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## **WHITE PAPER**

### **Analysis of FMCSA'S *Inspection, Repair, and Maintenance; Driver- Vehicle Inspection Report (DVIR) Final Rule***

2/ 23/ 2015



## Introduction

On December 18, 2014, the Federal Motor Carrier Safety Administration (FMCSA) published a Final Rule in the *Federal Register*, entitled “Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (DVIR).” The Final Rule rescinded the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and motor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 does not find nor is made aware of any vehicle defects or deficiencies.<sup>1</sup>

According to FMCSA, “The no-defect DVIR imposes a substantial time and paperwork burden on the trucking industry, with no discernible safety benefit.”<sup>2</sup> The Agency estimated that non-passenger-carrying CMV drivers spend 46.7 million hours each year completing no-defect DVIRs, and that the monetized value of this time is \$1.7 billion per year. However, the Owner-Operator Independent Drivers Association Foundation (OOFI), which is the research and educational arm of OOIDA, the largest non-for profit national trade association representing the interests of over 150,000 small business owners and professional truck drivers, has found serious errors in FMCSA’s calculation.

## Total Annual Hour Burden

In response to the Presidential Executive Order 13563, “Improving Regulation and Regulatory Review” (January 18, 2011), which was designed to remove significant information collection burdens without adversely impacting safety, FMCSA released the DVIR Final Rule. Therefore, the Agency conducted an analysis pursuant to the Paperwork Reduction Act in order to estimate the reduction in hourly burden by eliminating no-defect DVIRs for non-passenger-carrying CMV drivers.

First, the Agency examined the amount of DVIRs that are filed each year based on data from its Motor Carrier Management Information System and Licensing and Insurance System. FMCSA estimated that there are approximately 4,117,000 CMVs being operated that are subject to these requirements, which included 1,845,000 tractors and 101,000 passenger-carrying CMVs. Utilizing past analyses of the ICR, the Agency assumed that these CMVs are used on average 65 percent of the days of a year, and that 25 percent of tractor-trailer drivers operated two vehicle combinations per day, which effectively increased 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 produced an annual estimate of 1,086,189,813 DVIRs (4,578,250 CMVs or CMV combinations × 65 percent × 365 days per year).<sup>3</sup>

Next, FMCSA separated the DVIR process into two steps and analyzed the time required. The first step was filling out a DVIR, which was estimated to take 2 minutes and 30 seconds. The second step was

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<sup>1</sup> GAO, *Department of Transportation, Federal Motor Carrier Safety Administration: Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (DVIR)*, Government Accountability Office (January 2015).

<sup>2</sup> FMCSA, *Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report (DVIR)*, Federal Motor Carrier Safety Administration (December 2014), pg. 2.

<sup>3</sup> *Ibid*, pg. 38-39.

reviewing and signing a DVIR, which was estimated to take 20 seconds when defects are reported and 5 seconds when no defects are reported. It is important to understand that the Final Rule still requires that drivers complete the DVIR pursuant to Part 393, Parts and Accessory Necessary for Safe Operation, the only change is that if the driver discovers a defect or deficiency, they will not be required to file or save the DVIR.

According to the Final Rule, "The Agency is not foregoing the fundamental requirements of part 393..Drivers will still be required to perform pre-trip evaluations of equipment condition, and to complete DVIRs if any defects or deficiencies are discovered or reported during the day's operations. Motor carriers will still be required to have systematic inspection, repair, and maintenance programs (including preventative maintenance) and maintain records to prove measures are being taken to reduce to the extent practicable, the risk of mechanical problems happening while the vehicle is in operation.<sup>4</sup> Thus, the only time that is saved by the Final Rule is not signing the DVIR, all other steps and processes are still required.

FMCSA estimated that 93 percent of the burden associated with DVIRs will be eliminated with the promulgation of the Final Rule, as only 5 percent of DVIRs note defects and passenger-carrying CMVs are still required to file no-defect DVIRs. However, the Final Rule indicated that regardless of whether a DVIR has a defect or not, it takes the driver at least 2 minutes and 30 seconds to complete the report. Therefore, FMCSA did not calculate the estimates correctly, as 93 percent of the burden associated with DVIRs will not be eliminated. Again, the only time that is saved is from not signing the DVIR. Utilizing the Final Rule, Table 1 below demonstrates that the hourly burden on the trucking industry will be 46,992,795 hours annually.

