

ATTACHMENT #7

**CONSOLIDATED SAFETY SYSTEMS SAFETY
AUDIT**

(30 Pages)

CHAPTER 104

BUSES

A. GENERAL

1. This chapter outlines routing authority for bus moves, the proper procurement and payment procedures for bus movements, the standard process for requesting a bus movement, and topics related to the transport of baggage, military impedimenta and weapons. Due to the passenger count and baggage requirements of group movements, bus transportation is often the most economical and efficient method of moving DOD personnel.
 - a. DOD entities arranging charter bus service must ensure that only DOD-approved carriers are considered for official travel. Each DOD-approved carrier is required to maintain an agreement, party to the Military Bus Agreement (MBA), which is kept on file at the DTMO.
 - b. To obtain a copy of the MBA and to view the listing of DOD-approved bus, van and limo carriers, visit <http://www.defensetravel.dod.mil/Sections/MilBus.cfm> or e-mail milbus@dtmo.pentagon.mil. The TO should refer commercial bus carriers interested in becoming DOD-approved to the MBA and have the carrier direct any inquiries to the DTMO.
 - c. TOs arranging group travel and paying with DOD funds must abide by these regulations and the provisions of the MBA.

NOTE: TOs must use prudent judgment to select the method of transportation most advantageous to the Government, when cost and other factors are considered. Travel should be completed using the most expeditious means of transportation practicable and commensurate with the nature and purpose of official duties. For example, if it is more economical and meets mission requirements, public transportation, taxi services, or scheduled bus service available to the general public can be utilized for individual travel.

2. **MBA Standards of Service.** The MBA outlines the minimum standards of service to ensure safe and secure commercial bus transportation for DOD personnel. These standards apply to all DOD approved commercial carriers used domestically to transport DOD entities, regardless of whether the transportation was arranged by the DTMO, USTRANSCOM Contract Division, or a TO. In emergencies, carriers must continue to comply with all prescribed standards to the extent that circumstances permit.
3. **OCONUS Locations.** Theater commands must establish the standards of service for an overseas location. Bus agreements for OCONUS locations are coordinated by the theater commander. Additional information about surface transportation for a specific OCONUS location may be obtained by contacting the theater command office.

B. ROUTING AUTHORITY

1. The TO maintains local routing authority or has the option of utilizing GOPAX to procure transportation (<https://gopax.eta.sddc.army.mil/main.pl>). GOPAX is a web-based procurement system that allows DOD-approved carriers to provide an offer of service on military movement requirements.
 - a. If assistance is needed in procuring bus transportation or using the GOPAX system, the TO may contact the DTMO (703-696-7282) or send an e-mail to: milbus@dtmo.pentagon.mil.

C. PROCEDURES FOR ARRANGING BUS TRANSPORTATION

1. **Submission of Requests.** Requests should be submitted as early as possible to obtain the best



PASSENGER Motor Carrier Pre-Qualification Compliance Report

Date: 7/21/2009

Inspection No.: 2091003

| | | | |
|---------------------|-------------------------------------|----------------|-----------------------------|
| Carrier | WORLD WIDE TRAVEL OF GREATER NEW YC | Address | |
| DBA | | 33 2nd Avenue | |
| Trade | | Brooklyn | NY 11215- |
| Contact Name | Christopher Muldoon | Phone | (718)381-1775 (888)783-3433 |
| | | Fax | (718)381-1804 |

Inspectors:
GEORGE SAMBORA

SUMMARY

| | FACTOR | RATING |
|---|--|--------|
| 1 | General | 4 |
| 2 | Driver | 2 |
| 3 | Operational | 4 |
| 4 | Vehicle | 4 |
| 5 | Hazardous Materials | 0 |
| 6 | Accidents: Recordable Rate per Million Miles | 1 |
| 7 | DTMO/PASSENGER | 0 |

Equipment Rating: 1
INSPECTION RATING 4 CONDITIONAL

CARRIER INFORMATION

Inspection No.: 2091003

| | | | |
|---------------------|---------------------------------------|--------------------------------|---|
| Carrier Name | WORLD WIDE TRAVEL OF GREATER NEW YORK | | |
| DBA | | | |
| Trade Name | | | |
| SCAC Code | WWGN | Units Inspected: | 3 |
| DOT Number | 0782392 | Current DTMO Inventory: | 7 |

This is a privately owned and operated carrier that provides charter and tour service to the public from the Brooklyn, NY / Metropolitan New York City, NY area to points in the Eastern US. The carrier began business in 1998 with two (2) vehicles that were used to provide line type service from New York, NY to Atlantic City, NJ and also charter service. The parent corporation has also added two other companies to their corporate structure, Great Escape Tours & Travel, and Long Island Transit. These companies operate line, charter, and tour service to the public. The company continued to grow and eventually reached its present size of seven (7) motor-coaches for World Wide Travel of Greater New York (WWTGNY), and to a total of 54 drivers, plus an additional 20 motor coaches in the other divisions.

All companies operating under the parent corporation operate from the same location in Brooklyn, NY. They all share a common management team and maintenance facility.

Of particular note in the structure of employees, is that all drivers are employees of WWTGNY, and perform work for all corporate divisions, and can be considered to be multiple-employer drivers to the other divisions. As such, this inspection included the review of selected driver qualification files and records of duty status (RODS) from all of the drivers. The review of maintenance files was limited in scope to the vehicles actually owned and registered to WWTGNY. Continuing in this vein, the review of the carrier's accident register and roadside inspections was, again, limited to WWTGNY.

