for Executive Agency Source Selection Decisions'', and it extends the requirements of section 806 to all Executive agencies.

The FAR addresses Governmentwide rules for past performance evaluations at FAR subpart 42.15, Contractor Performance Information. The databases selected by the Office of Management and Budget (OMB) for these evaluations are the Contractor Performance Assessment Reporting System (CPARS) and the Past Performance Information Retrieval System (PPIRS). CPARS provides an automatic notification to the contractor when a past performance evaluation has been submitted to the system and is available for contractor comment. This is the equivalent of ''providing'' the past performance evaluation to the contractor, and it starts the 14 day suspense period for contractor comment or rebuttal. CPARS processes the assessment and provides it to PPIRS.

The rule proposes a change in contractors' response procedures. Instead of allowing ''at least 30 days'' for a contractor's response to the past performance evaluation, contractors will have a maximum of 14 days to do so. In addition, the statute now requires that past performance evaluations be available to source selection officials not later than 14 days after the evaluation was provided to the contractor, whether or not contractor comments have been received. However, the proposed changes to the systems will enable a contractor's comments to be added to the past performance evaluation after the evaluation has been moved into PPIRS; these changes will also allow the Government to revise a past performance evaluation in PPIRS if the Government determines, after the 14 day period has expired, that it was in error.

The proposed rule would apply to all small businesses for which past performance evaluations are completed. OMB Control Number 9000–0142, renewed in 2012, is the source for the data used in this IRFA. It indicates that an estimated 150,000 respondents submit an average of four responses annually, for a total of 600,000 responses. Data from the Federal Procurement Data System (FPDS) for Fiscal Year 2011 show that approximately 32 percent of the relevant actions of the responses are from small businesses, so this rule would apply to approximately 48,000 small entities.

The requirement to conduct past performance evaluations is not new. The differences between the current FAR past performance evaluation requirements (see FAR subpart 42.15) and this proposed rule are that the law reduces the time allowed for a contractor to submit comments, rebuttals, or additional information pertaining to past performance for inclusion in the past performance database from ''a minimum of 30 days'' (FAR 42.1503(b)) to ''up to 14 calendar days'', and the law now requires that past performance evaluations be available to source selection officials not later than 14 days after the evaluation was provided to the contractor, whether or not contractor comments have been received.

There are no new reporting, recordkeeping, or other compliance requirements created by the proposed rule. The rule does not duplicate, overlap, or conflict with any other Federal rules.

DoD, GSA, and NASA did not identify any alternatives that would comply with the applicable statutes. The laws do not provide for any exemptions for small entities.

The Regulatory Secretariat has submitted a copy of the IRFA to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the IRFA may be obtained from the Regulatory Secretariat. DoD, GSA, and NASA invite comments from small business concerns and other interested parties on the expected impact of this rule on small entities.

DoD, GSA, and NASA will also consider comments from small entities concerning the existing regulations in subparts affected by this rule in consistent with 5 U.S.C. 610. Interested parties must submit such comments separately and should cite 5 U.S.C. 610 (FAR case 2012–028) in correspondence.

V. Paperwork Reduction Act

This rule affects the certification and information collection requirements in the provision at FAR subpart 42.15, currently approved under the OMB Control Number 9000–0142, titled, Past Performance Information; in the amount of 1,200,000 hours, in accordance with the Paperwork Reduction Act (44 U.S.C. chapter 35). This rule would shorten the contractors' response time, but it would not expand the reporting requirement. The impact, however, is negligible because contractors are already allowed to submit comments, rebutting statements, or additional information regarding agency evaluations of their performance. The number of contractors providing comments will be unaffected by this rule. Further, the type of information provided is not impacted by this proposed rule.

List of Subject in 48 CFR Part 42

Government procurement.

Dated: July 31, 2013.

William Clark,

Acting Director, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

Therefore, DoD, GSA, and NASA propose amending 48 CFR part 42 as set forth below:

PART 42—CONTRACT ADMINISTRATION AND AUDIT SERVICES

■ 1. The authority citation for 48 CFR part 42 is revised to read as follows:

Authority: 40 U.S.C. 121(c); 10 U.S.C. chapter 137; and 51 U.S.C. 20113.

■ 2. Amend section 42.1503 by revising the third sentence in paragraph (d); and revising paragraph (f) to read as follows:

42.1503 Procedures.

* * * * *

(d) * * * Contractors shall be afforded up to 14 calendar days from the date of notification of availability of the past performance evaluation to submit comments, rebutting statements, or additional information. * * *

* * * * *

(f) Agencies shall prepare and submit all past performance evaluations electronically in the CPARS at *http://www.cpars.gov.* These evaluations, including any contractor-submitted information (with indication whether agency review is pending), are automatically transmitted to PPIRS at *http://www.ppirs.gov* not later than 14 days after the date on which the contractor is notified of the evaluation's availability for comment. The Government shall update PPIRS with any contractor comments provided after 14 days, as well as any subsequent agency review of comments received. Past performance evaluations for classified contracts and special access programs shall not be reported in CPARS, but will be reported as stated in this subpart and in accordance with agency procedures. Agencies shall ensure that appropriate management and technical controls are in place to ensure that only authorized personnel have access to the data and the information safeguarded in accordance with 42.1503(d).

* * * * *

[FR Doc. 2013–18955 Filed 8–6–13; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 392 and 396

[Docket No. FMCSA–2012–0336]

RIN 2126–AB46

Inspection, Repair, and Maintenance; Driver-Vehicle Inspection Report

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: FMCSA proposes to rescind the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and

motor carriers retain, driver-vehicle inspection reports when the driver has neither found nor been made aware of any vehicle defects or deficiencies. This proposed rule would remove a significant information collection burden without adversely impacting safety. This proposed rule responds in part to the President's January 2011 Regulatory Review and Reform initiative. Finally, this proposed rule harmonizes the pre- and post-trip inspection lists.

