



441 G St. N.W.  
Washington, DC 20548

B-326561

January 22, 2015

The Honorable John Thune  
Chairman  
The Honorable Bill Nelson  
Ranking Member  
Committee on Commerce, Science, and Transportation  
United States Senate

The Honorable Fred Upton  
Chairman  
The Honorable Frank Pallone, Jr.  
Ranking Member  
Committee on Energy and Commerce  
House of Representatives

Subject: *Department of Transportation, Federal Motor Carrier Safety Administration: Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (DVIR)*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Transportation, Federal Motor Carrier Safety Administration (FMCSA) entitled "Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (DVIR)" (RIN: 2126-AB46). We received the rule on January 12, 2015. It was published in the *Federal Register* as a final rule on December 18, 2014. 79 Fed. Reg. 75,437.

The final rule rescinds the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and motor carriers retain, DVIRs when the driver has neither found nor been made aware of any vehicle defects or deficiencies. This rule also harmonizes the pre- and post-trip inspection lists. It responds in part to the President's January 2011 Regulatory Review and Reform initiative, removing a significant information collection burden without adversely impacting safety. FMCSA also made a technical change to § 396.11 to eliminate redundant language.

The final rule has an effective date of December 18, 2014. The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on December 18, 2014, and we did not receive the rule until January 12, 2015. Therefore, this rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of FMCSA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. With the exception of the required 60-day delay in effective date, our review of the procedural steps taken indicates that FMCSA complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Bivan R. Patnaik  
FMCSA Division Chief, Regulatory Development  
Department of Transportation

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF TRANSPORTATION  
FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION  
ENTITLED  
"INSPECTION, REPAIR, AND MAINTENANCE;  
DRIVER-VEHICLE INSPECTION REPORT (DVIR)"  
(RIN: 2126-AB46)

(i) Cost-benefit analysis

According to FMCSA, this final rule affects all motor carriers currently subject to 49 C.F.R. § 396.11, both private and for-hire, with the exception of operators of passenger-carrying commercial motor vehicles (CMV). At the completion of each day's work and on each vehicle operated, current safety regulations require drivers employed by motor carriers to prepare a written report that lists any defect or deficiency discovered by or reported to the driver which would affect the safety of operation of the vehicle or result in its mechanical breakdown. This report must be submitted to the employing motor carrier so that repairs can be made. Regulations now require drivers to file the Driver-Vehicle Inspection Report (DVIR) at the end of each tour of duty, even if there are no vehicle defects to report. The rule eliminates the need to file a no-defect DVIR, except for operations involving passenger-carrying CMVs. The no-defect DVIR imposes a substantial time and paperwork burden on the trucking industry, with no discernible safety benefit. FMCSA estimates that non-passenger-carrying CMV drivers spend approximately 46.7 million hours each year completing no-defect DVIRs, time which could be dedicated to other purposes. FMCSA estimates that the monetized value of this time is currently \$1.7 billion per year, which is the estimated benefit that would result from the adoption of the rule. FMCSA included a table summarizing the monetized benefits, costs, and net benefits of the rule.

(ii) Agency actions relevant to the Regulatory Flexibility Act (RFA), 5 U.S.C. §§ 603-605, 607, and 609

FMCSA states that under the Regulatory Flexibility Act, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), the rule will have a significant economic impact on a substantial number of small entities in the form of cost savings through the elimination of 46.7 million paperwork burden hours. These firms would receive regulatory relief of approximately \$3,000 per entity, which is a positive benefit and does not impose a cost on the regulated entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. §§ 1531–1538) requires federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a state, local, or tribal government, in the aggregate, or by the private sector of \$151 million (which was the value of \$100 million in 2013 after adjusting for inflation) or more in any 1 year. FMCSA concluded that this rule does not result in such expenditure.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

