; and (2) an estimate of the burden reduction experienced by those CMV drivers voluntarily using electronic HOS technology. First, the Agency reduces its estimate of the number of drivers subject to the HOS recordkeeping requirements from 4.6 million to 2.84 million. Second, FMCSA estimates that 10% of drivers currently are obtaining burden reductions because they use electronic HOS technology.

Title: Hours of Service (HOS) of Drivers Regulations.

OMB Control Number: 2126-0001.

Type of Request: Revision of an information collection.

Respondents: Motor Carriers of Property and Passengers, Drivers of CMVs.

Estimated Number of Respondents: 3.17 million (2.84 million CMV drivers + 0.33 million motor carriers).

Estimated Time per Response: CMV driver using paper RODS: 11 minutes. CMV driver using technology: 2 minutes. Motor carrier: 3 minutes.

Expiration Date: 12/31/2014.

Frequency of Response: Drivers: 240 days per year; Motor Carriers: 240 days per year.

Estimated Total Annual Burden: 106.89 million hours.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways

for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the information collected. The Agency will summarize or include your comments in the request for OMB's clearance of this ICR.

Issued under the authority of 49 CFR 1.87 on: June 12, 2014.

G. Kelly Leone,
Associate Administrator for Office of
Research and Information Technology
and Chief Information Officer.

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