DATES: You must submit comments on or before October 7, 2013.

ADDRESSES: You may submit comments identified by docket number FMCSA–2012–0336 using any one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.*
- *Fax:* 202–493–2251.
- *Mail:* Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.
- *Hand delivery:* Same as mail address above, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' heading under the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this proposed rule, call or email Mrs. Deborah Freund, Vehicle and Roadside Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, telephone: 202–366–5541; *deborah.freund@dot.gov.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Public Participation and Request for Comments

FMCSA encourages you to participate in this rulemaking by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this rulemaking (FMCSA–2012–0336), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov* and click on the ''Submit a Comment'' box, which will then become highlighted in blue. In the ''Document Type'' drop down menu, select ''Rules,'' insert ''FMCSA–2012–0336'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Submit a Comment'' in the ''Actions'' column. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this proposed rule based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov* and click on the ''Read Comments'' box in the upper right hand side of the screen. Then, in the ''Keyword'' box, insert ''FMCSA–2012–0336'' and click ''Search.'' Next, click ''Open Docket Folder'' in the ''Actions'' column. Finally, in the ''Title'' column, click on the document you would like to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act

All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. Anyone may search the electronic form of all comments received into any of our 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, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on January 17, 2008 (73 FR 3316), or you may visit *http://edocket.access.gpo.gov/2008/pdf/E8-785.pdf.*

Executive Summary

Purpose and Summary of the Major Provisions

FMCSA proposes to rescind the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and motor carriers retain, driver-vehicle inspection reports (DVIR) when the driver has neither found nor been made aware of any vehicle defects or deficiencies (no-defect DVIR). This proposed rule would remove a significant information collection burden without adversely impacting safety. This proposed rule responds, in part, to the President's January 2012 Regulatory Review and Reform initiative. Finally, this proposed rule harmonizes the pre- and post-trip inspection lists.

Benefits and Costs

This rule would affect all motor carriers currently subject to 49 CFR 396.11, both private and for-hire, with the exception of operators of passenger-carrying CMVs. Current safety regulations require drivers employed by motor carriers to report any vehicle defects in need of repair noted during the course of a driving day on the DVIR. This report must be submitted to the employing motor carrier so that repairs can be made. Regulations now require drivers to file the no-defect DVIR at the end of each tour of duty, even if there are no vehicle defects to report. The proposed rule would eliminate 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 industry, with no discernible social benefit. The Agency estimates that non-passenger-carrying CMV drivers spend approximately 47.2 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 social benefit that would result from the adoption of the proposed rule.

TABLE 1—SUMMARY OF THE MONETIZED SOCIAL BENEFITS, COSTS AND NET BENEFITS OF THE PROPOSED RULE

	Annual	10 Years, 7 percent discount rate	10 Years, 3 percent discount rate
Monetized Benefits	$1.7 Billion	$12.8 Billion	$14.9 Billion
Social Costs	$0	$0	$0
Net Benefits	$1.7 Billion	$12.8 Billion	$14.9 Billion

Background

Presidential Executive Order (E.O.) 13563, ''Improving Regulation and Regulatory Review'' (issued January 18, 2011, and published January 21 at 76 FR 3821), prompted DOT to publish a notice in the **Federal Register** (76 FR 8940, February 16, 2011). This notice requested comments on a plan for reviewing existing rules, as well as identification of existing rules that DOT should review because they may be outmoded, ineffective, insufficient, or excessively burdensome. DOT placed all retrospective regulatory review comments, including a transcript of a March 14, 2011, public meeting, in docket DOT–OST–2011–0025. DOT received comments from 102 members of the public, with many providing multiple suggestions. FMCSA received one comment from the American Trucking Associations, Inc. concerning what it considered duplicative driver vehicle inspection requirements in 49 CFR Parts 392 and 396. Although FMCSA agrees that there is some duplication, the Agency does not believe that it results in unnecessary actions or an information collection burden. However, FMCSA did discover a related information collection burden that it considers unnecessary and proposes to remove in this NPRM.

It has always been the responsibility of a commercial motor vehicle (CMV) driver to report vehicle defects. In 1939, the Interstate Commerce Commission (ICC) issued regulations requiring every driver to submit a written report on the condition of the vehicle at the end of his day's work or tour of duty. At a minimum, the report had to include information about any vehicle defect or deficiency the driver discovered that would likely affect the safety of operation of that vehicle (4 FR 2294 at 2305, June 7, 1939). The ICC recommended, but did not require, that motor carriers use a 'Driver's Trip Report,' and it provided an example report format in its 1939 notice. The example report included the driver's name, vehicle number, date, a list of 20 items for inspection, and a space for the driver and mechanic to note defects. This report is now called a DVIR, but the current rule does not include an example of the report form. The requirement to prepare a no-defect DVIR has been in the safety regulations since 1952 (17 FR 4422, 4452, May 15, 1952). In a separate report (54 M.C.C. 337, at 356, April 14, 1952) the ICC explained that it was revising its rule to improve motor carriers' inspection and maintenance procedures and recordkeeping. The ICC noted that the most substantial recordkeeping change proposed and adopted was for the driver to complete the vehicle condition report or trip ticket at the end of the day's work or tour of duty whether or not any defect or deficiency in the equipment is discovered, ''. . . in order to provide a continuous record of vehicle condition and to insure that the reports, particularly those involving defects, will be made out currently and maintained on a current basis.''

