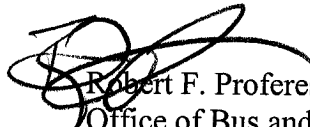


From:  Robert F. Proferes, Director  
Office of Bus and Truck Standards and Operations

Re: New Regulatory Guidance: Applicability of FMCSRs to Private Firefighters

### INFORMATION

This is to advise you that the Chief Safety Officer has concurred with the recommendations of the Interpretations Work Group (IWG) recommendations for responses to Request 2003-10, Applicability of FMCSRs to Private Firefighters.

### SUMMARY

FMCSA Headquarters received a request from Congressman James L. Oberstar concerning a question from his constituent, Scott W. Kregness. Mr. Kregness requested clarification of the FMCSRs to his private contract fire company that provides fire suppression services to Federal and State agencies throughout the United States. The vehicles his company operates have gross vehicle weight ratings between 10,000 and 25,999 pounds.

In order to prepare a response to Congressman Oberstar, FMCSA determined that new regulatory guidance was needed. Three question-and-guidance items were developed and coordinated through the IWG.

<u>Item</u>	<u>Subject</u>	<u>Recommendation, Disposition</u>
R-2003-10	Application of FMCSRs to private firefighters	Provide new guidance.

Attached are the three new question-and-guidance items. They will be added to the FMCSA www site and to MCREGIS.

Attachments (3)

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U.S. Department  
of Transportation

Office of the Administrator

400 - Seventh St., SW  
Washington, DC 20590

Federal Motor Carrier  
Safety Administration

OCT - 9 2003

**Regulatory Guidance**  
**Subpart A to Part 390 – General Applicability and Definitions**  
**§ 390.3 Operation of Fire Trucks and Rescue Vehicles**

**Question:** 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?

**Guidance:** 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 FMCSR while operating commercial motor vehicles in interstate commerce.

John H. Hill  
Assistant Administrator  
and Chief Safety Officer



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**Regulatory Guidance**  
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**§ 390.3 Operation of Fire Trucks and Rescue Vehicles**

**Question:** Section 390.3(f)(5) provides an exemption from the FMCSRs for the operation of fire trucks and rescue vehicles while such vehicles are being used in emergency and related operations. What is meant by the phrase “emergency and related operations?”

**Guidance:** The term “emergency,” as used in § 390.3(f)(5), includes any occurrence, natural or manmade, that immediately threatens human life or public welfare, and requires the work of firefighters or rescue personnel to respond to the threat. Such occurrences include, but are not limited to, fires, floods, motor vehicle crashes, and medical emergencies. An emergency, however, need not have been formally declared by a governmental authority in order to utilize this exemption.

The term “related operations” includes driving fire trucks or rescue vehicles to the scene of an emergency, and driving such vehicles while returning from the emergency or rescue scene. “Related operations” does not include the pre-positioning of fire trucks or rescue vehicles in anticipation of emergencies, or the use of such vehicles in training or emergency preparedness exercises.

A handwritten signature in black ink, appearing to read "John H. Hill", written over a circular stamp or seal.

John H. Hill  
Assistant Administrator  
and Chief Safety Officer



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**Regulatory Guidance**  
**Subpart A to Part 390 – General Applicability and Definitions**  
**§ 390.3 -- Operation 9- to 15-Passenger Vehicles Used to Transport Firefighters**

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

**Guidance:** No. Although the 9- to 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- to 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.

John H. Hill  
Assistant Administrator  
and Chief Safety Officer