The Federal Motor Carrier Safety Regulations

Introduction

The new Federal Motor Carrier Safety Regulations (the "Regulations") take effect on January 1, 1995. These Regulations apply to all church and school vehicles designed to carry 15 or more persons, including vans, that are used to transport goods or passengers across State lines. Such vehicles are referred to under the Regulations as "covered vehicles." The Regulations apply only to "covered vehicles," and do not apply to vehicles that are used only within the State.

Under the new Regulations, each church and school that uses a "covered vehicle" to transport individuals into another State must obtain a United States Department of Transportation number ("U.S. DOT number"). This number, along with the church or school name and the city and state where the vehicle is customarily based, must be displayed on both sides of every "covered vehicle." In addition, each person that drive a "covered vehicle," (regardless of whether he or she actually drives the vehicle across State lines), must obtain a commercial driver's license ("CDL") from the State.

The new Regulations set forth various safety, inspection, maintenance, and repair requirements that must be followed. In addition, churches and schools operating "covered vehicles" are subject to terminal and roadside inspections by the Federal Highway Administration ("FHA"). If a church or school receives an "unsatisfactory" safety rating following an inspection, then that church or school could be prohibited from continuing to operate the vehicle in question.

The new Regulations also require churches and schools to comply with new drug and alcohol testing procedures. Churches and schools with 50 or more drivers will be required to comply with the new procedures by January 1, 1995; those with fewer than 50 drivers will have until January 1, 1996 to comply with the new testing requirements.

In most situations, churches and schools will not be involved in using their "covered vehicles" for commercial purposes, and therefore, will not be subject to many of the record-keeping requirements that apply to for-profit businesses. Even churches and schools will be required to keep some records, however, such as those associated with drug and alcohol testing.

Please note that the Regulations do not take the place of separate State requirements for buses and drivers. Instead, the new Regulations impose additional requirements on churches and schools.

General Information Concerning The Regulations

The Regulations, known as the Federal Motor Carrier Safety Regulations, take effect on January 1, 1995;
They apply to vehicles designed to transport 15 or more persons, which are used in "interstate commerce"—(under the Regulations, such vehicles are referred to as "covered vehicles");

"Interstate commerce" is defined in the Regulations as the transportation of goods or passengers from a place in one State to any place outside of that State; the Regulations do not apply to vehicles that are used for transportation only within the State;

The Regulations apply to all drivers who operate a "covered vehicle"; therefore, the Regulations apply to any driver who operates a "covered vehicle," even if that particular driver operates the vehicle only within the State;

The Regulations do not take the place of separate State requirements for buses and drivers; the Regulations are in addition to any requirements that have been established by an individual State;

The Regulations place motor carriers using "covered vehicles" into 2 categories: (1) those who use the vehicles for commercial purposes; and (2) those who use the vehicles for nonbusiness activities—(most churches and schools fall into the second category, i.e., motor carriers who use "covered vehicles" for nonbusiness activities); the major difference between the two categories is that, operators who use "covered vehicles" for commercial purposes must comply with the record-keeping requirements set forth in the Regulations, whereas operators who use "covered vehicles" for nonbusiness activities are not subject to the record-keeping requirements; the record-keeping requirements are set forth in more detail below.1

* Please note, however, that if a church or school arranges a tour for the public at large with the intent of making a profit, then such an activity may fall within the "commercial purpose" language of the Regulations, subjecting the church or school to the record-keeping requirements set forth in the Regulations.

**Drug And Alcohol Testing**

Employers with 50 or more drivers will have until January 1, 1995 to comply with new drug and alcohol testing requirements set forth under the Regulations (discussed in more detail below): employers with less than 50 drivers will be required to comply with the new drug and alcohol testing requirements by January 1, 1996; all employers must comply with certain record-keeping requirements associated with the drug and alcohol testing procedures.

**Checklist**

The Regulations that are applicable to churches and schools are set forth in 49 CFR Parts 383, 385, 390, 391, 392, 393, 395, and 396. The following is a summary/checklist concerning the different provisions of the Regulations. The "Ô"
indicates items that churches and schools must comply with. The "x" indicates unrequired items.

- All private motor carriers covered under the new Regulations must obtain a U.S. DOT number;

- Part 390 of the Regulations requires "covered vehicles" to be marked on both sides with the following information: (1) the motor carrier's name or trade name; (2) the city and state where the vehicle is customarily based; and (3) the motor carrier identification number preceded by "US DOT";

- Part 383 of the Regulations provides that each driver of a "covered vehicle" must have a commercial driver's license (CDL); the tests necessary to obtain a CDL are administered by the individual States; a CDL is the only license that may be possessed by an operator of a commercial motor vehicle;

- To obtain a CDL, a driver must meet certain qualifications which are set forth in Part 391 of the Regulations; generally, a driver must: (1) be in good health; (2) be at least 21 years of age; (3) speak and read English; (4) be able to determine whether the vehicle is safely loaded; (5) know how to block, brace, and tie down cargo; (6) have only one valid driver's license; (7) pass a DOT drug test; and (8) not be disqualified to drive a commercial motor vehicle (because of a revocation, suspension, withdrawal or denial of an operator's license or because of a conviction of certain driving-related offenses;