On December 17, 2008, FMCSA published a final rule to implement section 4118 of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) [Pub. L. 109–59, 119 Stat. 1144, 1729, Aug. 10, 2005], dealing with the safety of chassis used to transport intermodal containers (73 FR 76794). Among other things, section 4118 called for the Secretary to mandate ''a process by which a driver or motor carrier transporting intermodal equipment [IME] is required to report to the intermodal equipment provider [IEP] or the providers' designated agent any actual damage or defect in the intermodal equipment of which the driver or motor carrier is aware at the time the intermodal equipment is returned to the intermodal equipment provider or the provider's designated agent'' (49 U.S.C. 31151(a)(3)(L)). FMCSA's 2008 rule included a new code section—49 CFR 390.42—which prescribed the responsibilities of drivers and motor carriers when operating IME. Section 390.42(b) required the driver or motor carrier to report any damage to or deficiencies in certain IME parts and accessories at the time the equipment is returned to the IEP.

Importantly, FMCSA did not propose any changes to § 396.11(b), ''Report content,'' which requires—both for IME and non-IME—that ''If no defect or deficiency is discovered by or reported to the driver, the report shall so indicate.''

On March 31, 2010, the Ocean Carrier Equipment Management Association (OCEMA) and Institute of International Container Lessors (IICL) jointly filed a petition for rulemaking to rescind the part of § 390.42(b) that required drivers to file no-defect DVIRs on IME they return to IEPs. OCEMA and IICL requested that FMCSA delete the sentence ''if no damage, defects, or deficiencies are discovered by the driver, the report shall so indicate.''

The petitioners presented four arguments supporting their request:

1. Section 4118 of SAFETEA–LU requires DVIRs only for known damage or defects. Congress could have added a requirement to file no-defect DVIRs but did not do so.

2. There is significant risk that a large volume of no-defect DVIRs could overwhelm the small proportion (4 percent) of DVIRs that contain damage or defects.

3. Data transmission, processing, and storage requirements for no-defect DVIRs could add significant unnecessary costs to intermodal operations without providing offsetting benefits.

4. Submission of no-defect DVIRs contributes to driver productivity losses in the form of congestion and delay at intermodal facilities.

On June 12, 2012 (77 FR 34846), the Agency published a final rule eliminating the requirement for drivers operating IME to submit—and IEPs to retain—DVIRs when the driver has neither found nor been made aware of any defects in the IME.

The Agency now proposes to extend this relief from the paperwork requirement to all interstate motor carriers subject to Part 396 of the FMCSRs, except operators of passenger-carrying CMVs.

Legal Basis for the Rulemaking

This proposed rule is based on the authority of the Motor Carrier Act of 1935 (1935 Act) [49 U.S.C. 31502(b)] and the Motor Carrier Safety Act of 1984 (1984 Act) [49 U.S.C. 31136(a)], both of which are broadly discretionary.

The 1935 Act provides that the Secretary of Transportation (Secretary) may prescribe requirements for

• qualifications and maximum hours of service of employees of, and safety of

operation and equipment of, a motor carrier (§ 31502(b)(1)), and

- 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 (§ 31502(b)(2)).

This rulemaking is based on the Secretary's authority under both § 31502(b)(1) and (2).

The 1984 Act authorizes the Secretary to regulate drivers, motor carriers, and vehicle equipment. Section 31136(a) requires the Secretary to publish regulations on commercial motor vehicle (CMV) safety. Specifically, the Act sets forth minimum safety standards to ensure that: (1) CMVs are maintained, equipped, loaded, and operated safely (49 U.S.C. 31136(a)(1)); (2) the responsibilities imposed on operators of CMVs do not impair their ability to operate the vehicles safely (49 U.S.C. 31136(a)(2)); (3) the physical condition of CMV operators is adequate to enable them to operate the vehicles safely (49 U.S.C. 31136(a)(3)); and (4) the operation of CMVs does not have a deleterious effect on the physical condition of the operators (49 U.S.C. 31136(a)(4)). Section 32911 of the Moving Ahead for Progress in the 21st Century Act (MAP–21) [Pub. L. 112–141, 126 Stat. 405, 818, July 6, 2012] recently enacted a fifth requirement, i.e., to ensure that ''(5) an operator of a commercial motor vehicle is not coerced by a motor carrier, shipper, receiver, or transportation intermediary to operate a commercial motor vehicle in violation of a regulation promulgated under this section, or chapter 51 or chapter 313 of this title'' (49 U.S.C. 31136(a)(5)). The 1984 Act also grants the Secretary broad power in carrying out motor carrier safety statutes and regulations to ''prescribe recordkeeping and reporting requirements'' and to ''perform other acts the Secretary considers appropriate'' (49 U.S.C. 31133(a)(8) and (10)).

This rule implements, in part, the Administrator's authority under § 31136(a)(1) to ensure that CMVs are maintained, equipped, loaded, and operated safely. The NPRM is also based on the broad recordkeeping and implementation authority of § 31133(a)(8) and (10). This proposed rule addresses only CMV equipment and reporting requirements. The provisions of the 1984 Act dealing with the physical condition of drivers therefore do not apply (§ 31136(a)(3)–(4)). Finally, as to ensuring that operators of CMVs are not coerced by motor carriers, shippers, receivers, or transportation intermediaries to 'operate a CMV in violation of a regulation, the rule would eliminate only the requirement for drivers (except drivers of passenger-carrying CMVs) to prepare reports when there are no defects or deficiencies; it would keep in place the rule requiring reports when there are defects or deficiencies, as well as the requirement for motor carriers to take appropriate action on receipt of the report when problems with the vehicle are noted. Therefore, the removal of the requirement to prepare and retain no-defect DVIRs would not compromise drivers' ability to report vehicle problems to the carrier, or relieve carriers of the responsibility to take action. Furthermore, elimination of the no-defect DVIRs would not compromise drivers' protection under existing whistleblower statutes concerning employers taking adverse action against drivers for refusing to violate the FMCSRs. The rule thus provides protection against coercion of drivers by motor carriers. Finally, because the rule would remove a regulatory burden criticized by both drivers and motor carriers (and irrelevant to shippers, receivers, and transportation intermediaries), there is virtually no possibility that a CMV operator would be coerced to violate the rule itself. It is true, of course, that a motor carrier could insist that a driver continue filing no-defect DVIRs even in the absence of a regulatory requirement, but that would be a condition of employment, not coercion to violate a safety regulation.

