

Passenger Carrier Resource Guide

Federal Motor Carrier Safety Administration



U.S. Department of Transportation
Federal Motor Carrier Safety
Administration

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Introduction

U.S. DEPARTMENT OF TRANSPORTATION FEDERAL MOTOR CARRIER SAFETY ADMINISTRATION PASSENGER CARRIER RESOURCE GUIDE

The United States Department of Transportation, Federal Motor Carrier Safety Administration is responsible for the regulatory oversight of the passenger carrier industry. This resource guide, developed by the National Passenger Technical Assistance Group, is intended to be utilized as an aid to assist Federal and State personnel while conducting investigations on passenger carriers. **The information contained in this document is provided as guidance. The Field Operations Training Manual (FOTM) should be consulted as well.**

Chapter 1:

Overview of the Passenger Carrier Industry

As with any other mode of highway transportation, the passenger carrier industry has several distinct types of service. It is important to note that the applicability to the Federal Motor Carrier Safety Regulations (FMCSRs) is very specific to each type of service. This industry overview will provide a general description of each type of service and a summary of the regulatory oversight by the Federal Motor Carrier Safety Administration (FMCSA). The following types of service will be discussed:

- 1a. Intercity, Regular Route
- 1b. Curbside Operators
- 2a. Charter Operations
- 2b. Tour Bus Operations
3. Limousine Operations
4. Van Operations
5. Private Motor Carriers of Passengers
6. School Bus Operations
7. Transit Bus Operations

1a. Intercity, Regular Route

An intercity, regular-route motorcoach operation is a business that provides passenger transportation services to the general public for compensation over specified, predetermined, and published regular routes between cities or terminals. This type of passenger transportation service is sometimes called scheduled service. Regular route service fares are normally collected on an individual basis. The motorcoach industry asserts that more passengers travel by motorcoach than by any other commercial mode.

With the introduction of curbside operators and other discount intercity operations, the industry has seen significant growth in this segment over the past 5 years. Greyhound Lines Inc. is the only nation-wide provider of intercity motorcoach transportation in the United States, with a fleet of more than 1,500 motorcoaches. Approximately 100 motorcoach companies provide regular route service between certain predetermined cities or terminals. Approximately half of all motorcoach industry mileage occurs during regular route service.

Description of Vehicles Typically Used

The primary vehicle used by this type of operation is an over-the-road bus (OTRB), which is commonly called a motorcoach. An OTRB has an elevated passenger deck located over a baggage compartment. Most modern OTRBs are 40 or 45 feet in length and are designed to transport approximately 50 to 55 seated passengers for a long distance. The major OTRB manufacturer in North America is Motor Coach Industries (MCI). Other manufacturers are Prevost Car (Canada), Van Hool (Belgium) and Setra (Germany).

Regulatory Oversight by the Federal Motor Carrier Safety Administration

Intercity, regular-route motorcoach companies operate commercial motor vehicles (per the definitions in 49 CFR Parts 383 and 390) in interstate commerce. They are, therefore, subject to full applicability of the FMCSRs (including the controlled substance and alcohol testing regulations), minimum levels of financial responsibility, insurance filing requirements, and licensing/operating authority requirements.

1b. Curbside Operators

Definition of Curbside Operator

The term “curbside operator” commonly refers to low cost intercity providers that avoid traditional bus terminals in favor of curbside or storefront points of origin typically although not limited to inner-city environments. Initially, the term “curbside operator” referred to companies with ties to Asian communities operating in the Northeast corridor. As this industry sector evolved, traditional carriers such as Greyhound Lines, Inc., and Peter Pan Bus Lines through Bolt Bus, and Coach USA through Megabus entered the Northeast regular route curbside bus market. Most of the growth in this sector is due to the entry of traditional carriers with substantial resources for rapid expansion. As currently used, the term “curbside operator” includes mainstream, traditional carriers as well as other carriers rooted in ethnic beginnings. Curbside operators have expanded well beyond the Northeast corridor and now can be found in many major U.S. cities across the country.

Historical Overview of the Origins of Curbside Operators

Curbside operators originated in the Asian communities in the Northeast. It is believed that it had its earliest beginnings transporting Chinese workers from city to city and eventually grew to become a means of inexpensive intercity transportation catering to the Chinese communities and eventually college students. Prior to 2006, there was violent organized gang activity associated with Chinese curbside operators due to fierce competition among companies. Since 2005, FMCSA has invested significant resources in overseeing the curbside sector. The U.S. House of Representatives held a hearing on curbside bus operations on March 2, 2006.

Corporate Structure

The industry had its beginnings with small individual companies with complex business relationships with one another often resulting in co-mingling of drivers and equipment which has continued as of the date of this resource guide.

2a. Charter Operations

Introduction and General Overview

The number of motorcoach companies is overwhelmingly dominated by charter operators. A charter occurs when a pre-formed group of people (e.g. organization, association, club, school, etc.) hire a motorcoach for their exclusive use. The group usually travels to a selected location for a specific purpose (e.g., sporting events, ski trips, etc.). Charter operations also include excursions to amusement parks such as Walt Disney World. Most charters are for one day, but some last several days. Charter service charges are normally computed and assessed on a vehicle mileage or time of use basis, or a combination thereof.

Almost all motorcoach companies, well over 90 percent, offer charter service. There are about 3,700 to 3,900 for-hire motorcoach companies domiciled in the United States and Canada; about 5 to 10 percent of these companies providing charter service are based in Canada. Motorcoach companies providing charter service are comprised of mostly small businesses. Approximately 90 percent of motorcoach companies operate fewer than 25 buses. Approximately 65 percent operate fewer than 10 buses.

Description of Vehicles Typically Used

The primary vehicle used in charter bus service is an over-the-road bus (OTRB), which is commonly called a motorcoach. For more information about OTRBs, see the respective section for intercity, regular-route motorcoach operations.

Regulatory Oversight by the Federal Motor Carrier Safety Administration

Charter motorcoach companies that operate in interstate commerce are subject to full applicability of the FMCSRs (including the controlled substance and alcohol testing regulations), minimum levels of financial responsibility, insurance filing requirements, and licensing/operating authority requirements.

Some charter motorcoach companies, especially those located in large States, operate in intrastate commerce. From a Federal regulatory standpoint, such companies are only subject to the commercial driver's license standards and the controlled substance and alcohol testing regulations. Most States, however, have intrastate safety standards that are similar to the Federal regulations.

2b. Tour Bus Operations

Introduction and General Overview

A tour is a planned or prearranged trip offered for sale by a motorcoach company or tour company at a fixed price to travelers. A tour is generally a selection of destinations or attractions that has been assembled into a tour package and advertised to the general public. Typically, a tour operator will assemble and advertise a tour and contract with a passenger transportation. FMCSA has no regulatory authority over tour operators. Price usually includes lodging, meals, sightseeing, and passenger transportation. A tour usually involves a set itinerary of places and/or events that the group will attend. Tours typically run for several days and can extend to several weeks. Examples of tour bus operations include fall foliage tours in New England and tours of multiple national parks in the west.

Description of Vehicles Typically Used

The primary vehicle used by this type of operation is an OTRB, which is commonly called a motorcoach. For more information about OTRBs, see the respective section for intercity regular-route motorcoach operations.



Regulatory Oversight by the Federal Motor Carrier Safety Administration

The vast majority of tour bus companies operate OTRBs in interstate commerce. They are, therefore, subject to full applicability of the FMCSRs (including the controlled substance and alcohol testing regulations), minimum levels of financial responsibility, insurance filing requirements, and licensing/operating authority requirements.

Some tour bus companies, especially those located in large States, operate only in intrastate commerce. From a Federal regulatory standpoint, such companies are mainly subject to the commercial driver's license standards, and the controlled substance and alcohol testing regulations. Most States, however, have intrastate safety standards that are similar to the Federal regulations.

3. Limousine Operations

Introduction and General Overview

Limousine companies provide a demand-responsive passenger transportation service for individuals and small groups with small passenger vehicles.

The top revenue sources for limousine companies are weddings, airport transportation, corporate clients, nights on the town, funerals, and hotels/resorts.

Description of Vehicles Typically Used

Sedans outnumber all other types of vehicles as the most used vehicles by limousine and chauffeured transportation companies. Approximately 50% of limousine companies have 1 to 4 vehicles. Approximately 10% have more than 20 vehicles. The average fleet size is 5 to 6 vehicles. Extended stretch limousines such as Escalades, Navigators, or Hummers can be designed or used to transport more than 15 passengers including the driver.

Regulatory Oversight by the Federal Motor Carrier Safety Administration

Limousine companies that exclusively operate vehicles designed to transport 8 or less passengers (including the driver) in interstate commerce are only subject to minimum levels of financial responsibility, the insurance filing requirements, and the licensing/operating authority requirements. Most limousine drivers are not subject to the commercial driver’s license standards, and the controlled substance and alcohol testing regulations because almost all limousines are not commercial motor vehicles (as defined in 49 CFR Part 383). Limousine operations that exclusively operate vehicles designed to transport 8 or less passengers (including the driver) in intrastate commerce are generally not subject to FMCSA regulatory oversight. Limousine companies that operate vehicles designed or used to transport between 9 and 15 passengers (including the driver) in interstate commerce are subject to the FMCSRs (excluding the controlled substance and alcohol testing regulations) when they are directly compensated for such services. For more information about regulatory thresholds for small passenger-carrying vehicles, see the respective section for van operations.

4. Van Operations

Introduction and General Overview

Passenger van service is commonly used in short haul service, typically hotel and airport transfers. Some limousine operators expand their service during a growth phase to include small passenger vans to cater to small groups and corporate clients. There are van operations that do provide intercity service over long distances.

Description of Vehicles Typically Used

Vans are small passenger-carrying vehicles that are designed to transport 9–15 passengers, including the driver.

Regulatory Oversight by the Federal Motor Carrier Safety Administration

Vans that transport 8 or less passengers (including the driver) in interstate commerce (except taxi cabs) are only subject to minimum levels of financial responsibility, the insurance filing requirements, and the licensing/operating authority requirements. The vast majority of van drivers are not subject to the commercial driver’s license standards, and the controlled substance and alcohol testing regulations because most vans are not commercial motor vehicles (as defined in 49 CFR Part 383). Van operations that transport passengers in intrastate commerce are generally not subject to FMCSA regulatory oversight.

For-hire carriers that operate vehicles designed or used to transport more than 8 passengers (including the driver) for direct compensation in interstate commerce are subject to the full applicability of the FMCSRs with the exception of controlled substances and alcohol testing and CDL requirements.

Direct compensation means payment made to the motor carrier by the passengers or the individual acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services (see 49 CFR §390.5).

5. Private Motor Carriers of Passengers

Introduction and General Overview

Private Motor Carriers of Passengers (PMCPs) fall into one of two groups: Business or Non-Business. Business PMCPs provide private, interstate transportation of passengers in the furtherance of a commercial enterprise. For PMCPs to be subject, the vehicle must be designed or used to transport more than 15 passengers, including the driver, **unless the vehicle otherwise meets the definition of a commercial motor vehicle in 49 CFR §390.5.**

Examples of Business PMCPs include companies that use buses to transport their own employees, and entertainers who use their buses for transportation to a show or performance location. Commercial businesses that provide transportation services for the general public for compensation are for-hire operations and are not Business PMCPs.

Non-Business PMCPs provide private, interstate transportation of passengers that is not in the furtherance of a commercial purpose. Examples of Non-Business PMCPs include churches, scout groups, and other charitable organizations that own or lease buses for the private transportation of their respective group. Churches, charities, or private associations that offer passenger transportation services to the general public for compensation are for-hire operations and are not Non-Business PMCPs.

Description of Vehicles Typically Used

The type, age, and condition of vehicles used by PMCPs vary quite significantly from entity to entity. Business PMCPs that transport their own employees may operate an over-the-road bus (OTRB), minibus, or a converted school bus depending on the company's size, resources, and



frequency of passenger transportation. Entertainers may operate vehicles ranging from luxury, customized OTRBs to converted trucks or school buses depending upon resources and special needs. Churches, charities, clubs, and private associations use a variety of buses such as OTRBs, minibuses, and converted school buses.