There were a number of operational deficiencies and problems found during this inspection. A variety of causal factors contributed to the violations found, which include, but are not limited to: a loss of oversight by management, a lack of a comprehensive knowledge and understanding of the specifics of the Federal Motor Carrier Safety Regulations (FMCSR), the abdication of responsibilities to third parties hired by the carrier, and a loss of accountability of employees. Another problem found was that the carrier's emphasis of compliance was directed to the provisions of New York State Article 19-A Regulations. While essential to the carrier's ability to provide services to the public, if one set of requirements is emphasized, the other can sometimes suffer, and lead to violations. Another contributing factor, a lack of initiative to take corrective actions relative to violations noted during their last USDOT Compliance Review (CR), has been demonstrated, as a number of the violations found during this inspection were also noted in their last CR.

Some of the violations found have now reached "critical" levels, such as missing maintenance records and missing drivers' records of duty status (RODS). Numerous general violations, such as an incomplete driver vehicle inspection report (DVIR) program, hours-of-service violations, form/manner violations on driver RODS, the failure to properly monitor their testing program for controlled substances and alcohol (detailed in the Factor Two - Driver segment of this report), and missing records of roadside inspections. Also, coming into question is the levels of the carrier's safety management controls, which seem to be lacking in several aspects of their operations, such as related to drivers' RODS, driver performance, and maintenance procedures.

The violations and problems found will require the immediate attention of and corrective actions by the carrier's

Executive Summary

This knowledge should then be applied in the review of their current policies and procedures, and the necessary changes made in them. Once implemented, the carrier must provide additional training to all affected employees, and establish a follow-up program to monitor effectiveness of the programs and also for employee accountability.

The carrier must remember that the FMCSR are a living document, and subject to frequent changes. They must be constantly vigilant of the changes and how they can affect their operations, and are applied to their operations. The carrier must also maintain an evenly balanced approach to compliance with the requirements of the FMCSR and also of New York Article 19-A. When used in conjunction with each other, the carrier will have high compliance levels in all aspects of their operations, and also maintain high levels of safety management controls.

In the current circumstances, the carrier has placed itself into an unenviable position of exposure to excessive liability in the event of an accident. They must immediately implement numerous corrective actions relative to not only the violations noted in this report, but also their last CR.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

1) General

Inspection No.: 2091003

This Factor will evaluate the carrier's knowledge of the regulations and its ability to properly instruct employees and drivers about their responsibilities. This Factor will also review and identify the carrier's authority to operate in INTERSTATE and/or INTRASTATE commerce. The carrier must also provide evidence of the required levels of financial responsibility.

In order to meet the Safety Fitness Standard as described in Section 385.5 of the Federal Motor Carrier Safety Regulations (FMCSR), the motor carrier must demonstrate that adequate safety management controls are in place and are functioning effectively to ensure acceptable levels of compliance and performance. These controls are defined in Section 385.3 as the systems, policies, programs, practices, and procedures used by the motor carrier to ensure compliance with all applicable regulations. Identification of a carrier's safety management controls and the evaluation of their effectiveness are a major component of this Factor.

The carrier was initially not able to present all required documents that were requested by the Consolidated Safety Services (CSS) pre-inspection checklist. Verification of their financial responsibilities (MCS Form 90-B) was obtained during the course of the inspection after calls were made to the carrier's insurance company. They did present an ACORD Form at the onset of the inspection, believing that this would suffice for the requirements. Validation of the scope of their operating authority was provided with a copy of their MC Number, 349766, and the review of the actual authority. Copies of statistical summary reports for their testing program for controlled substances and alcohol were obtained at the close of the audit process. Other documents requested by CSS were provided upon request at the beginning of the inspection process.

The number and severity of the violations found, and the loss of safety management controls by the carrier's management, indicate problems and deficiencies that must be immediately corrected by the carrier to ensure that they use fully qualified drivers, enforce the hours-of-service regulations with management and drivers, and use safe equipment. In Factor Two (Driver), although the carrier was largely in compliance with drug and alcohol testing regulations, the carrier demonstrates a lack of direct controls and close monitoring of the driver drug and alcohol testing program leading to questions as to carrier compliance by design, or by chance. Serious violations were found in Factor Three (Operational) and Factor Four (Vehicle). The lack of documentation in several aspects of their operations clearly demonstrates an urgent need for remedial measures.

1/390.3(e)(1)

GENERAL

**Does the carrier have a source or can it access current FMCSR?
(Within one year)**

The carrier has been using a driver's edition of the FMCSR for their compliance issues. Since regulations constantly change, it is essential that management have a current and reliable source of reference. Sources are available via either the Internet at fmcsa.dot.gov or they can be obtained in other formats through various sources. As these resources are readily available, it is advisable that the carrier always have available a current issue of a "management edition" of the regulations and that arrangements are made for regular updates.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

3/390.3(e)
GENERAL

Is management familiar enough with the FMCSR to ensure compliance?

No. Management is not familiar with the FMCSR to the degree necessary to maintain compliance.

A lack of knowledge of the specifics of Parts 40, 382, 391, 395, and 396 has led to many of the violations found. For example, the carrier has not requested any statistical summary reports from the third party administrator (TPA) to verify and monitor that sufficient testing had been accomplished and that all required records were maintained.

5/5/390.3(e)(2)
GENERAL

Does the carrier have a management system for ensuring compliance with the FMCSR that has individual(s) who has authority to deny use of or deny hiring a driver for safety/compliance reasons?

No. The carrier does not have a means by which a driver may be denied being used or hired for safety or compliance reasons. Under the FMCSR, a carrier must ensure that only qualified drivers are used. Furthermore, it must ensure that operations are conducted in such a fashion that regulations will be adhered to and that safety is not compromised, and have a management system that will support this. This may take the form of a Safety Manager, having the authority and responsibility to review operational procedures, or people within operations that have the authority and are trained and knowledgeable enough to decide against the use of drivers who are unsafe or not qualified.