**Table 1 : Detail of DVIR Calculations**

Activity	Number of CM Vs or CM V Combinations	Utilization Rate (of 365 Calendar Days)	Percent of CM Vs Affected	Total DVIRs (CM Vs × Utilization Rate × Percent of CM Vs Affected × 365)	Burden per DVIR	Total Annual Hourly Burden
<b>Defect DVIRs</b>	4,578,250	65%	5%	54,309,491	170 seconds	2,564,615
<b>No Defect DVIRs</b>	4,578,250	65%	95%	1,031,880,322	155 seconds	44,428,181
<b>Total</b>						46,992,795

### Total Savings/ Benefit

While conducting the cost benefit analysis, FMCSA estimated that 46.7 million hours of paperwork burden would be eliminated by the promulgation of the Final Rule. However, as demonstrated previously, the Agency's calculations were not accurate. The only burden that would be eliminated through this rule is the driver not being required to sign his or her name on a DVIR that contained no

<sup>4</sup> Ibid, pg. 6

defects or deficiencies. Nonetheless, FMCSA utilized the 46.7 million hours of paperwork burden reduction in combination with a labor cost of \$37 per hour, which the Agency calculated by using a base wage of \$18.61, fringe benefits<sup>5</sup> of 57 percent, and an overhead<sup>6</sup> of 27 percent ( $\$18.61 \times 1.57 \times 1.27 = \$37$ ), to reach a net benefit of \$1.7 billion per year.

There are several problems with these percentages, including the utilization of 57 percent for fringe benefits, which again demonstrates that the Agency is out of touch with the trucking industry. The vast majority of drivers that must keep a DVIR are employed by a motor carrier with less than 20 trucks, and these carriers rarely offer any true “fringe benefits.” In addition, when offering grants to applicants, government agencies only allow 20-25 percent for fringe benefits, therefore the 57 percent is highly questionable.

However, it is important to understand that the vast majority CMV drivers that are required to fill out DVIRs are not compensated by an hourly wage but instead on a per mile basis and have never been paid for completing inspections or filling out paperwork. Therefore, the amount saved is \$0. Furthermore, a portion of the Agency's estimated savings was based on the assumption that CMV drivers and motor carriers would save money by not having to purchase as many DVIR forms. Nevertheless, almost all paper logbooks have a DVIR form on the back of the logbook. Only those carriers that utilize electronic logging devices would receive any benefit, and yet, those carriers are still required to have DVIRs available in the occasion that there are defects to be noted. Thus, the net benefit of the DVIR Final Rule is \$0.

**Table 2: Summary of the Monetized Benefits, Costs, and Net benefits of the Rule**

	Annual	10 Years, 7 Percent Discount Rate	10 Years, 3 Percent Discount Rate
<b>Monetized Benefits</b>	\$0	\$0	\$0
<b>Costs</b>	\$0	\$0	\$0
<b>Net Benefits</b>	\$0	\$0	\$0

## Conclusion

In response to the Presidential Executive Order 13563, “Improving Regulation and Regulatory Review” (January 18, 2011), which was designed to remove significant information collection burdens without adversely impacting safety, FMCSA released the DVIR Final Rule. However, after reviewing the Agency's calculations, OOFI has found the proclaimed net benefits to be a gross overestimation of the facts. Instead, the real intent of the Final Rule appears to be an attempt by FMCSA to improve public relations with the trucking industry and not to actually reduce unnecessary burdens.

<sup>5</sup> The IRS defines a fringe benefit as a form of pay for the performance of services. For example, you provide an employee with a fringe benefit when you allow the employee to use a business vehicle to commute to and from work.

<sup>6</sup> In business, overhead or overhead expense refers to an ongoing expense of operating business; it is also known as an “operating expense.” Overheads are the expenditure which cannot be conveniently traced to or identified with any particular cost unit. Examples include rent, gas, electricity, and labor burden.