On August 7, 2013, FMCSA published a notice of proposed rulemaking (NPRM) (78 Fed. Reg. 48,125). Except for drivers of passenger-carrying CMVs, FMCSA proposed to rescind the requirement that CMV drivers operating in interstate commerce submit, and motor carriers retain, driver-vehicle inspection reports when the driver neither found nor been made aware of any vehicle defects or deficiencies. FMCSA received 41 comments from: 2 governmental agencies, 6 motor carriers, 9 industry associations, 2 advocacy organizations, 2 providers of fleet management software, and 20 individuals. According to FMCSA, several commenters commented on matters outside the scope of this rulemaking (including hours-of-service regulations, transmittal of driver medical certification information, and brake system and tire inspection procedures). One commenter pointed out an erroneous reference to §396.11(b)(2), rather than § 396.11(a)(2). To address this error, FMCSA published a correction notice in the *Federal Register* on September 6, 2013 (78 Fed. Reg. 54,861).

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501-3520

According to FMCSA, this rule reduces the burden hours for the ‘Inspection, Repair, and Maintenance’ information collection request (ICR), OMB control number 2126–0003. This ICR is comprised of six individual information collections, each corresponding to a different area of the inspection, repair, and maintenance requirements. This rule affects only the DVIR section of this ICR.

Based on data from its Motor Carrier Management Information System (MCMIS) and Licensing and Insurance System (L&I), FMCSA estimates that there are approximately 4,117,000 CMVs being operated that are subject to these requirements, which includes 1,845,000 tractors and 101,000 passenger-carrying CMVs, but excludes the 152,000 CMVs of single-vehicle owner operators. Consistent with past analyses of this ICR, FMCSA assumes that these CMVs are used on average 65 percent of the days of a year, and that 25 percent of tractor-trailer drivers operate two vehicle combinations per day, which effectively increases the number of CMVs or CMV combinations requiring a DVIR by 461,250 (25 percent × 1,845,000 tractors) to a total of 4,578,250 (4,117,000 CMVs + 461,250 additional tractor-trailer combinations). Applying the 65 percent utilization rate yields an annual estimate of 1,086,189,813 DVIRs (4,578,250 CMVs or CMV combinations × 65 percent × 365 days per year).

FMCSA has parsed the DVIR process into two steps. The first step, filling out a DVIR, is estimated to take 2 minutes, 30 seconds. The second step, reviewing and signing a DVIR, is estimated to take 20 seconds when defects are reported and 5 seconds when no defects are reported. When there are no defects to note, there is nothing to review on the DVIR, and the form requires only a signature. FMCSA estimates that 5 percent of DVIRs note defects and that 95 percent of DVIRs note no defects. According to FMCSA, when this rule goes into effect, 93 percent of the burden associated with DVIRs will be eliminated. The remaining burden would be associated with DVIRs that note defects and no-defect DVIRs for passenger-carrying CMVs. The annual burden remaining from these two activities is 2,564,615 hours and 980,123 hours respectively. FMCSA included a table to illustrate how the results were calculated. The total remaining hourly burden of DVIRs is 3,544,738 hours. This new total represents a reduction of 46,669,294 hours compared to the 50,214,032 hours of annual burden estimated in the

currently approved ICR. The monetary value of this annual burden reduction, calculated using an hourly labor cost of \$37, is \$1.7 billion (46,669,294 hours × \$37 per hour).

#### Statutory authorization for the rule

FMCSA states that it issued this final rule under the authority of the Motor Carrier Act of 1935, 49 U.S.C. 31502(b) and the Motor Carrier Safety Act of 1984, 49 U.S.C. 31136(a), both of which are broadly discretionary.

#### Executive Order No. 12,866 (Regulatory Planning and Review)

FMCSA has determined that the final rule is an economically significant regulatory action as defined by Executive Order 12,866 as this rule does have an annual effect of \$100 million or more.

#### Executive Order No. 13,132 (Federalism)

FMCSA analyzed this rule under Executive Order 13,132 and has determined that it does not have implications for federalism.