Regulatory Oversight by the Federal Motor Carrier Safety Administration

PMCPs often operate buses that meet the definition of a commercial motor vehicle as defined in 49 CFR Part 383. PMCPs that operate such vehicles are subject to different regulatory oversight depending upon whether the motor carrier is categorized as Business or Non-Business.

Business PMCPs are subject to the following standards:

- Commercial Driver's License
- Controlled Substances and Alcohol Testing
- Safety Regulations contained in 49 CFR Parts 390 through 396 (except the road test requirements of 49 CFR Part 391)

Non-Business PMCPs are subject to the following standards:

- Commercial Driver's License
- Controlled Substances and Alcohol Testing
- Safety Regulations contained in 49 CFR Parts 390 through 396 (except all recordkeeping requirements within these Parts, and the road test requirements of 49 CFR Part 391)

All PMCPs (Business and Non-Business) are exempt from the fuel system requirements of 49 CFR §393.67, provided the vehicle fuel system is maintained to the original manufacturer's standards.

6. School Bus Operations

Introduction and General Overview

A school bus operation transports students and/or school personnel to and from school or school-related events. The role of the Federal government in school bus transportation is not as great as the State governments. Most regulatory oversight occurs at the State level.

School bus operations are distinguished from other types of passenger transportation operations because of their highly specialized service. For the most part, the operation of a school bus entails the transportation of school children and/or school personnel from home to school and school to home. This type of transportation generally involves the regularly scheduled operation of school buses into and through residential, rural, and business areas, which collectively encompass a relatively small geographic area within the confines of a single State. The routes are, in most circumstances, predetermined and of a “stop and go” nature during specific morning and afternoon hours.

There are secondary aspects of some school bus operations that are outside of the scope of transportation between home and school such as the transportation of a school team to a competitive athletic event.

The transportation of school children to school is either performed by the local public school system, a for-hire bus operation under contract to the local public school system, or a private school. Approximately one-third of all school buses are operated by contractors. Approximately 450,000 yellow school buses provide transportation service daily nationwide. Approximately half of all kindergarten to 12th grade students in the U.S. ride yellow school buses.

Description of Vehicles Typically Used

A school bus is a bus manufactured to Federal Motor Vehicle Safety Standard (FMVSS) 571 of the National Highway Traffic Safety Administration. Most school buses have a yellow body installed upon a chassis with an elevated passenger deck, an engine entirely in front of the windshield, and a single entrance door behind the front wheels. Some



large school buses look more like a transit bus with the engine mounted entirely behind the windshield (in the front, middle, or rear of the bus), and a single entrance door ahead of the front wheels. Most small school buses have a conversion or body constructed upon a van-type chassis, but they do meet FMVSS 571.

Regulatory Oversight by the Federal Motor Carrier Safety Administration

School bus drivers are subject to the commercial driver’s license requirements in 49 CFR Part 383 because most medium to large school buses meet the definition of a CMV as defined in such part

(i.e., designed to transport 16 or more passengers, including the driver). The employers of school bus drivers (who are required to hold a commercial driver’s license) are required to have a controlled substances and alcohol testing program for their drivers. Nongovernmental motor carriers that transport school children in interstate commerce, other than from home-to-school and from school-to-home, are currently subject to the applicable provisions of the FMCSRs such as the driver qualification standards, driver hours of service standards, etc.

The FMCSRs presently have two exceptions to applicability that affect school bus operations. The first exception in Section 390.3(f)(1) exempts school bus operations that transport only school children and/or school personnel from home to school and from school to home. The second exception in Section 390.3(f)(2) makes transportation by a government entity exempt from the FMCSRs. Some school bus operations are subject to the FMCSRs. One example is where a private school transports

passengers in a commercial motor vehicle (CMV) across a State boundary line, and outside the scope of home to school and school to home. Another example is a for-hire school bus contractor that transports school children and/or school personnel across a State boundary line, and outside the scope of home to school and school to home.

7. Transit Bus Operations

Introduction and General Overview

Transit bus operations are multiple-occupancy vehicle services designed to transport passengers on local and regional routes, usually corner to corner. These services are usually performed by a public mass transit agency or by a bus company under contract to a public transportation agency. In some cases, transit agencies are funded through grants provided by the Federal Transit Administration. Transit bus ridership is highest in large cities. Transportation to and from the workplace is the most common reason for riding a transit bus.

Description of Vehicles Typically Used

The vehicle typically used in transit bus operations is commonly known as a “low floor” bus in contrast to an over-the-road bus or motorcoach that has space underneath the passenger compartment for luggage, however OTRBs are often used in commuter service from the suburban areas into large cities.

Regulatory Oversight by the Federal Motor Carrier Safety Administration

Transit bus drivers are subject to the commercial driver’s license requirements in 49 CFR Part 383 because transit buses meet the definition of a commercial motor vehicle as defined in such part (i.e., designed to transport 16 or more passengers, including the driver). Any driver who is required to hold a commercial driver’s license, is subject to mandatory employer conducted controlled substances and alcohol testing. The majority of transit bus operations are not subject to additional FMCSA laws or regulations because (1) most transit buses are government operated, and transportation by a government entity is exempt from the FMCSRs, and (2) most transit buses do not transport passengers in interstate commerce. However, government agencies that transport passengers for-hire with a transit bus in interstate commerce are generally subject to the operating authority requirements unless such transportation is wholly within a commercial zone. In addition, interstate for-hire transit bus transportation by a public or private entity is subject to the financial responsibility requirements in 49 CFR Part 387. However, any passenger carrier that receives a Federal Transit Administration grant under 49 U.S.C. 5307, 5310, or 5311 is permitted to maintain a level of financial responsibility/insurance at the highest level required by any State in which the transit service is provided instead of the Federal level in 49 CFR Section 387.33.

Chapter 2:

Definitions and General Applicability (Part 390) for Motor Carriers of Passengers

Applicability

The first step in determining applicability is to determine whether the vehicle(s) meets the definition of a commercial motor vehicle as defined in 49 CFR §390.5:

Commercial motor vehicle means any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle—

1. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
2. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or
3. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
4. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.

REMEMBER:

IF THE PASSENGER-CARRYING VEHICLE MEETS DEFINITION #1 (10,001 LBS OR MORE), IT HAS MET THE DEFINITION OF A CMV, REGARDLESS OF THE NUMBER OF PASSENGERS THAT IT IS DESIGNED OR USED TO TRANSPORT!

Once the use of a commercial motor vehicle has been established, the exceptions to the various types of passenger operations should be reviewed.

Exceptions

49 CFR §390.3(f)

The following passenger operations are found under 49 CFR §390.3(f) exceptions. For the purpose of this resource guide, examples are in italics for clarification purposes.

(f)(1) All school bus operations as defined in 49 CFR §390.5 (School bus operation means the use of a school bus to transport school children and/or school personnel from home to school and from school to home)

This exception would include school bus operations provided by school bus contractors or private schools that operate their own vehicle to transport students from home to school and school to home only.

(f)(2) Transportation performed by the Federal government, a State, or any political subdivision of a State, or an agency established under a compact between States that has been approved by Congress of the United States.

This exception would include public school districts also known as LEAs (local educational agencies) and public transit agencies. Governmental entities performing for-hire transportation operations are exempt from Parts 390 through 396 of the Federal Motor Carrier Safety Regulations (FMCSRs). This exception would not include contractors hired by a government entity.

(f)(6)(i) The operation of commercial motor vehicles designed or used to transport between 9–15 passengers (including the driver), not for direct compensation, provided the vehicle does not otherwise meet the definition of a commercial motor vehicle, except that motor carriers operating such vehicles are required to comply with §§390.15, 390.19, and 390.21(a) and (b)(2).

Examples of this type of operation would be white water rafting companies or hotel shuttle operations using 9–15 passenger vehicles interstate. These operators are indirectly compensated for providing transportation incidental to their main business (see definition of “direct compensation” 390.5). Motor carriers that conduct these operations are required to maintain an accident register, file a form MCS-150, and mark their vehicles with their USDOT number only (not legal name). Otherwise, they are excepted from the remainder of the FMCSRs. However, they are “for-hire” and required to obtain operating authority to conduct interstate operations.

Defining the Different Types of Passenger Operations

For-Hire Motor Carriers of Passengers

Three factors determine if a motor carrier of passengers is for-hire.

1. The motor carrier provides interstate transportation of passengers for a commercial purpose.
2. The motor carrier is compensated, either directly or indirectly, for the transportation service provided.
3. The transportation service is generally available to the public at large.

All three of the above factors must be present before a motor carrier of passengers is classified as for-hire. If any of the three factors are missing, the motor carrier of passengers would be classified as a business or non-business private motor carrier of passengers. Governmental entities such as public transit agencies or school districts can conduct for-hire operations.

However, it is important to note that even though they may hold themselves out for-hire to the general public, they remain exempt from the FMCSRs per 49 CFR §390.3(f)(2) (except Parts 382 and 383).

Passenger carriers which are classified as for-hire are subject to the entire body of the FMCSRs, including the minimum levels of financial responsibility in Part 387.

Examples of For-Hire Transportation of Passengers

Intercity Service. A bus company offers daily service between Chicago, IL and Detroit, MI for a fee.

1. The motor carrier of passengers provides interstate transportation of passengers in a commercial motor vehicle for a commercial purpose;
2. The motor carrier of passengers is compensated for the passenger transportation service (in this case, the compensation is direct); and
3. The transportation is available to the public at large or anyone who wants to travel from Chicago to Detroit.

Charter Service. A motor carrier of passengers provides transportation of a tour group from Pennsylvania to various attractions in Washington, D.C. and Virginia for a fee.

1. The motor carrier of passengers provides interstate transportation of passengers in a commercial motor vehicle for a commercial purpose;
2. The motor carrier of passengers is compensated for the passenger transportation service (in this case, the compensation is direct); and
3. The transportation is available to the public at large or anyone who wants to take the tour.

Hotel Courtesy Bus Service. A hotel in Cincinnati, OH picks passengers up at the Greater Cincinnati Airport in Kentucky and provides transportation, via the hotel’s bus, to the hotel in Cincinnati, OH.



Non-business Private Motor Carriers of Passengers (Non-Business PMCPs)

Non-Business PMCPs provide transportation of passengers that is **not** in the furtherance of a commercial purpose in a vehicle designed or used to transport more than 15 passengers, including the driver. The transportation is not available to the public at large. Examples of a Non-Business PMCP are: churches, civic organizations, scout groups, and charitable organizations that may purchase or lease buses for the transportation of their respective groups.

Note: When a church or other charitable organization offers charter bus service to the general public for a fee, it is operating as a for-hire carrier.

The chart below summarizes the applicability of the FMCSRs to Non-Business PMCPs.

49 CFR Topic	Applicable
Part 382 Drug & Alcohol Testing	Yes
Part 383 CDL	Yes
Part 385 Safety Fitness Procedures	No
Part 387 Insurance	No
Part 390 General Applicability	Yes ^{*1,2}
Part 391 Qualifications of Drivers	Yes ^{*2,3}
Part 392 Driving of Motor Vehicles	Yes
Part 393 Parts & Accessories	Yes ^{*4}
Part 395 Hours-of-Service	Yes ^{*2}
Part 396 Inspection, Repair, and Maintenance	Yes ^{*2}

1. The hotel provides interstate transportation of passengers in a commercial motor vehicle for a commercial purpose;
2. The hotel is indirectly compensated for the passenger transportation through the hotel room charge; and
3. The transportation is available to anyone who wishes to stay at the hotel.

Canoe Rental Company Service. A canoe rental company transports patrons and rented canoes to the river.

