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ISSUE NAME

396.9 - Submission of Repairs from Inspection Reports

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Closed

Policy and Regulatory Affairs Committee

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The NCSHP is requesting that the highlighted section of the FMCSR's below in 396.9 be edited or removed. We have called various states to understand more about this process highlighted below. At this point, during my informal survey no one that we spoke with were following up to know if the vehicle violations listed on the inspection report had been corrected. Furthermore, this mechanism highlighted below has no real way of assisting the roadside inspector in knowing if the violation was corrected and then became broken again before the next inspection. We found during our informal survey of several states that these allied agencies are not using these roadside inspections for any purpose. We also asked if FMCSA uses these signed reports, and the answer was no. Remember, that we all have access to Query Central to view past inspection reports. We also asked the question what if the driver does not turn in the inspection report? What happens then? If the driver does not turn in the report to the motor carrier, then Data-Q's has a mechanism to give the motor carrier a copy of the report. Then we asked the question of what benefit is this mechanism for anyone involved, whether it be enforcement or industry? At this point we cannot see a benefit to anyone as to why this mechanism is in place to return the report signed to the issuing agency. In many cases the motor carrier may not see the report because the driver signs the report and mails the report into the issuing agency.

In summary, the NCSHP would like to request the Policy and Regulatory Committee to consider that the inspection report does not need to be returned to the issuing agency signed by the motor carrier or safety official. With the FMCSA SafeSpec coming on board and the motor carriers having that ability self-certify then this regulation will become obsolete. In addition, many other states that have this process have turned this into a formality for the motor carrier. In many cases the report prints at the agency fax machine and then dumps to a waste basket or is somehow discarded. A lot of allied agencies are sometimes continuing to archive paper inspection reports in filing cabinets that no one is ever going to request to see again.

396.9 Inspection of motor vehicles and intermodal equipment in operation.

(a) Personnel authorized to perform inspections. Every special agent of the FMCSA (as defined in appendix B to this subchapter) is authorized to enter upon and perform inspections of a motor carrier's vehicles in operation and intermodal equipment in operation.

(b) Prescribed inspection report. The Driver Vehicle Examination Report shall be used to record results of motor vehicle inspections and results of intermodal equipment inspections conducted by authorized FMCSA personnel.

(c) Motor vehicles and intermodal equipment declared "out-of-service." (1) Authorized personnel shall declare and mark "out-of-service" any motor vehicle or intermodal equipment which by reason of its mechanical condition or

loading would likely cause an accident or a breakdown. An "'Out-of-Service Vehicle' sticker" shall be used to mark vehicles and intermodal equipment "out-of-service."

(2) No motor carrier or intermodal equipment provider shall require or permit any person to operate nor shall any person operate any motor vehicle or intermodal equipment declared and marked "out-of-service" until all repairs required by the "out-of-service notice" have been satisfactorily completed. The term operate as used in this section shall include towing the vehicle or intermodal equipment, except that vehicles or intermodal equipment marked "out-of-service" may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of an emergency towing vehicle and an "out-of-service" vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the Driver Vehicle Examination Report.

(3) No person shall remove the "Out-of-Service Vehicle" sticker from any motor vehicle or intermodal equipment prior to completion of all repairs required by the "out-of-service notice."

(d) Motor carrier or intermodal equipment provider disposition. (1) The driver of any motor vehicle, including a motor vehicle transporting intermodal equipment, who receives an inspection report shall deliver a copy to both the motor carrier operating the vehicle and the intermodal equipment provider upon his/her arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle or at a facility of the intermodal equipment provider within 24 hours, the driver shall immediately mail, fax, or otherwise transmit the report to the motor carrier and intermodal equipment provider.

(2) Motor carriers and intermodal equipment providers shall examine the report. Violations or defects noted thereon shall be corrected in accordance with § 396.11(a)(3). Repairs of items of intermodal equipment placed out-of-service are also to be documented in the maintenance records for such equipment.

Code of Federal Regulations⁴⁹⁴

(3) Within 15 days following the date of the inspection, the motor carrier or intermodal equipment provider shall—

(i) Certify that all violations noted have been corrected by completing the "Signature of Carrier/Intermodal Equipment Provider Official, Title, and Date Signed" portions of the form; and

(ii) Return the completed roadside inspection form to the issuing agency at the address indicated on the form and retain a copy at the motor carrier's principal place of business, at the intermodal equipment provider's principal place of business, or where the vehicle is housed for 12 months from the date of the inspection.

JUSTIFICATION OR NEED

Our request is to remove this process to aid industry and enforcement in removing the need to return the inspection report to the issuing agency.

REQUEST FOR ACTION

Our request is to remove this process to aid industry and enforcement in removing the need to return the inspection report to the issuing agency.

SUPPORTING DOCUMENTS/PHOTOS

- [396.9-Inspection-of-motor-vehicles-and-intermodal-equipment-in-operation.docx](#)

ACTION TAKEN BY COMMITTEE

The committee reviewed the issue request and agreed to submit a petition because multiple jurisdictions voiced the interest in creating flexibility to allow jurisdictions to decide if and how they want to receive completed roadside inspection form. CVSA petitioned FMCSA on April 2 to amend Title 49 CFR § 396.9(d)(3) to remove the requirement that motor carriers return inspection reports to the issuing agency certifying that all violations noted on the inspection report have been corrected.