  - Part 391 of the Regulations further provides that each driver must pass the DOT physical; if the driver passes the physical, the physician will give the driver a Medical Examiner's Certificate that must be carried at all times when driving; the Certificate must be renewed every 2 years; please note, however, that the medical examination requirement set forth in Part 391 does not appear to apply to drivers operating "covered vehicles" being used in nonbusiness activities, and therefore, this Part does not appear to apply to churches and schools;

  - Part 391 further provides that a motor carrier must have a qualification file for each driver of a "covered vehicle": please note, however, that this record-keeping requirement does not apply to motor carriers using vehicles for nonbusiness activities, i.e., churches and schools (see t6, page 2, above); if a file is kept, it should include the following: (1) the driver's application for employment; (2) the medical examiner's certificate, if issued; (3) results of the driver's road test, if taken; (4) results of the driver's written examination, if taken; (5) certification of road test and written examination; (6) the driver's annual certification of violations; (7) inquiry to previous employers; (8) driving record inquiry to State; (9) annual review of driving record; (10) copy of waiver letter, if issued; and (11) controlled substances testing information (each of these different
categories is covered in a separate form issued by the Federal Highway Administration):

- Part 391 further provides that motor carriers must establish an anti-drug program that includes testing of drivers for the use of controlled substances (this must be established by January 1, 1995 for employers with 50 or more drivers, and by January 1, 1996 for employers with fewer than 50 drivers); the testing procedures are based on those established by the Department of Health and Human Services; in addition to the testing procedures, the DOT requires that all drivers, supervisors, and company officials undergo training on the use and abuse of controlled substances;

- Part 392 of the Regulations sets forth various safety rules that must be followed by the driver of a "covered vehicle": among other things, Part 392 discusses certain procedures that a driver must follow if involved in an accident; each driver of a "covered vehicle" should be familiar with and follow these safety rules: you can obtain a copy of the Regulations, including the safety rules set forth in Part 392, from the following office:

  - Superintendent of Documents
  - U.S. Government Printing Office
  - Washington, D.C. 20402
  - (202) 783-3238

- Part 393 of the Regulations sets forth various rules concerning the maintenance of vehicle equipment; each driver of a "covered vehicle" should be familiar with and follow these maintenance rules;

  - Part 394 of the Regulations requires motor carriers to report and keep records of accidents; a "reportable accident" is an occurrence involving a commercial motor vehicle engaged in the interstate, foreign, or intrastate operations of a motor carrier, that results in any one of the following: (1) the death of a person; (2) bodily injury to a person who, as a result, received immediate medical treatment away from the scene of the accident; or (3) total damage to all property aggregating $4,400 or more based on actual costs or reliable estimates; a "reportable accident" involving a death must be reported within 24 hours of the accident to the Regional Director, Office of Motor Carriers of the Federal Highway Administration Region in which the carrier's principal place of business is located; all other "reportable accidents" must be reported to the Regional Director within 30 days of the accident; accident reports must be kept on file for at least 3 years following the accident; please note, however, that Part 394 does not appear to apply to motor carriers who are using "covered vehicles" for nonbusiness activities, and therefore, this Part does not appear to apply to churches and schools;
• Part 395 of the Regulations states that a motor carrier cannot allow or require any driver to drive (1) more than 10 hours following 8 consecutive hours off duty; or (2) after being on duty 15 hours; or (3) after being on duty more than 60 hours in any 7 consecutive days;

• Part 395 of the Regulations further states that motor carriers must require every driver to make a record of their driving status; please note, however, that this record-keeping requirement does not apply to private motor carriers using vehicles for nonbusiness activities, i.e., churches and schools (see t6, page 2, above);

• Part 396 of the Regulations requires motor carriers to ensure that its "covered vehicles" are regularly inspected, repaired, and maintained (an annual inspection is the minimum requirement that must be met under this provision of the Regulations); each driver of a "covered vehicle" should be familiar with and follow these inspection, maintenance, and repair requirements;
  o Part 396 of the Regulations also requires motor carriers to keep maintenance records on each "covered vehicle"; please note, however, that this record-keeping requirement does not apply to private motor carriers using vehicles for nonbusiness activities, i.e., churches and schools (see t6, page 2, above). It is recommended that maintenance records are kept, however.

• Motor carriers operating"covered vehicles" are subject to terminal and roadside inspections by the Federal Highway Administration; if a carrier receives an "unsatisfactory" safety rating following an inspection, then that carrier will be prohibited from continuing its operations unless, within 45 days, the carrier takes corrective action and receives a "satisfactory" or "conditional" safety rating.

• Part 387 of the Regulations discusses the responsibility to maintain minimum levels of insurance and to keep proof of insurance on file; please note that, although Part 387 sets insurance requirements only for motor carriers of property and for-hire motor carriers of passengers, and therefore, does not apply to private motor carriers of passengers such as churches and schools, individual States usually have separate insurance requirements for all drivers.

  You may obtain the relevant forms from the Federal Highway Administration's Office of Motor Carriers in your State.