1. The canoe rental company provides interstate transportation of passengers in a commercial motor vehicle for a commercial purpose;
2. The canoe rental company is indirectly compensated for the passenger transportation service through the fee charged; and
3. The transportation is available to the public at large or anyone who wishes to rent a canoe.

^{*1.} Non-Business PMCPs **are** subject to the marking requirements in Section 390.21.

^{*2.} Non-Business PMCPs are not subject to the Financial Responsibility requirements of Part 387; Subpart C of Part 391 (background and character), the road test requirements of Part 391; and **all paperwork requirements** of Parts 390, 391, 395 and 396.

^{*3.} Non-Business PMCPs drivers are subject to the minimum Physical Qualification standards of Section 391.41. However, Section 391.68 exempts such drivers from having to be medically examined and certified.

^{*4.} Non-Business PMCPs **are exempt** from the fuel system requirements of Section 393.67, provided the vehicle fuel systems have been maintained and meet the original manufacturer's standards.

Business Private Motor Carriers of Passengers (Business PMCPs)

Business PMCPs provide transportation of passengers for a commercial purpose, but is not available to the public at large. Examples include companies that use buses to transport their own employees, and professional musicians who use buses for concert tours.

Note: *Commercial businesses, such as white water rafting operations that provide passenger transportation services to the public at large are not Business PMCPs. They are for-hire motor carriers of passengers that are subject to the FMCSRs.*

The chart below summarizes the applicability of the FMCSRs to Business PMCPs.

49 CFR Topic		Applicable
Part 382	Drug & Alcohol Testing	Yes
Part 383	Commercial Driver's License	Yes
Part 387	Financial Responsibility	No
Part 390	General Applicability & Definitions	Yes
Part 391	Qualifications of Drivers	Yes *1
Part 392	Driving of Motor Vehicles	Yes
Part 393	Parts & Accessories	Yes *2
Part 395	Hours-of-Service	Yes
Part 396	Inspection, Repair, and Maintenance	Yes
Part 396	Inspection, Repair, and Maintenance	Yes *2

*1. *Business PMCPs are exempt from the road test requirements of Part 391.*

*2. *Business PMCPs are exempt from the fuel system requirements of Section 393.67, provided the vehicle's fuel systems have been maintained and meet the original manufacturer's standards.*

*3. *Business PMCPs are subject to safety ratings and the consequences of receiving an unsatisfactory safety rating (45-Day Out-of-Service Notice).*

Small Passenger-Carrying Commercial Motor Vehicles

The FMCSRs apply to motor carriers operating commercial motor vehicles (CMVs), designed or used to transport 9–15 passengers (including the driver), in interstate commerce when they are directly compensated. Motor carriers operating such vehicles in this manner are subject to the same regulations as interstate motorcoach operations with the exception of the commercial driver's license regulations, and the controlled substances and alcohol testing regulations.

What is the meaning of direct compensation?

Direct compensation means payment made to the motor carrier by the passengers or an individual acting on behalf of the passengers for the transportation services provided, and not included in a total package charge or other assessment for highway transportation services.

Are the operators of small passenger-carrying CMVs subject to the FMCSA's financial responsibility and operating authority requirements?

The financial responsibility (49 CFR Part 387) and operating authority (49 CFR Part 365) requirements are applicable to for-hire motor carriers of passengers operating vehicles designed to transport less than 16 passengers, with certain exceptions. The exceptions are based upon statute [49 U.S.C. 31138(e)(1) and (3)]. Subpart B of Part 387 requires a minimum of \$1.5 million in public liability coverage for the operation of vehicles with a seating capacity of 15 passengers or less, unless the vehicles fall into one of the exempt categories. Part 365 requires for-hire motor carriers to obtain operating authority and subpart C of Part 387 requires them to file proof of financial responsibility.

Would the drivers be subject to the commercial driver's license, controlled substances and alcohol testing rules?

The commercial driver's license regulations and the controlled substances and alcohol testing requirements are not applicable to operators of small passenger-carrying CMVs that are designed or used to transport less than 16 passengers, including the driver.

School Bus Operations

School bus operations entail the transportation of school children and/or school personnel from home to school and from school to home as defined in Section 390.5. The transportation of school children is either performed by the local public school system, a private school bus company under contract to the local public school system, or a private school.

Specific Exemptions

Per Section 390.3(f)(1), a school bus contractor that transports only school children and/or school personnel from home to school and from school to home is exempted from the FMCSRs. Per Section 390.3(f)(2), any transportation conducted by a governmental entity such as a school district is exempted from the FMCSRs. School bus operations by government are not exempt from Parts 382 and 383.

Other School Activities

When a non-governmental motor carrier transports children to school-related functions such as sporting events, class trips, etc., and operates across State lines, the operation is for-hire and must be conducted in accordance with the FMCSRs. Similarly, when a school bus contractor holds themselves out for hire to the general public, those interstate operations must also be conducted in accordance with the FMCSRs.



Chapter 3:

Special Topics Unique to Passenger Operations

1. Transportation, Incidental to Travel by Other Modes (i.e., Airport Service, Cruise Lines)

- Q) Is a motor carrier of passengers who exclusively provides airport service, yet does not cross State lines required to obtain interstate authority?
- A) No, these regulations are only applicable to motor carriers of property (see Sections 376.1 and 376.2, definition of authorized carrier). There are no regulations governing the leasing of equipment between motor carriers of passengers. However, the use of leases is a common industry practice.
- A) 49 CFR Section 372.117 specifically addresses this issue. If the transportation is performed within the scope of this regulation, the carrier need not obtain interstate authority. Essentially, the transportation must be within a 25-mile radius of the boundary of the airport.

2. Brokerage

- Q) Is a broker who arranges or offers to arrange the transportation of passengers by motor vehicle for compensation required to obtain broker authority?
- A) No. Brokerage of passenger transportation is not regulated. Only brokers of property are regulated (see 49 CFR Sections 371.1 and 372.101).

3. Lease and Interchange of Vehicles

- Q) Are the leasing regulations found in 49 CFR Part 376 applicable to motor carriers of passengers?

4. Interline Agreements

- Q) What is an interline agreement?
- A) Interline agreements are written contracts that allow for participating carriers to operate in the same terminal facilities at various locations, sell through tickets to passengers and provide for the equitable distribution of revenues for all participating carriers. Interline agreements only involve motor carriers of passengers providing scheduled service. Typically, one carrier will enter into an interline agreement with another carrier to perform the transportation for a specified portion of a long distance thru-ticketed route. In these instances, the operation of Carrier A's vehicle will be assumed by Carrier B with whom there is an interline agreement for that portion of the route. The passengers along with their luggage will not be inconvenienced in that they remain on the originally boarded vehicle. The operation of the vehicle will once again be assumed by Carrier A once the agreed upon leg of the route has been completed by Carrier B. Note that Carrier B is the motor carrier for its portion of the trip even though their driver operates Carrier A's motorcoach.

5. Subcontracting

A common industry practice also known as “farming out” occurs when a motor carrier of passengers has more business than they have drivers or equipment to perform the transportation that was contracted for.

In this type of arrangement, the primary carrier enters into a contractual or verbal agreement with a secondary motor carrier to perform transportation for an agreed upon price. This applies to a single bus move in which the primary carrier gives the job outright to another carrier, or a multi-bus move where the primary carrier needs additional buses to perform the transportation in addition to their own equipment. The motor carrier or tour operator can offer this trip to another carrier and receive a commission for referring the trip to the other carrier. Unlike brokerage of property, there are NO regulations that govern the arranging (brokerage) of passenger transportation.

Determining the Motor Carrier In Subcontracted Situations

It is important to note that in the above scenario, it is common to assume that the primary carrier is the carrier responsible for the transportation performed by the secondary carrier. However, this is not always the case. To the contrary, the primary and secondary carriers could each be held responsible for their transportation incidental to the trip. The fact that the primary carrier contracts with and receives direct payment for the transportation from the customer and in-turn pays the secondary carrier is not a stand-alone indicator of responsibility for compliance. It is incumbent upon the investigator to make the determination based on the definition of a motor carrier found in §390.5 and a preponderance of evidence gathered at the time of investigation. It is important to note that each instance must be evaluated on its own merits, and in light of the collective evidence available at the time of the investigation.

Factors to consider:

1. Did the primary carrier have any responsibility with regard to assigning the driver and equipment used by the secondary carrier? In the definitions found in §390.5, a motor carrier

is defined in part as “*responsible for hiring, supervising, training, assigning, or dispatching of drivers ...*” For example, let’s consider a similar scenario from the trucking perspective. When a motor carrier of property uses their own drivers and fleet for local operations, but pays an outside carrier for the long-haul trips, do they have any responsibility for the outside carrier’s compliance? In general, and barring any specific lease agreement, the answer is no because they merely contact the outside carrier to request a truck and driver at a particular location to deliver a load for an agreed upon price. They do not have any control over the driver and/or equipment assigned. This is the same as when the primary carrier of passengers arranges for the secondary carrier to have a bus and driver at a particular location to take the group to a specified destination for one of their customers. The primary carrier only provides the trip information such as pick-up location and time, and destination. It is up to the secondary carrier to assign the driver and equipment and provide the transportation.

2. What written documentation between the primary and secondary carrier is in evidence? Is there any documentation that would support holding the primary carrier responsible for the secondary carrier, i.e., insurance coverage, regulatory compliance, etc.?
3. What written documentation is in evidence between the primary carrier and the customer? Is there any reference in the contract that would hold the primary carrier responsible?
4. Is the secondary carrier authorized to conduct interstate operations and are all required insurance filings in place? This can be a consideration to be taken into account when weighing a preponderance of the evidence in determining the responsible motor carrier.
5. Concerning the secondary motor carrier, who is paying for the driver that day? Which motor carrier’s name appears on the driver’s record of duty status?

6. Is there a written lease agreement that ties the primary carrier to the secondary carrier? (Leasing regulations only govern leases between property carriers, and not passenger carriers. However, leases between passenger carriers do exist.)

6. Notice of Safety Rating

Passenger carrier that have been the subject of an investigation will receive a safety fitness rating of “Satisfactory,” “Conditional,” or “Unsatisfactory.” A motor carrier of passengers that receives an “Unsatisfactory” safety rating shall have 45 calendar days from the date of official notification, to improve such safety rating to “Conditional” or “Satisfactory.” After the last day of the 45 day period, and until notification is issued of either a “Conditional” or “Satisfactory” safety rating, the carrier shall be prohibited from transporting passengers in interstate commerce, by the issuance of an Out-of-Service Order (OOS).

Investigators should refer to the Field Operations Training Manual (FOTM) for required procedures.

7. Americans with Disabilities Act (ADA)

Overview

This section of the passenger carrier resource guide provides a general overview of the U.S. Department of Transportation’s (DOT) requirements for over-the-road buses (OTRBs) under DOT’s *Americans with Disability Act* (ADA) regulations. Because the information below provides only a summary, DOT’s actual ADA regulations—regarding reporting and other ADA-mandated requirements—should be reviewed for specific legal requirements (see 49 CFR Part 37, subpart H). In general, DOT’s ADA regulations ensure accessible, timely OTRB service for passengers with disabilities, including wheelchair users. All complaints regarding an ADA related matter must be forwarded to the Commercial Passenger Carrier Safety Division for guidance prior to initiating an investigation.

General Applicability

The DOT’s ADA regulations located in 49 CFR Part 37, Subpart H apply to OTRBs. Such regulations apply to private entities that are primarily in the business of transporting people, whose operations affect commerce, and that provide OTRB service. An OTRB is a bus characterized by an elevated passenger deck over a baggage compartment. The terms OTRB and motorcoach are synonymous. No exemptions to such regulations exist based upon size of the OTRB company’s fleet or the frequency of requests for accessible bus service. However, different regulations apply to an OTRB company depending upon whether it is large or small (determined by the amount of gross annual transportation revenues) or whether it provides fixed route service, demand responsive service, or mixed service. In 2011, the revenue threshold for being a large company is \$8.7 million. This threshold is adjusted annually for inflation. The terms “demand responsive” and “charter” are synonymous. Refer to Chapter 7 for ADA related definitions. Alternatives for regulatory compliance exist for small OTRB companies.