12/390.3
GENERAL

Have any management personnel attended outside safety meetings, courses, seminars, etc. within the last two years?

No. No one in the carrier's operation has attended an outside training course relevant to safety or compliance of the FMCSR during the last two years. Considering the often-misunderstood intent and complexities of the regulations, outside training seminars and/or courses are viewed as a valuable tool for management to remain knowledgeable of the regulations. This can assist those persons assigned various administrative duties in learning the importance of their job responsibilities.

The carrier does have supervisors attend various required seminars and training sessions devoted strictly to the requirements of New York State Article 19-A.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

**14/385.5
GENERAL**

Is there a process, procedure or individual(s) that can make dispatching changes to avoid compromising safety and compliance?

No. Once a driver has been dispatched or assigned, there does not appear to be a means by which he/she can be stopped for safety or compliance reasons. This is clearly demonstrated by the number of hour-of-service violations that were detected during this inspection process.

It is important that the carrier make safety and compliance an integral part of the operations process to ensure that a driver or bus can be stopped when safety and/or compliance is compromised.

**16/386
GENERAL**

Is the carrier familiar with the fines and penalties that can be imposed for violations of the FMCSRs/HMRs?

No. It is vitally important for a motor carrier to fully understand the seriousness associated with non-compliance and the civil penalties imposed if found in violation, including prosecution of managers, supervisors, and drivers. Criminal charges may also be filed if evidence supports a willful neglect or intent to falsify records or to conceal violations. The carrier needs to review the provisions of Part 386 and remain aware of its contents.

**20/385.5(c)
GENERAL**

Does the carrier review its compliance status regarding drivers' qualifications?

There were serious deficiencies noted during the review of the carrier's testing program for controlled substances and alcohol (detailed in Factor Two (Driver)). The carrier has placed the onus on their TPA to ensure that all requirements of Parts 40 and 382 are met. For example, the carrier could not accurately ascertain the average number of eligible employees in their random testing pool.

One of the qualification components is assurance that the driver does not engage in the misuse of alcohol or the use of a controlled substance(s). This is controlled through the pre-employment drug test as a condition of employment and then monitored through a drug and alcohol-testing program consisting of several elements. The DOT has established rates for random drug and alcohol testing to act as a deterrent and preventive measure. Other required elements include post-accident, reasonable suspicion, return to duty and follow-up testing. When the monitoring program fails to meet all the provisions of the regulations, the possibility exists for abuse.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

21/385.5(g)
GENERAL

Does the carrier review its compliance status regarding drivers' hours of service?

No. As seen by the violations noted in Factor Three, the carrier does not have a system to review and correct systems or processes that may lead to violations. The number of missing records, hour-of-service violations, and form/manner violations exemplify the deficiencies found in this segment of the carrier's operations.

The record of duty status (RODS) is a legal document certified by a driver attesting to the accuracy of the record. An effective log-audit program consists of several components and should periodically review systems or processes related to drivers' hours-of-service, as well as focus on form and manner errors, hours-of-service violations, excessive speed and falsification. The program should also be supported by a progressively severe disciplinary structure designed to hold managers/drivers accountable, particularly those that are repeat offenders. Additionally, a method to account for a driver's available hours on a daily basis should be established, which can be done by requiring drivers to provide a verbal accounting of their hours prior to each dispatch which should then be validated during the log-audit program.

22/385.5(h)
GENERAL

Does the carrier review its compliance status regarding maintenance, inspection and repair?

There are several major issues of concern that were found in this aspect of the carrier's operations. First, the carrier does not review its management controls to ensure the record making process is complete. Numerous instances of missing documentation of repairs made to defects that were noted on DVIRs, and roadside inspections, were detected during this review.

Section 396.3(b) is specific regarding the records required for any and all maintenance activities. Failure to maintain minimum records of inspection and repairs can lead to a "critical" violation. Periodically reviewing control procedures for deficiencies should result in improvements to ensure the safe operation of all vehicles.

Secondly, the carrier does not periodically review management control procedures related to DVIRs for deficiencies. A number of safety defects were noted by drivers on the DVIRs, with no documentation available of repair made, and the lack of evidence of a mechanic's signature on the DVIRs was discovered.

An important element to the safety of vehicles in operation is the quality of a driver's pre-trip and post-trip inspections. The DVIR, used in accordance

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

the standards imposed by regulations.

The effectiveness of this process should be monitored by several methods. One is to ensure that all certifications are present when required on the DVIR. A second involves the use of information obtained from a roadside inspection report. Safety-related defects should be investigated to determine if the driver would have identified them during his/her pre-trip inspection. If so and the driver did not identify the defects, the quality of the driver's pre-trip inspection should be questioned. A third method relates to routine service. When a vehicle is scheduled for service and a number of safety-related defects are found that should have been noted on the DVIR, the driver should be held accountable. Better oversight by the carrier may be necessary and should involve periodically reviewing control procedures for deficiencies. This should result in improvements where needed to ensure the safe operation of all vehicles.

Thirdly, the evidence of stretched maintenance inspections demonstrate that the carrier does not have means to review management control procedures designed to ensure that vehicles are inspected or maintained in a systematic fashion or repaired when necessary. Under the regulations, the motor carrier is required to establish a systematic program for inspection, repair, and preventive maintenance. The intervals of a systematic program are to be determined by the motor carrier, which allows the carrier to take into consideration geographical location, operating conditions and the manufacturer's guidelines provided in vehicle service manuals. Periodically reviewing control procedures for deficiencies should result in needed improvements to ensure the safe operation of all vehicles.

25/385.5
GENERAL

Has the carrier taken corrective actions relative to violations noted during its last inspection?

