

The total burden associated with this third area is 163,107 (99,107 (burden associated with previous employers providing safety performance history) + 64,000 (burden associated with rebuttals/protests)).

Accordingly, Table 2 estimates that the total burden hour increase for the Driver Qualification Files information collection would be 169,239 (1,333 (notification and driver rights to review data received) + 4,799 (adjustment taking into account the additional 16,000 drivers who would need to go through the hiring process when this proposed rule is promulgated) + 99,107 (providing 3 years of safety performance history) + 64,000 (duties associated with drivers who rebut and protest employment history)).

TABLE 2.—DRIVER QUALIFICATION FILES INFORMATION COLLECTION

New activity	Estimated burden hours
Notification and driver rights .....	1,333
Adjustment for 16,000 additional applicants .....	4,799
Providing 3 years of safety performance history .....	99,107
Driver rebuttals .....	64,000
Total .....	169,239

Interested parties are invited to send comments regarding any aspect of these information collection requirements, including, but not limited to: (1) Whether the collection of information is necessary for the performance of the functions of the FMCSA, including whether the information has practical utility, (2) the accuracy of the estimated burden and the various assumptions made in this PRA section, (3) ways to enhance the quality, utility, and clarity of the information collection, and (4) ways to minimize the collection burden without reducing the quality of the information collected.

### National Environmental Policy Act

The Federal Motor Carrier Safety Administration (FMCSA) is a new administration within the Department of Transportation (DOT). The FMCSA analyzed this rule under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) (NEPA), the Council on Environmental Quality Regulations Implementing NEPA (40 CFR 1500–1508), and DOT Order 5610.1C, Procedures for Considering Environmental Impacts.

This rule would be categorically excluded from further analysis and documentation in an environmental

assessment or environmental impact statement under paragraph 4.c.(3) of DOT's Order as a project amendment that does not significantly alter the environmental impact of the action. This rule would specify minimum safety performance history information to be sought and provided during the course of a § 391.23(c)(1) investigation into a driver's employment history.

### Executive Order 13211 (Energy Supply, Distribution, or Use)

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. This action is not a significant energy action within the meaning of section 4(b) of the Executive Order because it is not economically significant and not likely to have a significant adverse effect on the supply, distribution, or use of energy. Additionally, the Administrator of the Office of Information and Regulatory Affairs has not designated this rule as a significant energy action. For these reasons, a Statement of Energy Effects under Executive Order 13211 is not required.

### Regulatory Evaluation: Summary of Benefits and Costs

#### I. Background and Summary

The primary costs of this proposed rule involve retaining, investigating, providing, and reviewing additional driver safety performance data by employers (previous or current and prospective) for use in hiring decisions. Specific types of additional driver safety performance data include driver accident, alcohol/controlled substance test, and rehabilitation program data.

Specific costs to previous or current employers (hereafter referred to as previous employers) include retaining an additional two years of accident data on each of its drivers and reporting such investigative data to all prospective employers of drivers for three years after a driver leaves their employ. Current regulations require employers to collect and retain one year of accident data on drivers, and no requirement to report to prospective employers. Additionally, previous employers would be required to report on three years of alcohol/controlled substances test and rehabilitation program data to prospective employers (in lieu of the two years of data currently required by existing regulations).

Previous employers are already required by part 382 to report on driver violations of Federal regulations regarding alcohol and controlled

substances use and/or failure to complete rehabilitation programs within the preceding two years. This SNPRM proposes adding a requirement to the § 391.23 pre-employment investigation requirements and increasing the number of years to be reported by previous employers from two to three years.

Specific costs to prospective employers include investigating driver accident and alcohol/controlled substances data from previous employers and using that data in hiring decisions. Current regulations require prospective employers to attempt to obtain appropriate driver Motor Vehicle Record(s) (MVRs) and to investigate employment records for the preceding three years.

FMCSA has a policy that previous employers cannot make receiving payment for their costs a condition of providing alcohol and controlled substances data. If this is also applied to this new requirement of providing accident data in response to investigations, then the costs incurred by previous employers for providing all safety performance history information will be largely borne by previous employers. If these costs are relatively equally shared, *i.e.*, each employer gets as much value from investigations to other employers as from providing the information, then who incurs these costs is not directly important to calculation of the estimated total costs of this proposed SNPRM.

The 1997 CDL Effectiveness study contained a report of a focus group meeting of motor carrier safety directors. (CDL Focus Group Study, November 1996, copy of the Safety Director comments are included in the docket as document 41.) It documents that a number of motor carriers require drivers to have obtained previous experience driving a CMV before that carrier will hire the driver. If some employers operate more as employers of entry-level drivers, then they could often be required to provide investigation information, but not get much benefit of receiving such investigations from other previous employers. In such cases, if the motor carriers furnishing the investigation data are small entities, the costs could potentially rise to the level of a significant economic impact on a substantial number of small entities. FMCSA requests comments regarding any information that might indicate a different analysis of costs should be used if such inequalities might be created by the existing FMCSA policy preventing motor carriers who are furnishing investigation information from receiving payment for the