Agency Proposal

The Agency is proposing to rescind, except for operators of certain passenger-carrying CMVs, the requirement in 49 CFR 396.11(b) requiring CMV drivers to submit, and motor carriers to retain, DVIRs when the driver has neither found nor been made aware of any vehicle defects or deficiencies.

Drivers and motor carriers have long been required to share the safety responsibility for operating CMVs and for assessing the condition of CMVs and documenting deficiencies and repairs. Section 392.7(a) states that ''No commercial motor vehicle shall be driven unless the driver is satisfied that the following parts and accessories are in good working order . . .'' Section 393.1(b)(1) provides that ''[e]very motor carrier and its employee must be knowledgeable of and comply with the requirements and specifications of this part,'' and § 393.1(c) states that ''No motor carrier may operate a commercial motor vehicle, or cause or permit such vehicle to be operated, unless it is equipped in accordance with the requirements and specifications of this part.'' Section 396.3(a)(1) requires that ''[p]arts and accessories shall be in safe and proper operating condition at all times.'' Section 396.11(a) states that every motor carrier must ''require its drivers to report, and every driver shall prepare a report in writing at the completion of each day's work on each vehicle operated,'' and that report shall cover a specific list of parts and accessories. Section 396.11(c) states that ''Prior to requiring or permitting a driver to operate a vehicle, every motor carrier or its agent shall repair any defect or deficiency listed on the driver vehicle inspection report which would be likely to affect the safety of operation of a vehicle.''

FMCSA emphasizes that the Agency is not foregoing the fundamental requirements of Part 393, Parts and Accessories Necessary for Safe Operation. Nor is it proposing to change any other element of the inspection, repair, and maintenance requirements of Part 396. Drivers will still be required to perform pre-trip evaluations of equipment condition, and 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. In addition, motor carriers will still be required to review driver vehicle inspections that list defects or deficiencies and take appropriate action before the vehicle is dispatched again. The Agency will retain the requirement for carriers to complete periodic or annual inspections, and maintain documentation for the individuals who perform periodic inspections and individuals responsible for performing brake-related inspection, repair, and maintenance tasks. Furthermore, these CMVs will continue to be subject to roadside inspections. In short, the existing regulations place shared responsibility on drivers and motor carriers to ensure that CMVs used in interstate commerce are in safe and proper operating condition. This proposed rule does not change a driver's obligation to report on the condition of the CMVs and to report to the motor carrier any defects or deficiencies that could affect the safety of its operation.

The Agency's preferred alternative would continue to require drivers of passenger-carrying CMVs to prepare no-

defect DVIRs.[1] There are several reasons for this.

First, one of the fundamental differences between passenger and freight operations is that motorcoach drivers often need to interact with their passengers, particularly at the beginning and end of their work day, but often during the trip as well. These interactions are a critical part of a motorcoach driver's responsibilities and may result in the driver overlooking or failing to recall certain mechanical conditions unless the report is required every work day. The daily preparation of the DVIR would reinforce the importance of reporting vehicle maintenance issues irrespective of the routine interactions with passengers at the beginning and end of the work day. Also, because motorcoach drivers must be alert to the varying needs of their passengers, they may not be able to focus as closely as truck drivers on changes in their vehicle's operating condition encountered during a trip. These concerns underscore the importance of continuing to include the process of documenting vehicle condition as a consistent part of the passenger-carrying driver's daily routine.

Second, motorcoach crashes are low-probability high-consequence events with fatal and injury crashes occurring relatively infrequently compared to truck crashes, yet the potential for significant numbers of injuries and fatalities being greater than that of truck crashes Based upon analysis of MCMIS data for the period 2007–2011, the average number of fatalities per fatal truck-related crash was 1.13—but for cross-country/intercity buses the average number of fatalities was 1.57, nearly 40 percent higher. While FMCSA does not have data concerning motorcoach crashes attributable to the mechanical condition of the vehicle, the Agency believes it is appropriate to consider this factor in the decision-making process and request public comment on this issue.

Third, because they are carrying the most valuable cargo, motor carriers of passengers must exercise heightened diligence over their operations, including CMV maintenance. As noted in the Motorcoach Safety Action Plan,[2] the National Transportation Safety Board has found that defects or deficiencies in vehicle condition were a root cause of several of the motorcoach crashes it investigated which accounted for 20 percent of the fatalities.

At this time, and for these reasons stated above, FMCSA does not propose extending relief from the requirement for drivers of passenger-carrying vehicles to complete and submit ''no defect'' DVIRs. The Agency requests public comments on this issue, with an emphasis on information and data concerning the mechanical condition of motorcoaches and other passenger-carrying vehicles subject to FMCSA's jurisdiction. Specifically, what percentage of DVIRs currently prepared by drivers of passenger-carrying vehicles include reports of vehicle defects and deficiencies? Is the volume of DVIRs that include reports of mechanical problems by drivers of passenger-carrying vehicles so small that the processing of no-defect DVIRs could potentially result in the passenger carriers overlooking the reports which require action?