No. Violations relative to this Factor, which were brought to the carrier's attention during a previous USDOT CR, conducted on 09-29-08, have not been corrected. During that inspection, the carrier was cited for violations of Parts 391, 395, and 396 of the FMCSR, and there seems to be little or no evidence of corrective actions being accomplished.

It is expected that violations and operational deficiencies that are brought to a carrier's attention will be corrected. The carrier should have taken corrective action to prevent future violations. When similar violations or operational deficiencies are again found during a subsequent review, it has the appearance that the carrier has either neglected or refused to make corrections to known concerns.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

2) Driver

Inspection No.: 2091003

A motor carrier's policies, procedures and controls as they relate to qualifying and hiring potential drivers, are evaluated in this Factor. The process of data collection from the carrier's program of testing for controlled substances and alcohol is also reviewed and evaluated.

An audit of selected driver qualification files is conducted in order to determine the effectiveness of the carrier's procedure. It is also a means of determining the extent of management's knowledge of the regulations and how they apply to operations.

There are several issues of concern that were found in this Factor. The review of driver qualification files showed them to be substantially complete and compliant with current regulations. The carrier comes under the auspices of New York State Article 19-A, and when used properly in conjunction with the FMCSR, can usually ensure that all requirements are met as far as the creation of files for newly hired drivers. The review of the carrier's continuing qualification process has been accomplished and documented in a timely manner. However, violations of Part 383.31 (a)(b) & (c) were detected during this review.

The review of the records for the carrier's testing program for controlled substances and alcohol revealed several deficiencies and violations. The carrier's policy did not include all required elements of Part 382.601, which was brought to the attention of the carrier. The abbreviated policy was distributed to all drivers and receipts were maintained in the files. The carrier initially presented a statistical summary report for their program that did not indicate who prepared the report, or who the administrator of the program was, nor did it include the name of the laboratory. This report was deemed to be unacceptable as per the standards set forth in Part 40.111 of the FMCSR, which specifically state that the laboratory must submit the reports, by employer, on a semi-annual basis. The carrier also could not accurately ascertain the exact average number of employees in their testing pool for the past calendar year 2008, initially stating that they had approximately 40 employees in the pool. They stated that they update the roster of eligible employees to their TPA at least monthly, but could not provide any evidence of the actual rosters submitted.

Numerous telephone calls, starting at approximately 0900 and ending at approximately 1630, were made to the carrier's TPA; HealthCor, 73-01 Grand Avenue, Maspeth, NY. The MRO of the program was identified as Joseph J. Ciuffo MD, F.A.A.F.P. The TPA uses the services of an approved laboratory for the testing of all samples. The TPA could not immediately provide all required information, and did not seem to understand all of their responsibilities to the carrier. They were initially unable to document the average pool size, and indicated that their report would be satisfactory. The requirements of Part 40 were explained to the TPA's representative, Christine Savino. Detailed instructions were provided to her on what exactly was required for this inspection.

At approximately 1630 the documents were sent to the carrier for review. These showed the average number of eligible employees (48) in the testing pool. The reports indicated that 31 (64.5% rate) random tests for controlled substances were conducted, and eight (8) (16.6% rate) random alcohol tests were conducted.

The above-mentioned discussion clearly demonstrates a lack of proper safety management controls by the carrier. Carriers in the DTMO program are expected to routinely monitor their controlled substances and alcohol testing compliance. While a TPA can act as an intermediary or service agent, (Part 40.349 (a) & (d)), the carrier is ultimately responsible and must comply with all of the requirements. The carrier was advised of the requirements of these Parts of the FMCSR in detail. They were provided with specific guidance on how to properly comply, and of the required reports.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

8/383.31/33 & 391.15

GENERAL

Does the carrier have written procedures for drivers to make written notifications of violations and suspensions required by Part 383?

No. The review of roadside inspections showed that a driver, was cited by police for speeding on 04-13-09. A report sent to the carrier by the State of Delaware, which was in their files, showed that the driver was clocked at 76 MPH in a 55 MPH zone but was actually convicted for 64 MPH in a 55 MPH Zone. This effectively reduced the violation from a "Serious Traffic Violation" as defined in Part 383.51 of the FMCSR, against the driver's license to a minor offense. The driver did not report the citation to the carrier as required, and no documentation of his reporting it to the State issuing his license was found. The carrier, when questioned about this incident, stated that they became aware of the citation, and talked to the driver about it. However, they made no attempt to document any of this in his file as required.

Drivers are required to notify their employer of any license suspension, revocation, or cancellation and of any conviction of violating a State or local law relating to motor vehicle traffic control (other than parking) in any type of vehicle. Time constraints for notification are specified depending on the reason or violation. It is incumbent upon the motor carrier to ensure that each driver is fully aware of his or her responsibility. It is generally a good practice to state this requirement in the carrier's policy manual.

The carrier is in violation if it continues to use a driver if the offense for which the driver is convicted is classified as a "Serious Traffic Violation." Certain traffic violations may result in a driver's disqualification. Notification must be made in writing in accordance with FMCSR, Section 383.31(c).

32/40.85

GENERAL

Is drug testing under Part 382 / 655 limited to prescribed drugs?

A review of the carrier's in-house policy indicated that they would be conducting ten-panel tests for some of their tests. The carrier was made aware of the following requirements: under the regulations, the motor carrier can test only for marijuana, cocaine, opiates, amphetamines, and phencyclidine. The carrier is not prohibited from testing for other substances as a matter of company policy; however, the samples collected, the reports obtained, and all other associated records must be separate and distinct from any DOT required test.

There was no evidence of the carrier actually using the ten-panel test on documentation received from their TPA and laboratory.