General Equipment and Service Requirements

If you are a fixed route OTRB company, you must ensure that: (1) each new OTRB that you purchase or lease is accessible; (2) half your fleet consists of accessible buses by October 2006; and (3) all of your fleet consists of accessible buses by October 2012. Until the fleet of a fixed route OTRB company becomes fully accessible, it must provide accessible OTRB service to passengers with disabilities on a 48-hour advance notice basis. If an individual with a disability does not provide 48-hour advance notice to the OTRB company, the company must nevertheless provide accessible OTRB service if it can do so by making a reasonable effort.

If you are a demand responsive OTRB company, you must provide service in an accessible bus to passengers with disabilities on a 48-hour advance notice basis. If you are a mixed service OTRB company, you must meet the requirements under the rule for both fixed route and demand responsive segments of your service.

Demand responsive OTRB companies are not required to own any accessible OTRBs. Such companies, however, are required to provide accessible OTRB service in response to a request from a disabled passenger. This performance based requirement means demand responsive OTRB companies must obtain the use of an accessible OTRB through subcontracting or other means when necessary. Compliance is not achieved by an OTRB company that owns no accessible buses and simply refers a request by an individual with a disability for an accessible bus to another company that owns accessible OTRBs.

Alternatives for Small OTRB Companies

If you are a small fixed route OTRB company, as an alternative to the general rule, you can choose to (1) ensure each new OTRB that you purchase is accessible or (2) provide equivalent service to passengers with disabilities. There is no deadline by which part or all of your bus fleet is accessible. Your fleet will become fully accessible when all inaccessible buses are replaced with new accessible buses. Before your fleet becomes fully accessible, you can choose to (1) provide service in an accessible bus to passengers with disabilities

on a 48-hour advance notice basis or (2) provide equivalent service.

If you are a small demand responsive OTRB company, you must provide accessible service to passengers with disabilities on a 48-hour advance notice basis. However, you are not required to fundamentally alter your reservation practices or displace other passengers in order to meet these requirements.

If you are a small mixed service OTRB company, you can meet the alternatives to the general rule for both small fixed route OTRB companies and small demand responsive OTRB companies by providing accessible service within 48 hours. Doing so allows you to comply with one set of requirements for all services that you provide.

Recordkeeping and Reporting Requirements

All OTRB companies are required to document all individual requests for accessible OTRB service that they receive by completing a Service Request Form. In addition to providing a copy of the completed Service Request Form to the passenger, OTRB companies must retain a copy for five years.

DOT's ADA reporting regulations require OTRB companies to submit two or three types of reports annually. Each annual report covers the time period from October 1st of the prior calendar year through September 30th of the calendar year when the report is submitted. All reports are due on the last Monday of every October. Demand responsive OTRB companies are required to submit two reports and fixed route OTRB companies are required to submit the same two reports and one additional report. All required reports must be submitted to the FMCSA in Washington, D.C.

OTRB companies must also submit a summary of all individual requests they receive for accessible OTRB service in a given 12-month reporting period. OTRB companies must also submit OTRB acquisition and lease data to the FMCSA annually. Only fixed route OTRB companies must submit an annual lift use summary report summarizing the number of passengers with disabilities who used the lift to board accessible buses in a given 12-month reporting period.

8. Passenger Carrier Regulations in Part 374

- **Smoking**—Passengers are prohibited from smoking (including the driver) on scheduled (regular-route) or special service operations (49 CFR Section 374.201).
- **Baggage**—The regulations applying to passenger baggage service and claims can be found in 49 CFR Sections 374.307 and 374.401.

Equipment 49 CFR, Section 374.313

- **Temperature Control**—Carriers shall maintain reasonable temperature on each bus (except in commuter service).
- **Restrooms**—Each bus seating more than 14 passengers (except in commuter service) shall have a clean, regularly maintained restroom, free of offensive odor. A bus may be operated without a restroom if it makes reasonable rest stops.
- **Bus Servicing**—Each bus shall be kept clean, with all required items in good working order.

9. Investigations and New Entrant Audits on Non-Business PMCPs

Non-Business PMCPs are not subject to the Safety Fitness Procedures in Part 385, including the New Entrant Safety Assurance Program. Therefore, Safety Audits are not conducted on Non-Business PMCPs.

10. Passenger Carriers that Receive a Federal Transit Administration Grant

Federal Transit Administration (FTA) Grantees operating interstate for-hire passenger carrier services are subject to a required minimum level of financial responsibility, even though that amount differs from the “schedule of limits” provided under 49 CFR Section 387.33. For FTA grantees providing interstate, for-hire, transit service operations funded by grants under 49 USC 5307 (urbanized public transit service in geographic areas with a population of 200 thousand or greater), 5310 (public

transit service for the elderly and persons with disabilities), or 5311 (public transit service in non-urbanized areas), or carriers that contract to provide transportation service funded in whole or in part by such grant funds, the general Federal insurance requirement of \$1.5 million or \$5 million (based upon designed seating capacity), does not apply. All FTA grantees providing interstate, for-hire, transit service operations funded by grants under 49 USC 5307, 5310, or 5311, or carriers that contract to provide such transportation service funded in whole or in part by such grant funds are required to maintain the highest level of insurance required by any of the States in which they operate, as their required minimum level of financial responsibility.

FTA grantees with interstate transit services are not relieved of their obligation to register with FMCSA and obtain operating authority as required of all interstate for-hire carriers under 49 USC 13902. FTA grantees are not relieved of their obligation under 49 USC 13906 to file with FMCSA evidence of insurance under 49 CFR Part 387 as a condition of registration. FTA grantees are not relieved of any applicable requirements within the Federal Motor Carrier Safety Regulations in 49 CFR Parts 390 to 396.

Federal and State enforcement officials should use FMCSA’s Licensing and Insurance database (L&I) to determine compliance with the required minimum level of financial responsibility. Compare “*BIPD Insurance Required*” against “*BIPD Insurance on File*.” “BIPD” under Insurance Type stands for Bodily Injury and Property Damage. If the amount of BIPD insurance on file is less than the amount of BIPD insurance required, the FTA grantee has not complied with its minimum required level of financial responsibility. If the FTA grantee is operating in a State that requires a higher amount of insurance than the value listed under “*BIPD Insurance on File*,” contact the Commercial Enforcement Division in FMCSA Headquarters about this matter.

Chapter 4:

Investigation Guidelines

This chapter is designed to assist the safety investigator in conducting an investigation on a motor carrier of passengers. It will highlight unique aspects of applying the Federal Motor Carrier Safety Regulations (FMCSRs) to a passenger carrier operation as well as identify unique carrier documents and operating characteristics utilized by the passenger carrier industry as opposed to property carriers.

Part 382—Drug and Alcohol Testing

Applicability

All drivers subject to Part 383, Commercial Driver's License Standards, are subject to the Controlled Substance and Alcohol Testing regulations in Part 382. Both Business and Non-Business PMCPs as well as governmental entities are not excluded from the testing or recordkeeping requirements of Part 382.

An Important Exception!

Upon initiating the investigation, the investigator should determine if the motor carrier is a Federal Transit Administration (FTA) grantee. There is an exception in Section 382.103(d)(1) that exempts motor carriers from Part 382 for those drivers who are subject to testing under 49 CFR Part 655 (FTA). The investigator must separate those drivers assigned to FTA subsidized routes as the testing requirements for those drivers under Part 655 take precedence. For informational purposes, testing under Part 655 includes non-CDL employees such as bus cleaners and non-CDL mechanics in the random testing program as well as different post-accident testing requirements. Carriers that co-mingle drivers that are assigned FTA routes as well as charters and other work that does not fall under this exception

must conduct random controlled substances testing at the 50 percent annual rate under Part 382. This annual rate may adjust to 25 percent or 10 percent as prescribed in 49 CFR Section 382.305.

Driver Rosters

Due to the seasonal nature of their business, passenger carriers tend to utilize part-time and intermittent/casual drivers on a more frequent basis than other types of motor carrier operations. The investigator should pay particular attention to ensure that all drivers are participating in a controlled substance and alcohol-testing program.

Random Testing

With regard to the random testing requirements, the investigator must be sure to take into account the seasonal nature of passenger transportation. This will cause the driver roster to fluctuate and will have an effect on determining the average number of driver positions. Refer to the Field Operations Training Manual (FOTM) for the correct procedure to determine the average number of driver positions. When conducting CRs on school bus operations, be especially aware of the regulatory guidance for Section 382.305 (random testing). If the operator fails to maintain compliance with the random requirements over the summer, there may be numerous violations of the pre-employment testing requirements in September when drivers may be re-hired.

Part 383—Commercial Driver's License Standard

Investigators should ensure that all drivers have the proper class of CDL and required Passenger and/or School Bus endorsements (see Section

383.93), and note any restrictions displayed on the CDL. Note small passenger-carrying vehicles (9–15 passengers) are not subject to Part 383.

Part 387—Financial Responsibility Applicability to Motor Carriers of Passengers

The Minimum Levels of Financial Responsibility (insurance) Regulations are found in 49 CFR Part 387, Subpart B. These regulations are only applicable to “for-hire” carriers transporting passengers in interstate commerce.

A for-hire motor carrier of passengers must have proof of financial responsibility in the form of a properly endorsed MCS-90B or MCS-82B at its principal place of business.

The chart below summarizes the applicability of the Minimum Levels of Financial Responsibility Regulations to passenger carriers:

	“For-hire” Passenger Carrier	Business PMCPs	Non-Business PMCPs
Vehicle with a Seating Capacity of 16 or more	\$5,000,000 Insurance Required	Not Subject	Not Subject
Vehicle with a Seating Capacity of 15 or less	\$1,500,000 Insurance Required	Not Subject	Not Subject

In addition, these regulations do not apply to:

1. A motor vehicle transporting only school children and teachers to or from school.
2. A motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points.*
3. A motor vehicle carrying less than 16 individuals in a single daily round trip to commute to and from work.

* *Luxury limousines, operating as for-hire passenger carriers, with a seating capacity of less than seven (7) passengers*

are not taxicabs and are not exempted from the financial responsibility regulations (Regulatory guidance 387.27 #3 for Section 387.27).

Applicability to School Bus Transportation

The applicability of the Minimum Levels Financial Responsibility Regulations (49 CFR Part 387 Subpart B) is somewhat different when the motor carrier is providing school bus transportation.

The chart below summarizes the applicability of the financial responsibility regulations to motor carriers providing school bus transportation:

Trips	Home to School or School to Home	Extracurricular Trips Organized, Sponsored, and Paid for by the School	Organized, Sponsored, and Paid for by an Independent Group such as an Athletic Booster Extracurricular Trips Club
“For-Hire” Contractors Providing Transportation of Preprimary, Primary, and Secondary Students	Not Subject	Not Subject	Bus Seating Capacity 16 or more: \$5,000,000 Bus Seating Capacity 15 or less: \$1,500,000
“For-Hire” Contractors Providing Transportation of Post-Secondary (College) Students	Bus Seating Capacity 16 or more: \$5,000,000 Bus Seating Capacity 15 or less: \$1,500,000	Bus Seating Capacity 16 or more: \$5,000,000 Bus Seating Capacity 15 or less: \$1,500,000	Bus Seating Capacity 16 or more: \$5,000,000 Bus Seating Capacity 15 or less: \$1,500,000

Part 391—Qualifications of Drivers

Exceptions for Private Carriers of Passengers Non-Business—Section 391.68

- **NON-BUSINESS PMCP DRIVERS ARE NOT REQUIRED TO BE 21 YEARS OLD!!!**
Refer to Section 391.68(a), which states that Section 391.11(b)(1) does not apply to Non-Business PMCPs.

