

recovery methodology for VRS other than the current per minute compensation methodology may require VRS providers to maintain different records, although there would be no new reporting requirements. The adoption of a mechanism to determine which IP Relay and VRS calls are interstate and which are intrastate would require providers to keep records of interstate and intrastate calls; it may also change the type of reports and recordkeeping that IP Relay and VRS providers maintain, depending upon how IP Relay and VRS providers are currently maintaining their records. Presently, IP Relay and VRS providers report their costs for all calls and their record of minutes provided to the Interstate TRS Fund Administrator. If a mechanism were adopted to determine which IP Relay and VRS calls were interstate and which were intrastate, IP Relay and VRS providers would need a database to keep a record of calls and minutes of use that differentiate between interstate and intrastate calls.

*Steps Taken To Minimize the Significant Economic Impact on Small Entities, and Significant Alternatives Considered*

The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives: (1) The establishment of differing compliance or reporting requirements or timetables that take (among others) into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance or reporting requirements under the rule for small entities; (3) the use of performance, rather than design, standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities. 5 U.S.C. 603.

The proposals in the *FNPRM*, and the comments the Commission seeks regarding them, results from the Commission's role with respect to the implementation and operation of nationwide TRS for persons with hearing and speech disabilities. *See, e.g.*, 47 U.S.C. 225. The guiding principle shaping these proposals is Congress's requirement that TRS keep pace with advancing technology and that the Commission's rules should not discourage the implementation of technological advances or improvements, as well as the mandate that TRS services be functionally equivalent to voice telephone services. The majority of TRS service is provided by large interexchange carriers and incumbent local exchange carriers.

Because we believe that the number of small entities would be impacted by these proposals, and that the impact, if any, would be minor, it is premature to propose specific alternative that would minimize significant economic impact on small businesses. Further, since we believe the essence of the rules we may adopt pursuant to this proceeding will confer the benefits of a more streamlined approach to administering TRS on all entities, including small entities, we are further persuaded that it would be premature to consider alternative to the conferral of such benefits. However, we invite comment on specific alternative that may minimize the economic impact of the proposed rules on small businesses.

*Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules*

None.

**Ordering Clauses**

Pursuant to the authority contained in sections 1, 2, 4(i), 4(j), 201–205, 218, and 225 of the Communications Act of 1934, as amended, 47 U.S.C 151, 152, 154(i), 154(j), 201–205, 218, and 225, this further notice of proposed rulemaking *is adopted*.

The Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this further notice of proposed rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

**List of Subjects in 47 CFR Part 64**

Individuals with disabilities, Telecommunications.

Federal Communications Commission.

**William F. Caton,**

*Deputy Secretary.*

[FR Doc. 04–18551 Filed 8–31–04; 8:45 am]

**BILLING CODE 6712–01–P**

**DEPARTMENT OF TRANSPORTATION**

**Office of the Secretary**

**49 CFR Part 10**

[Docket No. OST–1996–1437]

**RIN 2105–AD22 and RIN 2105–AD23**

**Withdrawal of Proposed Rulemaking Actions**

**AGENCY:** Department of Transportation (DOT), Office of the Secretary.

**ACTION:** Withdrawal of notices of proposed rulemaking.

**SUMMARY:** This document withdraws two Office of the Secretary (OST) notices of proposed rulemaking (NPRM) that have been superseded by the transfer to the Department of Homeland Security (DHS) of the Transportation Security Administration (TSA). We inadvertently did not transfer this rulemaking to TSA when TSA moved to the Department of Homeland Security.

**FOR FURTHER INFORMATION CONTACT:** Jennifer Abdul-Wali, Office of the General Counsel, 400 Seventh Street, SW., Washington, DC 20590; (202) 366–4723; fax: (202) 366–9313; e-mail: [Jennifer.Abdul-Wali@ost.dot.gov](mailto:Jennifer.Abdul-Wali@ost.dot.gov).

**ADDRESSES:** You may obtain a copy of this notice from the DOT public docket through the Internet at <http://dms.dot.gov>, docket number OST–1996–1437. If you do not have access to the Internet, you may obtain a copy of the notice by United States mail from the Docket Management System, U.S. Department of Transportation, Room PL401, 400 Seventh Street, SW., Washington, DC 20590. You must identify docket number OST–1996–1437 and request a copy of the notice entitled “Withdrawal of Proposed Rulemaking Actions.”

You may also review the public docket in person in the Docket office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket office is on the plaza level of the Department of Transportation. Additionally, you can also get a copy of this document from the **Federal Register** Web site at <http://www.gpo.gov>.

**SUPPLEMENTARY INFORMATION:** Under the Privacy Act of 1974, as amended, an agency that maintains a system of records may exempt that system from some of the provisions of the Privacy Act; the decision to do so is subject to 5 U.S.C. 553, requiring notice and opportunity for public comment. When TSA was part of DOT, we published rulemaking proposals to exempt a number of systems of records maintained by TSA from provisions of the Privacy Act. When TSA moved to DHS (March 1, 2003), those rulemaking proceedings had not been completed; they were started anew and finished by DHS.