VEHICLE INSPECTION REPORT

Inspection Date



7/21/2009

Motor Carrier WORLD WIDE TRAVEL OF GREATER NEW YORK

Street Address 33 2nd Avenue

City Brooklyn **State** NY **Zip** 11215-

Driver **DOB**
SSN #
License # **State**

VEHICLE IDENTIFICATION

Vehicle Type Bus **Own or Lease?**
Make PREVOST - 2001
Company Number 237
License Number 24842BA (NY)
VIN Number 2PCH3349911014280

Inspection #
2091003
InspectionType FTE
CVSA Level 5
Inspection Location
Brooklyn NY

Start Time 10:20:00 am
End Time 10:45:00 am

Is Vehicle on DTMO Inventory? Y
Vehicle Ready for Service? Y

MRN #
MRO #
USDOT #
0782392
ICC #
349766
Charter #



VEHICLE INSPECTION REPORT

Inspection Date



7/21/2009

Motor Carrier WORLD WIDE TRAVEL OF GREATER NEW YORK

Street Address 33 2nd Avenue

City Brooklyn State NY Zip 11215

Driver License # SSN # License # State DOB

Inspection # 2091003
InspectionType FTE
CVSA Level 5
Inspection Location Brooklyn NY

MRN #
MRO #
USDOT # 0782392
ICC # 349766
Charter #

VEHICLE IDENTIFICATION

Vehicle Type Bus Own or Lease?
Make PREVOST - 1999
Company Number 747
License Number 24849BA (NY)
VIN Number 2PCH33499X1012747

Start Time 09:55:00 am
End Time 10:20:00 am
Is Vehicle on DTMO Inventory? Y
Vehicle Ready for Service? Y

CITATION INFORMATION

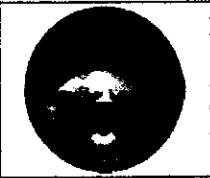
| Item | Unit | Citation # | O/O/S | Type of Violation | Violation Description |
|------|------|------------|-------|-------------------|-------------------------------|
| 1 | | MBA-ATTACH | N | EQUIPMENT COMFORT | 5 reading lights inoperative. |

18



VEHICLE INSPECTION REPORT

Inspection Date



7/21/2009

Motor Carrier WORLD WIDE TRAVEL OF GREATER NEW YORK

Street Address 33 2nd Avenue

City Brooklyn State NY Zip 11215-

Driver SSN # License # State DOB

MRN #
MRO #
USDOT # 0782392
ICC # 349766
Charter #

Inspection # 2091003
InspectionType FTE
CVSA Level 5
Inspection Location Brooklyn NY

Start Time 09:30:00 am
End Time 09:55:00 am

Is Vehicle on DTMO Inventory? Y

Vehicle Ready for Service? Y

VEHICLE IDENTIFICATION

Vehicle Type Bus Own or Lease?
Make PREVOST - 2001
Company Number 238
License Number 24844BA (NY)
VIN Number 2PCH3349811014285

CITATION INFORMATION

| <u>Item</u> | <u>Unit</u> | <u>Citation #</u> | <u>O/O/S</u> | <u>Type of Violation</u> | <u>Violation Description</u> |
|-------------|-------------|-------------------|--------------|--------------------------|------------------------------|
| 1 | | MBA-ATTACH | N | EQUIPMENT COMFORT | 1 reading light inoperative. |

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

7) DTMO/PASSENGER

Inspection No.: 2091003

Factor Seven is designed to evaluate the carrier's knowledge of and compliance with the guidelines outlined in the Military Bus Agreement (MBA) and other contractual issues required of the carrier to remain approved by the military's Defense Travel Management Office (DTMO). The MBA contains specific operational procedures by which the carrier must abide. Failure to do so could risk disqualification for failing to honor the provisions of their agreement with DTMO.

In a typical pre-qualification inspection there is generally no historical data on the carrier with which a determination of the carrier's understanding of its responsibilities and compliance to DTMO under its agreement can be made. As such, Factor Seven is not included in the initial compliance evaluation. Those provisions are, however, discussed and reviewed.

The carrier was advised of the provisions of the MBA, and particularly the restrictions of brokering and/or farming out military charters. The carrier stated that their sister company, Great Escape Tour & Travel, has recently begun the process to become an approved carrier for the DTMO.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

6) Accidents: Recordable Rate per Million Miles

Inspection No.: 2091003

This Factor addresses the carrier's rate of recordable accidents per million miles during the past 12 months. It is calculated by multiplying the number of accidents by one million then dividing that number by the number of miles traveled for the same period. It will be used only when a motor carrier incurs two or more recordable accidents within the 12 months prior to the inspection. All carriers, other than urban (100 air-mile radius) carriers, with a recordable accident rate greater than 1.5 will receive an Unsatisfactory rating for this Factor. Changes in the regulations effectively removed the determination of preventability and non-preventability from the rate per million miles determination process.

A recordable accident, as defined in 49 CFR 390.5, means an accident involving a CMV operating on a public road in interstate or intrastate commerce which results in a fatality; bodily injury to a person who as a result of the injury immediately receives medical treatment away from the scene of the accident; and/or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

There are no issues of concern in this Factor. There was insufficient data to identify any trends or problems.

1/385.5

GENERAL

What is the carrier's recordable accident rate per million miles for the previous twelve (12) months?

Carrier was involved in one recordable accident (as listed in the SAFERSYS database) that upon review of the files, indicated that it did not meet the criteria for a recordable accident. The police report showed that an injury was incurred, but the person did not leave the scene of the accident to receive any type of medical treatment. Carrier recordable accident rate is reported as zero (0).

During the twelve month period prior to this inspection, the carrier operated 450,000 miles.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

5) Hazardous Materials

Inspection No.: 2091003

This Factor does not apply to this inspection.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

14/396.11
GENERAL

Is the carrier certifying on the DVIR that repairs are made (or are not necessary) when drivers note safety-related defects on DVIRs?