- **Non-Business PMCP Drivers Are Not Required to be Medically Examined, or Have Medical Examiner’s Certificate** (see Section 391.68(c)). However, they must medically qualified per Section 391.41(a).
- **Non-Business PMCPs Are Not Subject to Subpart C (Background and Character and Driving Record) and Subpart F (Files and Records) of Part 391 [See Section 391.68(b)].**

In essence, Non-Business PMCPs must have qualified drivers, but they are not required to maintain driver qualification files.

Exceptions for Business Private Motor Carriers of Passengers—Section 391.69

- Drivers continually employed by the Business PMCP, on and after July 1, 1994, are exempted from application for employment, investigations and inquiries, and road test.
- Drivers hired after July 1, 1994, are subject to all of Part 391 including all paperwork requirements.

Part-time Drivers

Some passenger carriers make extensive use of part-time drivers. A part-time driver who does not work for another motor carrier entity is considered a single-employer driver, and therefore cannot utilize the limited exemptions under Section 391.63. Only multiple-employer drivers as defined in Section 390.5 can utilize this exemption.

Part 395—Hours-of-Service of Drivers

NOTE: The hours-of-service limitations for passenger-carrying vehicles are found in Section 395.5. All motor carriers of passengers are subject to the hours-of-service limitations. However, Non-Business PMCPs are not required to maintain records of duty status, but they must comply with the hours-of-service limitations.

On Duty Time—Section 395.2

As mentioned in the industry overview section, passenger carriers make frequent use of part-time and intermittent/casual drivers. When conducting a CR, the investigator should ensure that these

drivers submit either the prior 7 days of records of duty status or a prior seven-day duty statement prior to dispatch. In each instance, all compensated time working for a motor carrier or non-motor carrier entity must be reflected as on-duty time.

“Extra Board” Drivers

An “extra board” or “shape” driver is a driver who does not have assigned work, but remains at the terminal in case he or she is needed to drive in case of a vehicle breakdown or driver illness. They could also be called “spare” drivers, but usually are called “extra board” or “shape” drivers. They should record their hours being in readiness to work and waiting to be dispatched as “On-duty, not driving” until they are dispatched to drive.

Relief Drivers

On long distance trips requiring straight-through driving, passenger-carrying vehicle operators may send a relief driver ahead to take over driving responsibilities for the next leg of the trip. The means by which this driver gets to the layover location can vary. Below are two scenarios and the correct recording of hours-of-service for each:

1. Driver is **driven**, or uses public transportation (i.e., commercial aircraft or train) to get to the layover location or returning from the layover location. In this instance, if the driver has at least 8 consecutive hours off-duty after reaching the layover destination or terminal before assuming any on-duty status, the time spent traveling at the direction of the motor carrier may be logged as off-duty. If there are less than 8 consecutive hours off-duty, then the time traveling at the direction of the motor carrier must be recorded as “On-duty, not driving.” (Ref. 49 CFR §395.1(j), Travel time)
2. Driver drives him/herself in an automobile (non-commercial motor vehicle) to the layover location or back to the terminal. Time spent driving a non-commercial motor vehicle at the direction of the motor carrier must be logged as “On-duty, not driving.” (Ref. Regulatory Guidance, Section 395.2, question #14).

Team Drivers

All time spent by a driver riding in the passenger-carrying vehicle, regardless if in the reclining position or not, must be recorded as “On-duty, not driving.” If the driver is afforded 8 consecutive hours off-duty after reaching the destination, the time spent riding in the motorcoach may be recorded as off-duty. That condition aside, all hours-of-service limitations would apply as specified in Section 395.5.

On duty time means all time from the time a driver begins to work or is required to be in readiness to work until the time the driver is relieved from work and all responsibility for performing work.

On-duty time shall include:

1. All time at a carrier terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty by the motor carrier.
2. Performing any other work in the capacity of, or in the employ or service of, a common, contract or private motor carrier.

Investigators should be aware that motorcoach drivers will often be required to collect tickets and load and unload luggage. This time should be reflected in the driver’s records of duty status as “On-duty, not driving.”

Travel Time 395.1(j)(2)

When reviewing records of duty status for motor carriers of passengers, the investigator may see the notation “**DHOC.**” This notation stands for “**deadhead on cushion.**” This is a common industry practice whereby a driver at the direction of the passenger motor carrier rides aboard the vehicle as a passenger in order to get to a designated location. If the driver is afforded 8 hours off-duty upon arrival, all time spent “cushioning” or traveling is considered off-duty.

Supporting Documents (False Log Checks)

Charter orders (sometimes called contracts) and itineraries are the passenger carrier’s shipping papers. Although charter orders differ in appearance, they usually contain transportation information such as the carrier’s name, driver’s name, date, vehicle number, name of group being

transported, origin and destination points, times of departure and arrival, etc. Itineraries are similar to charter orders, but they contain more detailed information, usually for a multi-day tour. They will show dates and times of departure and arrival, and will provide a schedule of all activities.

When reviewing charter orders and/or itineraries, investigators should ensure that all activities are reflected in the driver’s record of duty status for that trip. Drivers may “drop” such activities as local day or night touring or dinner trips from their records of duty status, especially on multi-day tours.

In many instances, drivers will note start and finish time as well as mileage and fuel expenses on trip envelopes. These notes can be used to verify the accuracy of their records of duty status. Major destination locations may require permits, or maintain information regarding arrival and departure times for groups arriving by motorcoach. In-depth investigations may involve contacting the group that booked the charter/tour or the destination for further verification.

Motorcoach Driver Fatigue

Motorcoach drivers are subject to very different driving demands than truck drivers. Motorcoach operations are extremely time-sensitive for both scheduled service and charter/tour work. The scheduled service driver is under pressure to maintain posted schedules despite heavy traffic or bad weather, and the charter or tour driver is under pressure to get the group to their destination by game or curtain time for example. Very often, the passengers themselves will exert pressure on the driver to “make time” or drive through without needed rest.

Unlike truck drivers, charter and tour drivers commonly receive gratuities. On occasion, groups may pressure the driver to make unscheduled pickups or extra tours by offering a higher gratuity or withholding a gratuity.

Another consideration is obtaining rest. Unlike the truck driver, the motorcoach driver cannot stop “at will” to obtain brief periods of rest. The motorcoach driver must make each leg of the trip as scheduled. Stopping for an unscheduled quick “nap” is out of the question despite the onset of

fatigue or sickness. Also, while at layover locations, drivers do not have the services available to the truck driver at truck stops. Often, the driver is forced to spend hours trying to obtain sleep or rest aboard the bus during off-duty periods. Most destinations do not provide driver lounges. The typical motorcoach is not equipped with a sleeper berth or bed for sleeping so the driver can lay-down to obtain restful sleep—often drivers are forced to rest in a passenger seat. Also, local idling laws may prevent the driver from running the engine in extremes of weather for heat or air-conditioning during layover periods.

Lastly, motorcoach drivers commonly have extended days. In the course of the typical charter or tour, there are one or more pre-scheduled mid-day off-duty periods. The driver is free to leave the vehicle for a specified period of time until the group finishes their activity. Unlike the 14-hour rule for property carriers, the motorcoach driver's day may extend to 18 hours, for example, or longer due to these off-duty periods. It is not uncommon for a driver to report at 5:00 am to the garage, return after midnight, and not be in violation of the hours-of-service regulations. Although these extended workdays are often not in violation of the hours-of-service regulations, such schedules cause driver fatigue.

Part 396—Inspection, Repair, and Maintenance

Push Out Window Tests

When reviewing maintenance files, investigators should ensure that the motor carrier is conducting tests on the pushout windows, emergency doors, and emergency door marking lights. These tests should be conducted at least every 90 days and a record of the tests should be retained for each vehicle as required by 49 CFR §396.3(b)(4). State mandated inspections that include documentation of emergency exit tests satisfy this requirement.

Periodic Inspection

State mandated inspection programs listed in 49 CFR §396.17 have been approved by FMCSA to meet the periodic inspection requirements. Those vehicles that are inspected by a State listed in 49 CFR §396.17 are considered in compliance

with the periodic inspection requirements. Otherwise, documentation of the required inspection must be maintained by the carrier.

Inspections in Conjunction with CRs

Inspections on passenger vehicles should be conducted during CRs according to the Electronic Field Operations Training Manual (EFOTM) guidelines. Luggage bays should be opened to look for evidence of illegal transportation of passengers/drivers in the luggage compartments.

Part 177—Hazardous Materials

Section 177.870 of the Hazardous Materials Regulations describes the condition under which specific hazardous materials may be transported on a for-hire passenger-carrying vehicle. An often-asked question concerns the transportation of oxygen cylinders (non-flammable gas) for personal use by a passenger. Passengers who require oxygen are permitted to bring one cylinder into the passenger compartment for their personal use. On multi-day tours, there are occasions when the passenger may require several back-up cylinders to sustain them for the duration of the trip.

DOT Guidance for the Safe Transportation of Medical Oxygen for Personal Use on Buses

The Department of Transportation recommends that bus and train operators take the following precautions to assure that medical oxygen being transported for passengers' personal use is handled and transported safely:

For Transportation in the Passenger Compartment

- Only transport oxygen in a cylinder maintained in accordance with the manufacturer's instructions. The manufacturer's instructions and precautions are usually printed on a label attached to the cylinder.
- Before boarding, inspect each cylinder to assure that it is free of cracks or leaks, including around the area valve and pressure relief device.

Listen for leaks; do not load leaking cylinders on the bus or train. Visually inspect the cylinders for gouges or pits. A cylinder that is dented, gouged, or pitted should not be transported.

- Limit the number of cylinders to be transported on board the vehicle to the extent **practicable**.
- Except in emergency situations, the bus or rail operator should consider limiting the number of passengers requiring medical oxygen.
- Cylinders used for medical oxygen are susceptible to valve damage if dropped. Handle these cylinders with care during loading and unloading operations. Never drag or roll a cylinder. Never carry a cylinder by the valve or regulator.
- Do not handle oxygen cylinders or apparatus with hands or gloves contaminated with oil or grease.
- Secure each cylinder to prevent movement and leakage. "Secured" means the cylinder is not free to move when the vehicle or train is in motion. Each cylinder should be equipped with a valve protection cap.
- Never store or secure oxygen cylinders or other medical support equipment in the aisle. Make sure that the seating of the passenger requiring oxygen does not restrict access to exits or use of the aisle.
- Since the release of oxygen from a cylinder could accelerate a fire, secure each cylinder away from sources of heat or potential sparks.
- Under **no** circumstances should smoking or open flames (cigarette lighter or matches) be permitted in the passenger compartment when medical oxygen is present.
- When you reach your destination, immediately remove all cylinders from the bus or train.

For Transportation in the Cargo Compartment

- Place each cylinder in a box or crate or load and transported in an upright or horizontal position.
- Valves must be protected against damage, except when in use.
- Secure each cylinder against movement.
- The total weight for oxygen cylinders permitted in a bus cargo compartment is 45 kg (99 lbs). A carrier may elect to transport up to 200 kg (440 lbs) in the cargo compartment if the oxygen cylinders

are necessary to protect the health and safety of the passengers. However, we strongly recommend limiting the total weight of the cylinders to 45 kg (99 lbs) except under extraordinary circumstances.

- Oxygen cylinders offered for transportation and transported in rail cars on a passenger train may not exceed 34 lbs (75 kg) gross weight per cylinder.

For further information, contact PHMSA's Hazardous Materials Information Center at **1-(800) 467-4922**.

Guidance About Transportation of Personal Items

The Hazardous Materials Regulations for highway transportation do not address personal items transported on a passenger-carrying vehicle that may be transported as cargo. Examples of these include:

- Propane tanks
- Small arms ammunition
- Black and Smokeless gunpowder
- Electric and gas-powered carts, scooters and wheelchairs
- Gas-powered chain saws
- Other hazardous materials carried as cargo when there is no other practicable way of shipping it to a specific destination.