For operators of passenger-carrying vehicles, what percentage of the time do drivers find that interactions with passengers at the end of the work day make it difficult to accurately recall defects or deficiencies that were observed or reported during the day, and document those mechanical problems on a DVIR? If FMCSA were to eliminate the requirement for preparing a DVIR every day, would interaction with the passengers at the end of the work day, combined with the as-needed preparation of DVIRs, increase the likelihood of drivers overlooking or forgetting to prepare a DVIR on those occasions when something was wrong with the vehicle?

In summary, FMCSA is proposing to eliminate the requirement for drivers of property-carrying vehicles to submit, and motor carriers to retain, no-defect DVIRs. The Agency believes that removing the requirement for drivers of property-carrying CMVs to complete a no-defect DVIR will not diminish CMV safety, and as discussed in greater detail in the Regulatory Analysis section of this NPRM, the proposed amendment will significantly reduce the paperwork burden to drivers and motor carriers. As noted in the Legal Basis section, this proposed rule would not preclude motor carriers from continuing to require their drivers to prepare no-defect DVIRs as a condition of employment.

FMCSA attempted to determine, through an analysis of historical inspection and other safety data, whether eliminating the no-defect DVIR would affect the condition and proper maintenance of vehicle components. However, due to data reporting limitations, it is impossible to distinguish between form-and-manner violations and serious safety violations, e.g., between failing to sign a no-defect DVIR and failing to report a known defect. However, given the responsibility for vehicle inspection, repair, and maintenance currently shared by drivers and motor carriers (which will continue despite the adoption of the proposed elimination of no-defect DVIRs), the Agency is confident that there will be no reduction in the overall level of equipment safety as a result of this proposed change.

Additionally, to increase safety and harmonize regulatory text, FMCSA has added two items to the pre-trip inspection list in § 392.7. These items are required to be included on a DVIR and should be checked during the pre-trip inspection.

FMCSA seeks comments from all interested parties on certain aspects of the DVIR process.

1. DVIR Handling

1.1. Please explain in detail your procedures for filing and maintaining DVIRs from the time they are completed through the end of their retention periods. Are defect DVIRs kept separate from no-defect DVIRs, sent to maintenance staff, and then acted on? Do you have special procedures in place for the no-defect DVIRs? If so, please describe them.

1.2. Do you have examples of specific incidents in which handling a large volume of no-defect DVIRs has interfered with the handling of defect DVIRs? If so, please describe how these additional documents affected the repairing of defects.

1.3. Some DVIRs are completed electronically. Are the electronic DVIRs automatically or manually separated into defect and no-defect categories? Do you have an estimate of the percentage of forms filled out on paper and electronically? If so, please provide detailed information on the data and methodology used for that estimate.

2. Please provide information on the percentage of no-defect DVIRs. Also, please provide a discussion of the methodology for developing this information.

3. Should the FMCSA preserve an inspection list in § 392.7 to assist drivers in conducting pre-trip inspections? Or would drivers be sufficiently knowledgeable and experienced at conducting pre-trip inspections that they would not have to

[1] Pursuant to 49 CFR 390.3(f)(6), this proposed rule would not apply to '[t]he operation of commercial motor vehicles designed or used to transport between 9 and 15 passengers (including the driver), not for direct compensation, provided the vehicle does not otherwise meet the definition of a commercial motor vehicle.

[2] The U.S. Department of Transportation's Motorcoach Safety Action Plan of 2012 is available at *http://www.fmcsa.dot.gov/documents/safety-security/Motorcoach-Safety-Action-Plan-2012.pdf.*

rely on a regulation to prescribe the essential vehicle components and systems that should be checked before each trip? To what extent do carriers and drivers rely on the list in § 392.7?

4. To what extent do carries and drivers rely upon the list in § 396.11?

Section Analysis

In § 392.7, FMCSA proposes adding ''wheels and rims'' and ''emergency equipment'' to the pre-trip list in paragraph (a) in order to harmonize it with the post-trip list in § 396.11(a)(1). Additionally, FMCSA proposes to amend 49 CFR Part 396 by deleting the sentence in § 396.11(b)(2) that reads ''If no defect or deficiency is discovered by or reported to the driver, the report shall so indicate.'' In its place, FMCSA would insert ''The driver of a passenger-carrying CMV must prepare a report even if no defect or deficiency is discovered by or reported to the driver; the drivers of all other commercial motor vehicles are not required to prepare a report if no defect or deficiency is discovered by or reported to the driver.'' FMCSA would also make minor editorial and formatting changes to the remainder of the text of § 396.11(b)(2).

Rulemaking Analyses

Executive Order 12866 (Regulatory Planning and Review) as Supplemented by E.O. 13563 and DOT Regulatory Policies and Procedures

Under E.O. 12866, ''Regulatory Planning and Review'' (issued September 30, 1993, published October 4 at 58 FR 51735), as supplemented by E.O. 13563 (discussed above in the ''Background'' section), and DOT policies and procedures, FMCSA must determine whether a regulatory action is ''significant'' and therefore subject to OMB review. E.O. 12866 defines ''significant regulatory action'' as one likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal government or communities.

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another Agency.

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof.

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the E.O.

FMCSA has determined that this proposed rule would have an annual effect of $100 million or more. The value of the time saved by eliminating the paperwork burden associated with the filing of no-defect DVIRs is approximately $1.7 billion per year. The explanation of how these savings were derived is presented below. The proposed rule is not expected to have any negative safety impacts. If anything, the rule may actually improve safety by ensuring that the relatively few DVIRs that report defects are not lost among the vast majority of those that do not, thereby making it easier for motor carriers to identify vehicles in need of repair. In addition, a no-defect report could be taken as evidence by a new driver of a vehicle that a pre-trip inspection is unnecessary because the previous driver did not note any defects. Hence, no defect reports could provide a false sense of security, tempting drivers to skip the mandatory pre-trip inspection.