No. None of the DVIRs reviewed contained the signature of the mechanic making the repairs to defects listed on the DVIR.

When a driver lists a safety-related defect on a DVIR, someone designated by the carrier must ensure that the either the defect is repaired or that it does not preclude use of the vehicle. That designated person should be at least knowledgeable enough to make a determination regarding the defect(s). Drivers may often list defect(s) or other concerns that may or may not be safety-related.

The carrier must designate a person(s) who possess the skills and knowledge to make a determination as to the seriousness of the defect or concern listed. A driver may possess such knowledge or take direction from the carrier regarding the defect, but this signature will indicate the defect has been repaired or that the repair is not necessary for the safe operation of the vehicle. The carrier is responsible to ensure that the vehicle can be operated safely. A driver is prohibited from using the vehicle until it has been determined that all repairs were made and the carrier has certified this.

15/396.3(b)(3)
GENERAL

Do maintenance records indicate that repairs are made to safety-related defects listed in Appendix G that are noted on DVIRs prior to a vehicle's next use?

No. The carrier was unable to document that all safety-related defects listed on DVIRs were repaired when necessary.

Vehicle # 237 - no records of repairs to tail lights, headlights, horn, or turn signals as listed by drivers on the DVIRs.

Vehicle # 238 - no records of repairs to headlights as listed by driver on DVIR.

Vehicle # 235 - no records of repairs to tail lights, wiper blades, and windshield as listed by driver on DVIR.

Regulations require that all repairs be documented. Consequently, maintenance records should contain some evidence that safety-related defects listed on a DVIR were repaired when necessary. The FMCSA has determined that any item listed on the DVIR, and if listed in Appendix G of Subchapter B (Periodic Inspection Standard), must be repaired prior to the next use of the vehicle. Therefore, only the failure to repair those items listed in Appendix G would result in a violation. As such, those items found defective which are not specifically listed in Appendix G must still be promptly repaired but are not considered as critical to the safe operation of the vehicle.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

13/396.13
GENERAL

Are oncoming drivers certifying that they have reviewed the prior DVIR when required?

No. Not all drivers have certified that they have reviewed the prior DVIR when required. All drivers must review the prior DVIR as a part of their pre-trip inspection, required by 396.13. However, a driver must certify to his/her review when the prior DVIR has listed safety related defects AND the motor carrier has certified that those defects have either been repaired or need not be repaired for safe operation. Regulations require the signature certifications of the driver preparing the report, the mechanic making the repairs, and that of the oncoming driver as part of his or her pre-trip inspection to be on the DVIR.

A multiple-page DVIR is no longer required by Federal regulation, although one may be used. A driver is prohibited from using the vehicle until it has been determined that all repairs were made and the carrier has certified this. This provides the carrier a signature trail of accountability and should be closely monitored to ensure the process functions as prescribed by regulations. If executed properly, it can prevent the use of a commercial motor vehicle with safety-related defects. A failure to promptly repair any safety-related defect listed on the DVIR can have serious consequences. This failure can have a significant impact on a carrier's safety performance rating as well as placing the carrier at risk for increased liability in the event of a serious accident.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

5/396.3(b)

CRITICAL

Does the carrier keep minimum records of inspection and vehicle maintenance?

No. Not all files contained required elements. The review of five (5) maintenance files showed that four (4) did not contain all required records as listed below.

Vehicle # 236 - no records of repairs to chafing/kinked brake air service lines.

Vehicle # 237 - no records of repairs to tail lights, headlights, horn, or turn signals as listed by drivers on the DVIRs.

Vehicle # 238 - no records of repairs to headlights as listed by driver on DVIR.

Vehicle # 235 - no records of repairs to tail lights, wiper blades, and windshield as listed by driver on DVIR.

Section 396.3(b) of the FMCSR clearly states what is required to be on file. Subparagraphs (2), (3) and (4) for passenger motor carriers are critical issues and necessary to support the carrier's effort and ensure compliance.

Section 396.3(b)(3) requires the carrier to maintain a record of any and all inspections, repairs, and maintenance activities. Furthermore, it is incumbent upon the carrier to ensure that records of repair are maintained for any safety-related defect listed on a DVIR or recorded as defective during a roadside inspection.

9/396.3(a)

GENERAL

Do maintenance records indicate a pattern of deferred maintenance?

Yes. Not all vehicles were inspected or underwent routine service at intervals prescribed by the carrier. There was evidence found of deferred maintenance of up to 9,000 miles in excess of the carrier's own standards of a 10,000 mile interval between inspections.

When service intervals have been established, the motor carrier must ensure that those service intervals are closely adhered to. A certain amount of tolerance is allowed to those intervals; however, once a mileage interval extends beyond a predetermined interval, either by miles or time, the carrier runs the risk of using a vehicle that may not be safe and becomes exposed to increased liability should something go wrong that can be tied to maintenance, inspection or repair.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

The carrier was not aware of the violations found in this Factor. The lack of oversight/controls by management is demonstrated by the violations found. The carrier must make immediate changes in their programs and procedures to ensure that not only are all defects repaired and vehicles inspected, but also to ensure that all required documents are created and maintained in the files. The lack of proper documentation can lead to severe problems and possibly the use of unsafe equipment.

1/385.5(e)

GENERAL

What is the carrier's OUT-OF-SERVICE rate percentage for the past twelve (12) months?

The carrier was subject to eight (8) roadside inspections in the past year, with none resulting in OOS conditions found. This review included the inspection of three (3) vehicles with no OOS conditions found. This totals 11 inspections with no OOS defects, giving the carrier an OOS rate of zero (0).