The transportation of such cargo may occur when transporting passengers to sporting events, hunting trips, multi-day tours, and day trips to specific destinations. While each type of hazardous material and the circumstances for which it is being transported needs to be assessed individually, these materials when placed in the cargo compartments of the bus or motorcoach become cargo and, therefore, are regulated as a hazardous material in commerce. That means that the driver must be in possession of shipping papers and emergency response information. The driver must be hazardous material trained and aware of the hazardous materials on board the vehicle.

For more information on the limitations on the types and quantities of hazardous materials allowed to be transported on a passenger-carrying vehicle, refer to 49 CFR Section 177.870.

Chapter 5:

Interpretations

Regulatory Guidance Specific to Passenger Carriers

The interpretations listed in this section have been taken from the regulatory guidance as they specifically address issues regarding passenger operations.

Part 382—Controlled Substances & Alcohol Use and Testing

Section 382.301 Pre-Employment Testing

Question 2: Must school bus drivers be pre-employment tested after they return to work after summer vacation in each year in which they do not drive for 30 consecutive days?

Interpretation: A school bus driver whom the employer expects to return to duty the next school year does not have to be pre-employment tested so long as the driver has remained in the random selection pool over the summer. There is deemed to be no break in employment if the driver is expected to return in the fall. On the other hand, if the driver is taken out of all DOT random pools for more than 30 days, the exception to pre-employment drug testing in Section 382.301 would be unavailable and a drug test would have to be administered after the summer vacation.

Question 6: May a CDL driving skills test examiner conduct a driving skills test administered in accordance with 49 CFR Part 383 before a person subject to Part 382 is tested for alcohol and controlled substances?

Interpretation: Yes. A CDL driving skills test examiner, including a third party CDL driving skills test examiner, may administer a driving skills test to a person subject to Part 382 without first testing him/her for alcohol and controlled substances. The intent

of the CDL driving skills test is to assess a person's ability to operate a commercial motor vehicle during an official government test of their driving skills. However, this guidance does not allow an employer (including a truck or bus driver training school) to use a person as a current company, lease, or student driver prior to obtaining a verified negative test result. An employer must obtain a verified negative controlled substance test result prior to dispatching a driver on his/ her first trip.

Section 382.305 Random Testing

Question 3: How should a random testing program be structured to account for the schedules of school bus or other drivers employed on a seasonal basis?

Interpretation: If no school bus drivers from an employer's random testing pool are used to perform safety sensitive functions during the summer, the employer could choose to make random selections only during the school year. If the employer nevertheless chooses to make selections in the summer, tests may only be administered when the drivers return to duty. If some drivers continue to perform safety sensitive functions during the summer, such as driving buses for summer school, and employer could not choose to forego all random selections each summer. Such a practice would compromise the random, unannounced nature of the random testing program. The employer would test all selected drivers actually driving in the summer. With regard to testing drivers selected who are on summer vacation may be returned to the pool and another selection made. Two, the selected names could be held by the employer and, if the drivers return to perform safety-sensitive functions before the next random selection, the test administered upon the drivers' return. Finally, it should be noted that

reductions in the number of drivers during summer vacations reduces the average number of driving positions over the course of the Year, and thus the number of test which must be administered to meet the minimum random testing rate.

Section 382.401 Retention of Records

Question 1: Many small school districts are affiliated through service units which are, in essence, a coalition of individual districts. Can these school districts have one common confidant for purposes of receiving results and keeping records?

Interpretation: Yes. Employers may use agents to maintain the records, as long as they are in a secure location with controlled access. The employer must also make all records available for inspection at the employer’s principal place of business within two business days after a request has been made by an FMCSA representative.

Part 383—Commercial Driver’s License Standards

Section 383.3 Applicability

Question 1: Are school and church bus drivers required to obtain a CDL?

Interpretation: Yes, if they drive vehicles designed to transport 16 or more people.

Question 3: Does Part 383 apply to drivers of recreational vehicles?

Interpretation: No, if the vehicle is used strictly for non-business purposes.

Question 4: Does Part 383 apply to drivers of vehicles used in “van pools?”

Interpretation: Yes, if the vehicle is designed to transport 16 or more people.

Question 11: Do State motor vehicle inspectors who drive trucks and motorcoaches on an infrequent basis and for short distances as part of their job have to obtain a CDL?

Interpretation: Yes.

Question 13: Do the regulations require that a person driving an empty school bus from the manufacturer to the local distributor obtain a CDL?

Interpretation: Yes, any driver of a bus that is designed to transport 16 or more persons, or that has a Gross Vehicle Weight Rating (GVWR) of 26,001 pounds or more, is required to obtain a CDL in the applicable Class with a passenger endorsement

Question 15: Are public transit employees known as “hostlers” who maintain and park transit buses on transit property, subject to CDL requirements?

Interpretation: No, unless operating on public roads.

Question 16: Are non-military amphibious landing craft that are usually used in water but occasionally used on a public highway CMVs?

Interpretation: Yes, if they are designed to transport 16 or more people.

Question 17: Are students who will be trained to be motor vehicle operators subject to alcohol and drug testing? Are they required to obtain a CDL in order to operate training vehicles provided by the school?

Interpretation: Yes. §382.107 includes the following definitions:



- Employer means any person (including the United States, a State, District of Columbia or a political subdivision of a State) who owns or leases a CMV or assigns persons to operate such a vehicle. The term employer includes an employer's agents, officers and representatives.
- Driver means any person who operates a CMV. Truck and bus driver training schools meet the definition of an employer because they own or lease CMVs and assign students to operate them at appropriate points in their training. Similarly, students who actually operate CMVs to complete their course work qualify as drivers.
- The CDL regulations provide that “no person shall operate” a CMV before passing the written and driving tests required for that vehicle (§383.23(a)(1)). Virtually all of the vehicles used for training purposes meet the definition of a CMV, and student drivers must therefore obtain a CDL.

Question 21: Are police officers who operate buses and vans which are designed to carry 16 or more persons and are used to transport police officers during demonstrations and other crowd control activities required to obtain a CDL?

Interpretation: Yes. The CDL requirements apply to anyone who operates a CMV, including employees of Federal, State and local governments. Crowd control activities do not meet the conditions for a waiver of operators of firefighting and other emergency vehicles in §383.3(d).

Question 26: Do active duty military personnel, not wearing military uniforms, qualify for a waiver from the CDL requirements if the CMVs are rental trucks or leased buses from the General Services Administration?

Interpretation: Yes. The drivers in question do not need to be in military uniforms to qualify for the waivers as long as they are on active duty. In regard to the vehicles, they may be owned or operated by the Department of Defense.

Section 383.5 Definitions

Question 1:

- Does “designed to transport” as used in the definition of a CMV in Section 383.5 mean original design or current design when a number of seats are removed?

- If all of the seats except the driver’s seat are removed from a vehicle originally designed to transport only passengers to convert it to a cargo-carrying vehicle, does this vehicle meet the definition of a CMV in Section 383.5?

Interpretation:

- “Designed to transport” means the original design. Removal of seats does not change the design capacity of the CMV.
- No, unless this modified vehicle has a GVWR over 26,000 pounds or is used to transport placarded HM.

Question 2: The definition of a passenger CMV is a vehicle “designed to transport” more than 15 passengers, including the driver. Does that include standing passengers if the vehicle was specifically designed to accommodate standees?

Interpretation: No. “Designed to transport” refers only to the number of designated seats; it does not include areas suitable, or even designed, for standing passengers.

Section 383.91 Commercial Motor Vehicle Groups

Question 4: What CMV group are drivers of articulated motorcoaches (buses) required to possess?

Interpretation: Drivers of articulated motorcoaches are required to possess a Class B CDL.

Section 383.93 Endorsements

Question 3: Are drivers delivering empty buses required to have the passenger endorsement on their CDLs?

Interpretation: Yes.

Special Topics— Motorcoaches and CDL

Question 1: May a State develop a knowledge test exclusively for motorcoach operators that excludes cargo handling and hazardous materials?

Interpretation: Yes. A State could develop a basic knowledge test for bus drivers only, by deleting the cargo handling and HM questions from its

normative basic knowledge test. In that case, the driver applicant would still need to pass the specialized knowledge and skills tests for the passenger endorsement, and the State would need to restrict the CDL to passenger operations only.

Question 2: What skills test is required for a CDL holder seeking to add a passenger endorsement? If a person already holds a CDL without a passenger endorsement and subsequently applies for such endorsement, three situations may arise:

Interpretation: If a person already holds a CDL without a passenger endorsement, and subsequently applies for such endorsement, three situations may arise:

- a. The passenger test vehicle is in the same vehicle group as that shown on the CDL. This situation poses no problem since there is no discrepancy.
- b. The passenger test vehicle is on a greater vehicle group than that shown on the Preexisting CDL.
- c. The passenger test vehicle is in a lesser vehicle group than that shown on the preexisting CDL.

In this situation, the CDL retains the vehicle group of the preexisting CDL, but also restricts the driver, when engaged in CMV passenger operations, to vehicles in the group in which the passenger skills test was taken, or to a lesser group.

Part 387—Minimum Levels of Financial Responsibility for Motor Carriers

Section 387.27 Applicability

Question 1: Is a non-profit corporation, providing for-hire interstate transportation of passengers, subject to the minimum levels of financial responsibility for motor carriers of passengers?

Interpretation: Yes.

Question 2: What determines the level of coverage required for a passenger carrier; the number of passengers or the number of seats in the vehicle?

Interpretation: The level of financial responsibility required is predicated upon the manufacturer's designed seating capacity, not on the number of

passengers riding in the vehicle at a particular time. The minimum levels of financial responsibility required for various seating capacities are found in Section 387.33.

Question 3: Are luxury limousines with a seating capacity of fewer than seven passengers and not operated on a regular route or between specified points exempted under Section 387.27(b)(2)?

Interpretation: No. Taxicab service is highly regulated by local governments, usually conducted in marked vehicles, which makes them readily identifiable to enforcement officials. Limousines are not taxicabs and are therefore not exempted from their Financial Responsibility requirements.

Question 4: When must a contract school bus operator comply with Part 387?

Interpretation: When the contractor is not engaged in transportation to or from school and the transportation is not organized, sponsored, and paid for by the school district.

Question 5: Does the exemption for the transportation of school children end at the high school level or does it extend to educational institutions beyond high school, for example junior college or college?

Interpretation: The exemption does not extend beyond the high school level.

Question 6: Do the financial responsibility requirements of Subpart B of Part 387 apply to school buses used by the Federal Government of Mexico to transport students on field trips to the United States?

Interpretation: No. The financial responsibility requirements of Subpart B are only applicable to for-hire motor carriers transporting passengers in interstate or foreign commerce.

Part 390—General Section

390.3 General Applicability

Question 3: Are the operations of a church that provides bus tours to the general public for compensation subject to the Federal Motor Carrier Safety Regulations (FMCSRs) as a for-hire motor carrier?

Interpretation: Yes, the church is a for-hire motor carrier of passengers subject to the FMCSRs

Question 9: Are the FMCSRs applicable to drivers/vehicles operated by a State or local educational institution that is a political subdivision of the State?

Interpretation: Section 390.3(f)(2) specifically exempts transportation performed by the Federal Government, a State, or any political subdivision of a State from the FMCSRs. However, this exemption does not apply to the CDL requirements in Part 383. Also, if governmental entities engage in interstate charter transportation of passengers, they must comply with accident report retention requirements of Part 390.

Question 11: Is the interstate transportation of students, teachers, and parents to school events such as athletic contests and field trips performed by municipalities subject to the FMCSRs? If a fee is charged to defer the municipality's expenses, does this affect the applicability of the regulations?

Interpretation: Section 390.3(f)(2) specifically exempts transportation performed by the Federal Government, a State, or any political subdivision of a state from the FMCSRs. Charging a fee to defer governmental costs does not affect this exemption. However, this exemption does not apply to the CDL requirements in Part 383. Also, if governmental entities engage in interstate charter transportation of passengers, they must comply with accident report retention requirements of Part 390.