The Privacy Act record systems whose exemption proposals are affected by this action are:

1. The Transportation Security Enforcement Record System (TSER), which would have enabled TSA to maintain a civil enforcement and inspections system for all modes of transportation for which TSA has security-related duties. This system would have covered information

regarding violations and potential violations of TSA security regulations (TSRs), and would have been used, generally, to review, analyze, investigate, and prosecute violations of TSRs.

2. To facilitate TSA's performance of employment investigations for transportation workers, as required by 49 U.S.C. 114 and 44936, a system to be known as the Transportation Workers Employment Investigations system.

3. To facilitate TSA's performance of employment investigations for its own workers, a system to be known as the Personnel Background Investigation Files System.

4. Aviation Security-Screening Records would have enabled the TSA to maintain a security-screening system for air transportation. This system would have contained information regarding TSA's conduct of risk assessments required by 49 U.S.C. 114 and 44903. The system would have been used, generally, to review, analyze, and assess threats to transportation security and respond accordingly.

For the reason outlined above, the Department is withdrawing these proposals.

Issued in Washington, DC on July 19, 2004.

**Norman Y. Mineta,**

*Secretary of Transportation.*

[FR Doc. 04-19957 Filed 8-31-04; 8:45 am]

BILLING CODE 4910-62-P

## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

#### 49 CFR Part 395

[Docket No. FMCSA-2004-18940]

RIN-2126-AA89

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

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

**ACTION:** Advance notice of proposed rulemaking; request for comments.

**SUMMARY:** The Federal Motor Carrier Safety Administration (FMCSA) requests comments on potential amendments to its regulations concerning the use of on-board recording devices to document compliance with the Federal hours-of-service rules. Because our current regulations do not reflect the considerable advances in the technology used in current-generation recording devices (also known as electronic on-board recorders, or EOBRs), we seek

information concerning issues that should be considered in the development of improved performance specifications for these recording devices. Our purpose is to ensure that any future requirements would be appropriate as well as reflect state-of-the-art communication and information management technologies.

**DATES:** Comments must be received on or before November 30, 2004.

**ADDRESSES:** You may submit comments, identified by DOT DMS Docket Number FMCSA-2004-17286, by any of the following methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the online instructions for submitting comments.

- Agency Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Instructions:** All submissions must include the agency name and docket number for this notice. All comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading for further information.

**Docket:** For access to the docket to read background documents including those referenced in this document, or to read comments received, go to <http://dms.dot.gov> and/or Room PL-401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**Privacy Act:** Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Deborah M. Freund, Office of Bus and Truck Standards and Operations, (202) 366-4009, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001.

Office hours are 7:45 a.m. to 4:15 p.m., e.s.t., Monday through Friday, except Federal holidays.

#### SUPPLEMENTARY INFORMATION:

##### Legal Basis for the Rulemaking

The Motor Carrier Act of 1935 provides that "[t]he Secretary of Transportation may prescribe requirements for—(1) Qualifications and maximum hours of service of employees of, and safety of operation and equipment of, a motor carrier; and (2) qualifications and maximum hours of service of employees of, and standards of equipment of, a motor private carrier, when needed to promote safety of operation" (49 U.S.C. 31502(b)).

This advance notice of proposed rulemaking (ANPRM) deals with "safety of operation and equipment" of motor carriers and "standards of equipment" of motor private carriers, and, as such, is well within the authority of the 1935 Act. FMCSA has allowed the use of automatic on-board recording devices to track drivers' hours of service since 1988 (49 CFR 395.15). The recorders authorized by § 395.15 are mostly mechanical in design. Rapid developments in electronic technology have made them increasingly obsolete. This ANPRM therefore addresses the possibility of allowing motor carriers to use modern EOBRs to document drivers' compliance with the hours-of-service requirements. In order to meet the requirements of the 1935 Act, EOBRs must reliably and accurately perform the functions for which they are designed. The ANPRM seeks information on a wide variety of questions related to that issue.

The Motor Carrier Safety Act of 1984 provides concurrent authority to regulate drivers, motor carriers, and vehicle equipment. It requires the Secretary to "prescribe regulations on commercial motor vehicle safety. The regulations shall prescribe minimum safety standards for commercial motor vehicles. At a minimum, the regulations shall ensure that—(1) Commercial motor vehicles are maintained, equipped, loaded, and operated safely; (2) the responsibilities imposed on operators of commercial motor vehicles do not impair their ability to operate the vehicles safely; (3) the physical condition of operators of commercial motor vehicles is adequate to enable them to operate the vehicles safely; and (4) the operation of commercial motor vehicles does not have a deleterious effect on the physical condition of the operators" (49 U.S.C. 31136(a)).

This ANPRM is concerned primarily with section 31136(a)(2) and (3). The hours-of-service regulations are