The Agency conducted an analysis per the requirements of the Paperwork Reduction Act (PRA) to estimate the reduction in hourly burden that the elimination of DVIRs for non-passenger-carrying operators of CMVs. FMCSA determined that 46.7 million hours of paperwork burden would be eliminated by this proposed rule. The full details of the PRA analysis are included in the ''Paperwork Reduction Act'' section below. Using a labor cost of $36 per hour, (using a base wage of $18.24,[3] fringe benefits of 55 percent [4], and overhead of 27 percent [5]) the Agency valued this time savings at $1.7 billion per year (46.7 million hours saved × $36 per hour). If passenger-carrying CMV drivers were allowed to stop producing no defect DVIRs, an additional 980,000 burden hours would be saved, which can be valued at $35 million per year (980,000 hours saved × $36 per hour). (These annualized figures are the same for both 7 and 3 percent discount rates.)

The Agency's proposed addition of ''wheels and rims'' and ''emergency equipment'' to the items required to be inspected under § 392.7 would make the lists in this section and § 396.11 consistent. The addition of these two items to § 392.7 is expected to impose a de minimis additional burden on drivers performing pre-trip evaluations of equipment, as drivers will be able to readily observe whether these newly added items are in good working order during their review of the items currently in the § 392.7 list (service brakes, including trailer brake connections, parking (hand) brake, steering mechanism, lighting devices and reflectors, tires, horn, windshield wiper or wipers, rear-vision mirror or mirrors, and coupling devices). For example, a driver making a visual examination of tires can hardly avoid examining the wheels and rims at the same time, and, defects on these components are usually fairly obvious. Similarly, while getting into the cab to check the steering mechanism and horn, he or she can easily glance at the dial gauge on the fire extinguisher to determine that it is still fully charged. Other emergency equipment, including warning triangles, flares, or fuses are usually stored in an easy-to-reach location (often under or behind the driver's seat) and are readily checked. These items were added to the inspection list for consistency, and we expect the cost and benefits of these additions to be de minimis.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires Federal agencies to consider the effects of a regulatory action on small business and other small entities and to minimize any significant economic impact. The term ''small entities'' comprises small businesses and not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with a population of less than 50,000.[6]

Accordingly, DOT policy requires an analysis of the impact of all regulations on small entities, and mandates that agencies try to minimize any adverse effects on these entities. Under the Regulatory Flexibility Act, as amended by the Small Business Regulatory

[3] The median hourly wage for heavy truck drivers. See *http://www.bls.gov/oes/current/oes533032.htm.* Accessed March 7, 2013.

[4] The ratio of total fringe benefits to wages and salaries for transportation and warehousing workers. See *http://www.bls.gov/news.release/archives/ecec_06072012.pdf.* Table 10, Employer costs per hour worked for employee compensation and costs as a percent of total compensation: Private industry workers, by industry group, March 2012. Transportation and Warehousing. *http://www.bls.gov/news.release/pdf/ecec.pdf.* Accessed March 7, 2013.

[5] Industry data gathered for the Truck Costing Model developed by the Upper Great Plains Transportation Institute Berwick showed an average cost of $0.107 per mile of CMV operation for management and overhead, and $0.39 per mile for labor, indicating an overhead rate of 27 percent ($0.107 ÷ $0.39). See Farooq. ''Truck Costing Model for Transportation Managers''. Upper Great Plains Transportation Institute, North Dakota State University (2003) accessed on June 18, 2012 at *http://ntl.bts.gov/lib/24000/24200/24223/24223.pdf.* See Appendix A, pp. 42–47.

[6] Regulatory Flexibility Act (5 U.S.C. 601 et seq.), see National Archives at *http://www.archives.gov/federal-register/laws/regulaotry-flexibility/601.html.*

Enforcement Fairness Act of 1996 (SBREFA) (Pub. L. 104–121, 110 Stat. 857), the proposed rule is expected to have a significant economic impact on a substantial number of small entities in the form of cost savings through the elimination 46 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. See 5 U.S.C. 605(b).

FMCSA invites comment from members of the public who believe there will be a significant impact either on small businesses or on governmental jurisdictions with a population of less than 50,000. An Initial Regulatory Flexibility Analysis (IRFA) must include six elements.

Initial Regulatory Flexibility Analysis (IRFA)

(1) A Description of the Reason Why Action by the Agency Is Being Considered

FMCSA proposes to rescind the requirement that commercial motor vehicle (CMV) drivers operating in interstate commerce, except drivers of passenger-carrying CMVs, submit, and motor carriers retain, driver-vehicle inspection reports (DVIR) when the driver has neither found nor been made aware of any vehicle defects or deficiencies (no-defect DVIR). This proposed rule would remove a significant information collection burden without adversely impacting safety. This proposed rule responds, in part, to the President's January 2011 Regulatory Review and Reform initiative. Finally, this proposed rule would harmonize the pre- and post-trip inspection lists.

(2) A Succinct Statement of the Objectives of, and Legal Basis Why Action by the Agency Is Being Considered

The objective of the NPRM is to grant regulatory relief to motor carriers and drivers of all sizes of vehicles currently subject to 49 CFR 396.11, both private and for-hire, with the exception of operators of passenger-carrying CMVs. This proposed rule is based on the authority of the Motor Carrier Act of 1935 (1935 Act) [49 U.S.C. 31502(b)] and the Motor Carrier Safety Act of 1984 (1984 Act) [49 U.S.C. 31136(a)], both of which are broadly discretionary. The rule implements, to some extent, the Administrator's authority under § 31136(a)(1) to ensure that CMVs are maintained, equipped, loaded, and operated safely. The NPRM is also based on the broad recordkeeping and implementation authority of § 31133(a)(8) and (10). As a result, the removal of the obligation to prepare and retain no-defect DVIRs would not compromise drivers' ability to report vehicle problems to the carrier, or relieve carriers of the responsibility to take action.