Question 12: What is the applicability of the FMCSRs to school bus operations performed by Indian Tribal Governments?

Interpretation: Transportation performed by the Federal Government, States, or political subdivisions of a State is generally excepted from the FMCSRs. This general exception includes Indian Tribal Governments, which for purposes of Section 390.3(f) are equivalent to a State governmental entity. When a driver is employed and a bus is operated by the governmental entity, the operation would not be subject to the FMCSRs, with the following

exceptions. The requirements of Part 383 as they pertain to commercial driver licensing standards are applicable to every driver operating a CMV and the accident report retention requirements of Part 390 are applicable when the governmental entity is performing interstate charter transportation of passengers.

Question 13: A motor carrier dispatches an empty CMV from State A into adjoining State B In order to transport cargo or passengers between two points in State B, and then to return empty to State A. Does the transportation of cargo or passengers within State B constitute interstate commerce?

Interpretation: Yes. The courts and the Interstate Commerce Commission developed a test that clarifies the legal status of intrastate portions of interstate trips. The character of the intrastate leg depends on the shipper's fixed and persistent intent, which in this case was to move property—the vehicle itself—across State lines and between two points in State B where it was used to haul cargo or passengers. The transportation within State B, therefore, constitutes interstate commerce. In some cases the motor carrier may be the shipper.

Question 14: What is the applicability of the FMCSRs to motor carriers owning and operating school buses that contract with a municipality to provide pupil transportation services?

Interpretation: For the purposes of the FMCSRs, Parts 390–399, “school bus operation” means the use of a school bus to transport from home to school and from school to home. A “school bus”



is a passenger motor vehicle designed to carry more than 10 passengers in addition to the driver, and used primarily for school bus operations (see Section 390.5). School bus operations and transportation performed by government entities are specifically exempted from the FMCSRs under Section 390.3(f).

However, anyone operating school buses under contract with a school is a for-hire motor carrier. When a non-government, for-hire motor carrier transports children to school-related functions other than “school bus operation” ‘such as sporting events, class trips, etc., and operates across State lines, its operation must be conducted in accordance with the FMCSRs. This applies to motorcarriers that operate CMVs as defined under Part 390, which includes vehicles, which have a GVWR of 10,001 pounds or more or are designed to carry more than 15 passengers including the driver. In certain instances, carriers providing school bus transportation are not subject to the Bus Regulatory Reform Act of 1982 and the minimum financial responsibility requirements (Part 387) issued under this Act. Transportation of school children and teachers that is organized, sponsored, and paid for by the school district is not subject to Part 387.

This would include driver qualifications records (Part 391), driver records-of-duty-status (Part 395), accident report retention (Part 390), and inspection, repair, and maintenance records (Part 396) for the drivers and vehicles that are used on the trips that are subject to the FMCSRs. These records are not required under the FMCSRs for the other vehicles in the motor carrier’s fleet that are not subject to the regulations.

Question 18: Are persons who operate commercial motor vehicles (CMVs) for the personal conveyance of their friends or family members “private Motor Carriers of Passengers (non-business)” as defined in Section 390.5?

Interpretation: No. Non-Business Private Motor Carriers Of Passengers (Non-Business PMCPs) do not include individuals providing personal conveyance of passengers for recreational purposes. A Non-Business PMCP must be engaged in some group activity. For example, organizations that are exempt under the Internal Revenue Code (26 U.S.C. 501) and provide transportation for their

members would generally be considered Non-Business PMCPs: religious, charitable, scientific, and educational organizations, scouting groups, sports clubs, fraternal societies or lodges, etc.

Question 26: Is the operation of fire trucks and rescue vehicles in interstate commerce by a private firefighting company subject to the FMCSRs when the company provides its services under contract to Federal or State agencies?

Interpretation: Generally, 49 CFR Parts 390–399 (FMCSRs) are not applicable to the operation of fire trucks and rescue vehicles by private contract fire companies while such vehicles are being used in emergency and related operations, i.e., while their personnel are engaged in firefighting or participating in rescue operations, and when their vehicles are returning from the emergency or rescue scene [see 49 CFR §390.3(f)(5)]. In such cases, private contract fire companies, drivers and vehicles are not subject to most of the safety regulations.

In addition to 49 CFR §390.3(f)(5), private contract firefighting companies are also exempted by 49 CFR 390.23 when providing direct assistance during national, regional or local emergencies. The term “emergency,” as used in §390.23, means an occurrence, natural or manmade, that interrupts the delivery of services (such as electricity, medical care, sewer, water, telecommunications, and telecommunications transmissions) or supplies (such as food and fuel), or that otherwise immediately threatens human life or public welfare. The occurrence must result in a declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; such as the FMCSA Field Administrator for the geographical area in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies. Direct assistance means transportation or other relief services provided by a motor carrier (including a private contract fire company) or its driver(s) incident to the immediate restoration of essential services or essential supplies. Direct assistance does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to human life and property has passed.

With regard to non-emergency and rescue activities, such as training exercises, emergency preparedness drills, or pre-positioning of personnel and equipment prior to an actual emergency, private contract fire companies must comply with the FMCSRs while operating commercial motor vehicles in interstate commerce.

Question 28: Is the operation of motor vehicles designed or used to transport between 9–15 passengers (including the driver), in interstate commerce, by private firefighting companies transporting their employees subject to the FMCSRs?

Interpretation: No. Although the 9–15 passenger vehicles are being operated in interstate commerce, firefighting companies transporting their own employees would be considered private motor carriers of passengers with regard to the operation of these vehicles because the passengers are not being transported for compensation. Vehicles designed or used to transport 9–15 passengers, in interstate commerce, but not for compensation, are excluded from the definition of “commercial motor vehicle” found at 49 CFR §390.5. Therefore, the FMCSRs are not applicable to the operation of such vehicles, even if the firefighting company operates other vehicles that are subject to the safety regulations.

Section 390.5 Definitions

Question 10: Does the Federal Highway Administration (FHWA) define for-hire transportation of passengers identically as the Interstate Commerce Commission (ICC)?

Interpretation: To the extent our authority stems from 49 USC Section 3102 or other sections of Title 49 that are rooted in the Interstate Commerce Act, we are bound by judicial precedent and legislative history in interpreting that Act, much of which relates to the operations of the ICC. However, since the MCSA of 1984 reestablished our jurisdictional authority and resulted in a repromulgation of the FMCSRs, the FHWA has been establishing its own precedents based on “safety” rather than “economics” as the overriding consideration. This has resulted in some deviation in the definition of terms by the two agencies, e.g., commercial zones, for-hire transportation, etc. The term “for-hire motor carrier” as defined in Part 390 means a person engaged in the transportation of goods or passengers for compensation. Thus, when

operating in interstate transportation of goods or passengers in motor vehicles designed to convey more than 15 passengers, including the driver, associated with the following operations would typically be subject to all parts of the FMCSRs, including Part 387, since some fee is charged, usually indirectly in a total package charge or other assessment, for transportation performed: white water river rafters, hotel/motel shuttle transporters, rental car shuttle services, etc (see 58 FR 27328, May 7, 1993).

Question 25: The definition of a passenger CMV is a vehicle “designed to transport” more than 15 passengers, including the driver. Does that include standing passengers if the vehicle was specifically designed to accommodate standees?

Interpretation: No. “Designed to transport” refers only to the number of designated seats; it does not include areas suitable, or even designed, for standing passengers.

Part 392—Driving of Motor Vehicle

Section 392.5 Intoxicating Beverage

Question 1: Do possession and use of alcoholic beverages in the passenger area of a motorcoach constitute “possession” of such beverages under Section 392.5(a)(3)?

Interpretation: No.

Section 392.16 Use of Seat Belts

Question 1: Are motorcoach passengers required to wear seat belts?

Interpretation: No.

Part 393—Parts and Accessories Necessary for Safe Operation

Section 393.44 Front Brake Lines, Protection

Question 1: Does the term “rear wheels” include the tag axle on a bus/motorcoach?

Guidance: Yes. The braking system on a bus/motorcoach must be constructed so that if any brake line to either front wheel is broken, the driver can apply the brakes to all of the wheels on each rear axle.

Section 393.61 Window Construction

Question 1: Do school buses used for purposes other than school bus operations (as defined in Section 390.5) have to meet additional emergency exits requirements under Section 393.61?

Interpretation: Yes. Section 393.61(a)(2) says that “a bus, including a school bus, manufactured on and after September 1, 1973,” must conform with the National Highway Traffic Safety Administration’s (NHTSA) Section 571.217 (FMVSS 217). At the time this provision was adopted, FMVSS 217 applied only to other buses and it was optional for school buses. The FHWA inserted the language, “including school buses,” in Section 393.61(b)(2) to make clear that school buses used in interstate commerce and therefore, subject to the FMCSRs, and were required to comply with the bus exit standards in Standard FMVSS 217.

Section 393.61(b)(3) regarding push-out windows provides that older buses must conform with the requirements of Section 393.61(b) or Section 571.217. Buses that are subject to §571.217 would follow NHTSA’s interpretation on push-out windows. Buses that are subject to §393.61(b)(1) of the FMCSRs are required to have emergency windows that are either push-out windows or that have laminated safety glass that can be pushed out in a manner similar to a push-out window.

Question 2: For emergency exits, which consist of laminated safety glass, is the window frame or sash required to move outward from the bus, as is the case with push-out windows?

Interpretation: No. Laminated safety glass is an alternative to the use of push-out windows for buses manufactured before September 1, 1973. Section 393.61 required that every glazed opening used to satisfy the emergency exit space requirements, “if not glazed with laminated safety glass, shall have a frame or sash so designed, constructed, and maintained that it will yield outwardly to provide the required free opening.” Laminated safety glass meeting Test No. 25, Egress, American National Standard “Safety Code for Safety Glazing Materials for Glazing Motor Vehicles Operating on Land Highways,” Z26.1-1966 as supplemented by Z26.1a-1969 (referenced in Sections 393.61(c) and 393.60(a)) is intended to provide an adequate means of emergency exit on older buses without resorting to push-out windows. However, buses with a seating capacity of more than 10 people manufactured after September 1, 1973, must have push-out windows that conform to 49 CFR §571.217.

Question 3: When calculating the minimum emergency exit space required on school buses used on non-school bus operations, should two or three passengers per bench seat be used in determining the audit seating capacity?

Interpretation: NHTSA has indicated that “School buses can transport 3 to a seat if the passengers are in grades 1 through 5, and 2 per seat in grades 9 through 12.” Therefore, for vehicles originally manufactured as school buses, the total pupil seating capacity provided by the bus purposes of Section 393.61. This generally yields the same result as using two adults per bench seat.

Question 4: Do school buses that meet the school bus emergency exit requirements established by the NHTSAs November 2, 1992, final rule on Federal Motor Vehicle Safety Standard (FMVSS) No. 217 have to be retrofitted with additional emergency exits when used in interstate commerce for non-school bus operations?

Interpretation: No. On May 9, 1995, NHTSA amended FMVSS No. 217 to permit non-school buses to meet either the current non-school bus emergency exit requirements or the upgraded school bus exit requirements established by the November 2, 1992 final rule which became effective on September 1, 1994. Therefore, school buses which meet the upgraded emergency exit standards

meet the requirements of Section 393.61 without the retrofitting of additional exits.

Question 5: Which edition of Federal Motor Vehicle Safety Standard (FMVSS) No. 217 is required to be used in determining the emergency exit space requirements when retrofitting buses?

Interpretation: The cross-reference to FMVSS No. 217 applies to the requirements in effect at the time of manufacture of the bus. Motor carriers are not, however, prohibited from retrofitting their buses to the most up-to-date requirements in FMVSS No. 217. Therefore, at a minimum, motor carriers must meet the non-school bus emergency exit requirements in effect at the time of manufacture, and have the option of retrofitting their buses to meet the emergency exit requirements established by the November 2, 1992 final rule (57 FR 49413), which became effective on September 1, 1994.