2/396.9(d)(3)(II)

GENERAL

Does the carrier retain records of inspections of motor vehicles in operation (roadside/terminal-CVSA level inspections) as required?

No. The carrier could not produce copies of all roadside inspections that had occurred during the previous twelve months. The carrier's files were missing three (3) roadside inspections conducted on 10-18-08, 10-09-08, and 10-07-08. The records of these inspections were gathered for this FTE inspection from the FMCSA's SAFERSYS database.

When a roadside or terminal inspection is conducted within CVSA guidelines, carriers are required to retain records of those inspections for at least 12 months. These records are important to the carrier because they show what types of vehicle and driver violations are occurring during operation and may be an indicator of the effectiveness of the carrier's maintenance/inspection and training programs. Reports that indicate out-of-service (OOS) defects are of particular importance.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

4) Vehicle

Inspection No.: 2091003

The motor carrier's policies, procedures and controls as they relate to vehicle maintenance, inspection and repair are evaluated in this Factor. Also, training, reporting, monitoring and maintenance of records for vehicle inspections, routine maintenance and repair of known defects are also evaluated. The primary documents reviewed are driver vehicle inspection reports (DVIR), roadside inspection reports, and vehicle maintenance files. Part 396 of the FMCSR defines the requirements for a systematic vehicle inspection, repair and maintenance program and what constitutes required records.

A critical performance element of this segment of the inspection is the carrier's roadside inspection performance for vehicles that have undergone inspection by various Federal, State or local jurisdictions. A motor carrier's vehicle out-of-service rate is based on the number of vehicles that have been inspected and how many of those inspections resulted in a vehicle being placed out-of-service (OOS). A carrier's vehicle out-of-service rate relates to the effectiveness of the carrier's preventive maintenance program and the quality of the pre-trip and post-trip inspections performed by their drivers.

There are very serious issues of concern that were found in this Factor. The first major issue is related to the carrier's maintenance files, which did not contain a number of required records of repairs to defects noted on DVIRs and roadside inspections. The inspections conducted during this FTE of vehicles # 237 and # 238 showed that defects listed by drivers had in fact been repaired, but no documentation was present in the files.

Part 396 requires various records of inspection, repair and routine maintenance. The regulations also specify time periods for which records are to be maintained. This information may also provide data for the carrier to determine operating costs of a vehicle as well as a paper trail to show that a vehicle was operated safely.

A second major issue of concern is related to the carrier's program for the handling of DVIRs. A review of the DVIRs for five (5) vehicles was conducted, and showed that no signatures for mechanics making repairs or reviewing drivers were present on the form.

The Driver Vehicle Inspection Report (DVIR) is a critical component of the carrier's maintenance program. It is the communication tool between the drivers and mechanics to ensure that commercial motor vehicles remain in a proper state of repair. Section 396.3(a)(1) requires that parts and accessories shall be in proper operating condition at all times. Section 396.11(c) instructs the carrier that safety-related defects listed on the DVIR likely to affect the safety of operating the vehicle must be repaired prior to requiring or permitting the use of the vehicle. The FMCSA has determined that any item listed in Appendix G of Subchapter B (Periodic Inspection Standard), when listed on the DVIR, must be repaired prior to the next use of the vehicle. Sufficient safety management controls should be established to ensure compliance with the regulations.

A third issue is related to the evidence found of stretched maintenance within the carrier's regular scheduled preventative maintenance program. Under the regulations, systematic means a regular or scheduled program to keep vehicles in a safe operating condition. The regulations do not specify what intervals are to be used because such intervals are fleet-specific and, in some instances, vehicle-specific. As such, the carrier is allowed to establish a policy and procedure of intervals for regularly scheduled service, inspection and repair. This may be based on mileage, time frames, or fuel consumption but, once set, the carrier is responsible for adhering to their pre-established intervals. Intervals should, at least, coincide with manufacturers' maintenance recommendations.

Under Section 396.3(b)(2), the motor carrier is required to establish a means that will indicate the nature and due date of the various inspections and maintenance activities to be performed. It is incumbent upon the carrier to establish a systematic inspection, repair and maintenance program and have sufficient controls in place to ensure each vehicle

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

40/385.5(g)
GENERAL

Does the carrier have an effective disciplinary program related to hours of service violations that it has detected?

No. It does not appear that drivers suffer consequences for violations of the hours-of-service regulations. Although discipline is an issue specific to each carrier, an effective program of training and discipline can and should be implemented. However, it is important not to link training with discipline. A disciplinary program should be progressive in nature in that each step is progressively more severe until a level of tolerance is reached that the carrier can no longer allow the driver to violate regulations. Ultimate disciplinary action is up to the carrier, but failing to correct a driver's bad behavior may expose the carrier to increased liability.

43/392.2
GENERAL

Has the carrier allowed drivers to operate vehicles not in compliance with the laws, ordinances and regulations of the jurisdictions in which they are operated?

Yes. Evidence in the carrier's files indicated that some drivers were convicted of traffic violations while driving the carrier's vehicles. The file for driver _____ showed that he was cited by police for speeding on 04-13-09. A report sent to the carrier by the State of Delaware, which was in their files, showed that the driver was clocked at 76 MPH in a 55 MPH zone but, inexplicably, was actually cited for 64 MPH in a 55 MPH Zone.

Every CMV must be operated in accordance with the laws, ordinances, and regulations of the jurisdiction in which it is being operated.

50/385.5
GENERAL

Has the carrier taken corrective actions relative to violations noted during its last FTE/State/Federal inspection for this Factor?