(3) A Description of and, Where Feasible, an Estimate of the Number of Small Entities to Which the Proposed Rule Would Apply

Generally, motor carriers are currently not required to report their annual revenue to the Agency, but all carriers are required to provide the Agency with the number of power units (PUs) they operate when they apply for operating authority and to update this figure biennially. Because FMCSA does not have direct revenues figures, PUs serve as a proxy to determine the carrier size that would qualify as a small business given the Small Business Administration (SBA) prescribed revenue threshold. In order to produce this estimate, it is necessary to determine the average annual revenue generated by a single PU.

With regards to truck power units (PUs), the Agency determined in the 2003 Hours of Service Rulemaking RIA [7] that a PU produces about $172,000 in revenue annually (adjusted for inflation).[8] This equates to 148 PUs ($25,000,000/$172,000). Thus FMCSA considers motor carriers with 148 PUs or fewer to be a small business for SBA purposes. The results show that 99.1 percent of all carriers with recent activity have 148 PUs or fewer.[9] This amounts to 516,294 [10] interstate freight and passenger carriers that are considered small, with annual receipts of less than $25.5 million. The SBA defines a ''small entity'' in the truck transportation subsector (North American Industry Classification System (NAICS) 484) as an entity with annual revenue of less than $25.5 million (13 CFR 121.201).[11]

(4) A Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule, Including an Estimate of the Classes of Small Entities That Would be Subject to Requirements and the Type of Professional Skills Necessary for Preparation of the Report or Record

This rule would reduce costs on small entities by eliminating a substantial paperwork filing burden. The reduction in this burden is estimated to save the industry 46.7 million hours of driver time with associated monetized savings of $1.7 billion, as explained in the Paperwork Reduction Act section. These benefits would accrue primarily to small carriers that make up the majority of firms and employ the majority of drivers in the industry. The skills for drivers to complete DVIRs are basic reading and writing proficiency skills.

(5) Identification, to the Extent Practicable, of all Relevant Federal Rules Which May Duplicate, Overlap, or Conflict With the Proposed Rule

This proposed rule does not duplicate, overlap, or conflict with any Federal rules. This rule responds in part to the President's January 2012 Regulatory Review and Reform initiative.

(6) A Description of any Significant Alternatives to the Proposed Rules Which Accomplish the Stated Objectives of Applicable Statutes and Which Minimize any Significant Economic Impact of the Proposed Rule on Small Entities

The Agency has concluded that there are no significant alternatives to the proposed rule that would achieve either the value of $1.7 billion in time savings or objectives of this proposal, from the eliminating the paperwork burden. Because small businesses are such a considerable part of the demographic the Agency regulates, providing alternatives to small businesses for non-compliance options is neither feasible nor consistent with public safety.

Assistance for Small Entities

Pursuant to section 213 of SBREFA, FMCSA wants to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking initiative. If the proposed rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance,

[7] Regulatory Analysis for: Hours of Service of Drivers; Driver Rest and Sleep Operations, Final Rule—Federal Motor Carrier Safety Administration. 68 FR 2245—Published April 23, 2003.

[8] See the 2000 TTS blue Book of Trucking Companies; number adjusted to 2008 dollars for inflation.

[9] Motor Carrier Management Information system (MCMIS) as of September 2012.

[10] CMV Fact sheet March 2013. Available at *http://www.fmcsa.dot.gov/documents/facts-research/CMV-Facts.pdf.*

[11] U.S. Small Business Administration Table of small Business Size Standards matched to North American Industry Classification System (NAICS) codes, effective January 1, 2012. See NAICS subsector 484, Truck Transportation available at *http://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

please consult the FMCSA point of contact, Mike Huntley, listed in the **FOR FURTHER INFORMATION CONTACT** section of this proposed rule.

Small businesses may send comments on the actions of Federal employees who enforce or otherwise determine compliance with Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of FMCSA, call 1–888–REG–FAIR (1–888–734–3247).

Unfunded Mandates Reform Act of 1995

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 $143.1 million (which is the value of $100 million in 2010 after adjusting for inflation) or more in any 1 year. Although this proposed rule would not result in such expenditure, FMCSA discusses the effects of this rule elsewhere in this preamble.

National Environmental Policy Act and Clean Air Act

FMCSA analyzed this NPRM for the purpose of the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 et seq.) and determined under its environmental procedures Order 5610.1, published February 24, 2004 (69 FR 9680), that this proposed action does not have any effect on the quality of the environment. Therefore, this NPRM is categorically excluded from further analysis and documentation in an environmental assessment or environmental impact statement under FMCSA Order 5610.1, paragraph 6(aa) of Appendix 2. The Categorical Exclusion under paragraph 6(aa) relates to regulations requiring motor carriers, drivers, and others to ''inspect, repair, and provide maintenance for every CMV used on a public road'', which is the focus of this rulemaking. A Categorical Exclusion determination is available for inspection or copying in the regulations.gov Web site listed under **ADDRESSES**.

In addition to the NEPA requirements to examine impacts on air quality, the Clean Air Act (CAA) as amended (42 U.S.C. 7401 *et seq.*) also requires FMCSA to analyze the potential impact of its actions on air quality and to ensure that FMCSA actions conform to State and local air quality implementation plans. No additional contributions to air emissions are expected from this rule and FMCSA expects the rule to not be subject to the Environmental Protection Agency's General Conformity Rule (40 CFR parts 51 and 93).