Section 393.62 Window Obstructions

Question 1: May a bus being operated by a for-hire motor carrier of passengers, under contract with a governmental agency to provide transportation of prisoners in interstate commerce, be allowed to operate with security bars covering the emergency push out windows, and with locked emergency door exits?

Interpretation: Yes. Even when the transportation is performed by a contract carrier, the welfare, safety, and security of the prisoners are under the authority of the government corrections agency and, thus, the agency may require additional security measures. For these types of operations, a carrier may meet the special security requirements of the governmental corrections agency regarding emergency exits. However, CMVs that have been modified to meet the security requirements of the corrections agency may not be used for other purposes that are subject to the FMCSRs unless they meet the emergency exit requirements.

Section 393.75 Tires

Question 3: May a vehicle transport hazardous materials when equipped with retreaded tires?

Interpretation: Yes. The only CMV that may not utilize retreaded tires is a bus, and then only on its front wheels.

Section 393.89 Bus Drive Shaft Protection

Question 1: For the purposes of Section 393.89, would a spline and yoke that is secured by a nut be considered a sliding connection?

Interpretation: No. To be considered a sliding connection, the spline must be able to move within the sleeve. When the end of the spline is secured by a nut, it no longer has that freedom.

Question 2: On multiple driveshaft buses, does Section 393.89 require that all segments of the driveshaft be protected no matter the segments length?

Interpretation: Yes. Each driveshaft must have one guard or bracket for each end of a shaft that is provided with a sliding connection (spline or other such device).

Question 3: How does an existing pillow bearing (shaft support) on a multiple driveshaft system affect the requirement?

Interpretation: It does not affect the requirement. It is part of the requirement.

Section 393.92 Buses, Marking Emergency Doors

Question 1: Is a contractor-operated school bus operating in interstate commerce required to have emergency lights over the exit door?

Interpretation: Yes. Any bus used in interstate commerce for other than school bus operations, as defined in Section 390.5, is subject to the FMCSRs.

Section 393.93 Seats, Seat Belt Assemblies

Question 1: If a CMV, other than a motorcoach, is equipped with a passenger seat, is a seat belt required for the passenger seat?

Interpretation: Yes.

Part 395—Hours-of-Service of Drivers

Section 395.2 Definitions

Question 2: What conditions must be met for a CMV driver to record meal and other routine stops made during a tour duty as off-duty time?

Interpretation:

1. The driver must have been relieved of all duty and responsibility for the care and custody of the vehicle, its accessories, and any cargo or passengers it may be carrying.
2. The duration of the driver's relief from duty must be a finite period of time, which is of sufficient duration to ensure that the accumulated fatigue resulting from operating a CMV will be significantly reduced.
3. If the driver has been relieved from duty, as noted in above, the duration of the relief from duty must have been made known to the driver prior to the driver's departure in written instructions from the employer. There are no record retention requirements for these instructions on board a vehicle or at a motor carrier's principal place or business.
4. During the stop, and for the duration of the stop, the driver must be at liberty to pursue activities of his/her own choosing and to leave the premises where the vehicle is situated.

Question 6: If a driver is required by a motor carrier to carry a pager/beeper to receive notification to contact the motor carrier for a duty assignment, how should this time be recorded?

Interpretation: The time is to be recorded as off-duty.

Question 20: How must a driver record time spent on-call awaiting dispatch?

Interpretation: Time free from obligations to the employer which the driver is able to use to secure appropriate rest may be recorded as off duty time. The fact that a driver must be available to receive a call to return to work, even under the threat of discipline for non-availability, does not by itself impair the ability of the driver to use this time for rest.

If the employer generally requires its drivers to be available for call after a mandatory rest period which complies with the regulatory requirement, the time spent standing by for a work-related call, following the required off-duty period, may be properly recorded as off-duty time.

If the employer generally requires its drivers to be available for call after a mandatory rest period which complies with the regulatory requirement, the time spent standing by for a work-related call, following the required off-duty period, may be properly recorded as off-duty time.

For example, if anyone may answer the phone for an on-call driver, or if the driver may telephonically inquire from a location of his/her choice, then such time on-call may be properly logged as off-duty, provided the driver is given a reasonable amount of time to report for duty.

On the other hand, if a driver is required to personally stand by at a given location to receive a telephone notice to report for work, following or during required off-duty period, and the driver does in fact stand by, the time spent on call meets the definition of "on duty time" in Section 395.2, and must be recorded as such.

Question 21: How does a driver record the hours spent driving in a school bus operation when he/she also drives a CMV, for a company subject to the FMCSRs?

Interpretation: If the school bus meets the definition of a CMV, it must be recorded as driving time.

Section 395.8 Driver's Record of Duty Status

Question 10: What regulation, interpretation, and/or administrative ruling required a motor carrier to retain supporting documents and what are those documents?

Interpretation: Section 395.8(k)(1) required motor carriers to retain all supporting documents at their principal places of business for a period of 6 months from date of receipt. Supporting documents are the records of the motor carrier which are maintained (or generated) in the ordinary course of business and used by the motor carrier to verify the

information recorded on the driver's record of duty status. Supporting documents may include other documents that the motor carrier maintains and can be used to verify information on the driver's records of duty status. If these records are maintained at locations other than the principal place of business but are not used by the motor carrier for verification purposes, they must be forwarded to the principal place of business upon a request by an authorized representative of the FHWA or State official within 2 business days.

Question 14: What documents satisfy the requirement to show a shipping document number on a record of duty status as found in Section 395.8(d)(11)?

Interpretation: The following are some of the documents acceptable to satisfy the requirement: shipping manifests, invoices/freight bills, trip reports, charter orders, special order numbers, bus bills or any other document that identifies a particular movement of passengers or cargo. In the event of multiple shipments, a single document will satisfy the requirement.

Part 396—Inspection, Repair, and Maintenance

Section 396.3 Inspection, Repair, and Maintenance

Question 2: Section 396.3(b)(4) refers to a record of tests. What tests are required of push-out windows and emergency door lamps on buses?

Interpretation: Generally, inspection of a push-out window would require pushing out the window. However, if the window may be destroyed by pushing out to test its proper functioning, a visual inspection may qualify as a test if the inspector can ascertain the proper functioning of the window without opening it. Checking to ensure that the rubber push-out molding is properly in place and has not deteriorated and that any handles or marking instructions have not been tampered with would meet the test requirement. Inspection of emergency door marking lights would require opening the door to test the lights.

Appendix A:

Glossary of Motorcoach Industry Terms

Bus	Any motor vehicle designed, constructed, and/or used for the transportation of passengers, including taxicabs.
Car or Coach	Other names for a motorcoach or large bus used in certain geographical areas.
Charter Transportation of Passengers	The transportation, using a bus, of a group of single persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin. Examples include a group ski trip or a fan club traveling to and from a sporting event.
Commission Agents	An independent business that provides passenger related services. Examples include a bus terminal facility, or in smaller communities, a drug store, market, motel, etc. Agents generally make the travel arrangements for passengers for a fee, and usually have an agreement with the bus company.
Dead Head or DH	The motorcoach is being moved from one point to another without passengers. The driver will make this remark on his/her record of duty status.
DHOC or DHP	“Dead Head On Cushion” or “Dead Head Passenger” refers to a motorcoach driver riding on the motorcoach as a passenger. A bus driver may make this remark on his/her record of duty status while in on-duty, not driving status.
For-Hire Motor Carrier of Passengers	A carrier engaged in the transportation of passengers for compensation.
Intercity Motorcoach	A motor vehicle designed for long distance transportation of passengers between major cities, usually equipped with storage racks above the seats and a baggage compartment beneath the cabin.
Interpool/ Line Agreements	The term applies to regular route carriers. To provide passengers with through service without having to change motorcoaches when leaving a carrier’s authority, carriers enter into “interline agreements” with connecting carriers.
Limousine	A passenger vehicle usually built on a lengthened automobile chassis.
Mini-bus	A motor vehicle designed or used to transport 16 or more passengers, including the driver, and typically built on a small truck chassis. A mini-bus has a smaller seating capacity than a motorcoach.
Pilot	A bus driver rides with the bus driver of another company to assist on a bus trip. The driver will make this remark on his/her record of duty status. Pilot is also known as “Shotgun.”
Private Motor Carrier of Passengers (Business)	A private motor carrier engaged in the interstate transportation of passengers, which passengers is provided in the furtherance of a commercial enterprise and is not available to the public at large. Examples of this motor carrier type include touring musicians and entertainers, and corporations that transport their employees for a business related purpose.

Private Motor Carrier of Passengers (Non-Business)	A private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business). An example of this motor carrier type is a church that transports its members.
Regular Route	Passenger carriers that operate along a prescribed route according to a fixed schedule. The term is synonymous with scheduled service or fixed route.
Rental Motorcoach/Driver	Motorcoach companies often rent a motorcoach, with or without a driver, to another company. Therefore, an inspector needs to make certain under what carrier's authority the motorcoach is being operated. If it is a rental, the name on the motorcoach may or may not match the employer of the driver. Generally, a rental will be for a single trip or day and will occur more often in regular route than charter operations. Rentals can also be referred to as lease trips and should not be confused with leasing that the inspector may have encountered in truck operations.
School Bus	A motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary of Transportation determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students and/or school personnel from home to school and from such schools to home.
School Bus Operation	The term means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.
Stations/Depots/Terminals	These terms identify facilities where passengers buy tickets and board and de-board buses.
Tag Axle	It is found behind the drive axle on a motorcoach and is designed to provide additional weight support for the carriage of passengers.
Tour	A tour is a group of people with a set itinerary of places and/or events that they will attend.
Van	A small motor vehicle designed or used to transport 15 or fewer passengers, including the driver.

Appendix B:

Glossary of ADA-Related Terms

Accessible Bus	An accessible bus or accessible OTRB is a bus that includes a lift for getting passengers who cannot climb steps onto a bus, specific locations for securing the wheelchair to prevent it from sliding, and other features to ease travel for passengers with disabilities.
Demand Responsive	An OTRB company provides demand responsive service if it provides transportation Service to individuals via OTRB through a charter/tour system.
Equivalent Service	Equivalent service is service provided to passengers with disabilities that is as good as the type of service provided to passengers without disabilities (e.g., a different accessible vehicle is used to provide service to the same traveling points for the same cost within the same time frame as a regularly scheduled OTRB). Equivalent service requires that passengers be allowed to travel in their own wheelchairs.
Fixed Route Service	An OTRB company provides fixed route service if it provides transportation in which the OTRB is operated along a prescribed route according to a fixed schedule.
Large Operator	A large operator or large OTRB company has gross annual transportation revenues equal to or exceeding \$8.7 million [this is the 2011 threshold which is adjusted annually for inflation]. DOT's ADA regulatory requirements began to apply to large OTRB companies on October 30, 2000.
Mixed Service	An OTRB company provides mixed service if it provides both fixed route and demand responsive service, and 25% or less of its OTRB fleet is used in fixed route service.
OTRB	An OTRB (over-the-road bus) is a bus characterized by an elevated passenger deck over a baggage compartment.
Small Operator	A small operator or small OTRB company has gross annual transportation revenues less than \$8.7 million [this is the 2011 threshold which is adjusted annually for inflation]. DOT's ADA regulatory requirements began to apply to small OTRB companies on October 29, 2001.

Appendix C:

Helpful Web Sites

United Motorcoach Association	www.uma.org
National School Transportation Association	www.nsta.com
National Association of State Directors for Pupil Transportation	www.nasdpts.com
School Transportation News	www.stn.com
National Association of Pupil Transportation	www.napt.com
American Public Transit Association	www.apta.com
National Highway Traffic Safety Administration	www.nhsta.dot.gov
School Bus Safety Web Page	www.ncbussafety.org
Federal Motor Carrier Safety Administration—Main Web Page	www.fmcsa.dot.gov



U.S. Department of Transportation
Federal Motor Carrier Safety
Administration

www.fmcsa.dot.gov