FMCSA seeks comment on these determinations.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires FMCSA to consider the impact of paperwork and other information collection burdens imposed on the public. This proposed rule would result in a reduction of burden hours for the ''Inspection, Repair, and Maintenance'' information collection request (ICR), OMB control number 2126–0003. This ICR comprises six individual information collections, each corresponding to a different area of the inspection, repair, and maintenance requirements. This proposed 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), FMSCA 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, the Agency 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. The Agency estimates that 5 percent of DVIRs note defects, and that 95 percent of DVIRs note no defects.

If this proposed rule were to go into effect, 93 percent of the burden associated with DVIRs would 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 would be 2,564,615 hours and 980,123 hours respectively. The table below illustrates how these results were calculated.

TABLE 2—DETAIL OF DVIR PRA CALCULATIONS

Activity	Number of CMVs or CMV combinations	Utilization rate (of 365 calendar days)	Percent of CMVs affected	Total DVIRs (CMVs × utilization rate × percent of CMVs affected × 365)	Burden per DVIR	Total annual hourly burden
Defect DVIRs, All	4,578,250	65	5	54,309,491	170 seconds	2,564,615
No Defect DVIRS, passenger-carrying CMVs.	101,000	65	95	22,764,138	155 seconds	980,123
Total						3,544,738

After this proposed rule becomes effective, defect DVIRs will create 2,564,615 hours of annual burden (4,578,250 CMVs × 65% utilization × 365 days × 5% of CMVs × 170 seconds ÷ 3,600 seconds per hour). The annual hourly burden of no defect DVIRs for non-passenger carrying CMVs is estimated to be 980,123 hours (101,000

CMVs × 65% utilization × 365 days × 95% of CMVs × 155 seconds ÷ 3,600 seconds per hour). The total remaining hourly burden of DVIRs will be 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 $36, is $1.7 billion ((46,669,294 hours × $36 per hour) ÷ 1 billion).

Executive Order 12630 (Taking of Private Property)

This proposed rule would not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Executive Order 12988 (Civil Justice Reform)

This proposed rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

Executive Order 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (April 23, 1997, 62 FR 19885), requires that agencies issuing economically significant rules, which also concern an environmental health or safety risk that an Agency has reason to believe may disproportionately affect children, must include an evaluation of the environmental health and safety effects of the regulation on children. Section 5 of Executive Order 13045 directs an Agency to submit for a covered regulatory action an evaluation of its environmental health or safety effects on children. The FMCSA has preliminarily determined that this proposed rule is not a covered regulatory action as defined under Executive Order 13045. This determination is based on the fact that this proposal would not constitute an environmental health risk or safety risk that would disproportionately affect children.

Executive Order 13132 (Federalism)

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on States or localities. FMCSA has analyzed this proposed rule under that Order and has determined that it does not have implications for federalism.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities do not apply to this program.

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

The FMCSA has analyzed this proposed rule under Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.'' This proposal is not a significant energy action within the meaning of section 4(b) of the Executive Order. This proposal is a procedural action, is not economically significant, and would not have a significant adverse effect on the supply, distribution, or use of energy.

Privacy Impact Analysis

FMCSA conducted a privacy impact assessment of this rule as required by section 522(a)(5) of the FY 2005 Omnibus Appropriations Act, Public Law 108–447, 118 Stat. 3268 (Dec. 8, 2004) [set out as a note to 5 U.S.C. 552a]. The assessment considers any impacts of the rule on the privacy of information in an identifiable form and related matters. FMCSA has determined this rule would have no privacy impacts.

List of Subjects

49 CFR Part 392

Alcohol abuse, Drug abuse, Highway safety, Motor carriers.

49 CFR Part 396

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

For the reasons stated in the preamble, FMCSA proposes to amend title 49 CFR, Code of Federal Regulations, chapter III, to read as follows:

PART 392—DRIVING OF COMMERCIAL MOTOR VEHCILES

■ 1. The authority citation for part 392 continues to read as follows:

Authority: 49 U.S.C. 504, 13902, 31136, 31151, 31502; and 49 CFR 1.87.

■ 2. Revise § 392.7(a) to read as follows:

§ 392.7 Equipment, inspection and use.

(a) No commercial motor vehicle shall be driven unless the driver is satisfied that the following parts and accessories are in good working order, nor shall any driver fail to use or make use of such parts and accessories when and as needed:

Service brakes, including trailer brake connections.

Parking (hand) brake.

Steering mechanism.

Lighting devices and reflectors.

Tires.

Horn.

Windshield wiper or wipers.

Rear-vision mirror or mirrors.

Coupling devices.

Wheels and rims.

Emergency equipment.

* * * * *

PART 396—INSPECTION, REPAIR, AND MAINTENANCE

■ 3. The authority citation for part 396 is revised to read as follows:

Authority: 49 U.S.C. 31133, 31136, 31151, and 31502; and 49 CFR 1.87.

■ 4. Revise § 396.11(b)(2) to read as follows:

§ 396.11 Driver vehicle inspection report(s).

* * * * *

(b) * * *

(2) *Report content.* (i) The report must identify the vehicle and list 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. If a driver operates more than one vehicle during the day, a report must be prepared for each vehicle operated. The driver of a passenger-carrying CMV subject to this regulation must prepare a report even if no defect or deficiency is discovered by or reported to the driver; the drivers of all other commercial motor vehicles are not required to prepare a report if no defect or deficiency is discovered by or reported to the driver.

(ii) The driver must sign the report. On two-driver operations, only one driver needs to sign the driver vehicle inspection report, provided both drivers agree as to the defects or deficiencies identified.

* * * * *

Dated: August 1, 2013.

Anthony R. Foxx,

Secretary.

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