No. Violations relative to this Factor, which were brought to the carrier's attention during a previous USDOT CR, have not been corrected. It is expected that violations and operational deficiencies that are brought to a carrier's attention will be corrected. The carrier should have taken corrective action to prevent future violations. When similar violations or operational deficiencies are again found during a subsequent review it has the appearance that the carrier has either neglected or refused to make corrections to known concerns.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

36/385.5 & 395.2

GENERAL

Does the carrier require drivers to record any other non-driving work performed for the motor carrier or any other compensated work for any non-motor carrier entity as on-duty, not driving?

Not in all cases. The carrier identified driver _____ as having non-driving employment outside of the carrier. His RODS for this time show "off-duty" when he was working for a non-motor carrier entity. For example, his RODS for 03-06-09 through 03-14-09 show all off-duty time.

Drivers of CMVs who either work for the motor carrier in a NON-driving capacity, or are compensated to work for any non-motor carrier must record such time as ON-DUTY, not driving.

Applicants or drivers who are required to submit to drug/alcohol tests should account for this time as on-duty. Any activity the driver does, even when applying for employment, that is at the direction of the motor carrier or falls within the definition of on-duty time should be accounted for and recorded as such. This should also include any training time or orientation time. Records that don't accurately reflect this time may be considered false records of duty status. When a driver is compensated outside of the employ of the motor carrier for any non-motor carrier entity, the time is considered on-duty and must be accounted for and considered before the driver is placed behind the controls of a commercial motor vehicle.

39/395.8(e)

GENERAL

Is the carrier allowing inaccurate logs to be filed that do not meet the criteria for "critical?"

There were three (3) instances of false RODS submitted by drivers. On 05-20-09, driver _____ was subject to a roadside inspection from 1318 through 1359, and recorded this time as off-duty. On 05-16-09, driver _____ was subject to a roadside inspection from 0929 through 0955, and recorded this time as off-duty. And on 04-13-09, driver _____ was subject to a roadside inspection from 0902 through 0927, and recorded this time as driving.

In all cases, the time spent during these inspections is to be recorded as "on duty not driving" as per Part 395.2 of the FMCSR.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

| Citation | Violation and Comments |
|----------|------------------------|
|----------|------------------------|

17/395.8(d)
GENERAL

Are drivers' records of duty status completed in the form and manner prescribed?

No. There were a total of 64 form/manner violations found during this review of 156 records. For example, driver Contreras consistently does not record his trip/charter number on his RODS.

Drivers' RODS are required to be completed on a specific form and in a specified manner. The record of duty status is a legal document and it should be completed in the manner prescribed by regulation. The carrier's log audit program should detect these types of violations and require drivers to make corrections.

Under Section 390.3(e)(2) the motor carrier has the primary responsibility to instruct its drivers and employees of the regulations and ensure compliance.

A well-executed audit program, coupled with progressive discipline, is viewed as an effective safety management control in maintaining and ensuring compliance. The carrier must set a policy of tolerance limits regarding repetitive violations and hold drivers accountable when violations are found. An accepted method of correction is to provide a copy of the incorrect record to a driver, require him/her to make a corrected record in the proper form and manner, and then, attach the two records together and file accordingly.

19/395.3a1 / 395.5a1
GENERAL

Has the carrier allowed or required drivers to drive in excess of specified driving limitations without the specified off-duty?

There was a total of seven (7) ten-hour violations found during this review of 156 records. The records showed that driver violated the rule by 1.5 hours on 01-19-09; by 13 hours on 01-21-09; by 2.75 hours on 01-23-09; by 5.75 hours on 01-30-09; and continued by 1.75 hours on 01-31-09. Driver Howard violated the rule by 0.5 hours on 04-09-09; and also by 0.25 hours on 04-19-09.

21/395.3a2 / 395.5a2
GENERAL

Has the carrier allowed or required drivers to drive after having been on-duty for the specified hours without taking the required specified off-duty time?

There was a total of three (3) fifteen-hour violations found during this review of 156 records. Driver violated the rule by 7.75 hours on 01-21-09; by 1.5 hours on 01-30-09; and continued by 1.75 hours on 01-31-09.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

10/385.5
GENERAL

Does the carrier have a written policy concerning drivers' hours of service limitations and fatigue?

No. The carrier does not have a written policy related to hours-of-service limitations and fatigue. The recent national discussion regarding drivers' hours of service limitations and their relation to fatigue has highlighted the necessity to control drivers hours in an effort to prevent fatigued drivers from operating CMVs. The carrier should consider a policy that includes training for drivers about how to combat fatigue and stay within hours of service limitations. Likewise, dispatchers, coordinators and sales staff should be knowledgeable of and accountable for ensuring that the carrier operates well within hours of service limitations to prevent the use of fatigued drivers.

12/385.5
GENERAL

Does the carrier file records of duty status in a systematic manner?

No. As evidenced by the number of missing records, the carrier's method of filing drivers' time records is not systematic. A motor carrier who does not file drivers' records of duty status or other time records in a systematic method cannot effectively audit those records for compliance.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

1/395.8(a)
CRITICAL

Does the carrier require drivers to make records of duty status when required?

No. The carrier's records indicate that not all drivers submit all records as required. There were a total of 36 missing records detected during this review of 156 records. The files for driver _____ was missing seven (7) records; driver _____ was missing five (5) records; driver _____ was missing 16 records; and driver _____ was missing eight (8) records. This total (23%) exceeds the 10% threshold for a critical violation.

There are two acceptable methods for recording a driver's on-duty time: the record of duty status and the time card. If all the provisions of the 100 air mile radius exception are not met, a record of duty status is required. When records are found missing, two issues of concern are raised. First, the effectiveness of the carrier's oversight to ensure records are submitted when required. Second, the ability of the carrier to ensure a driver does not exceed the hours-of-service limitations. Unless the carrier has all records accounting for a driver's time, compliance with the hours-of-service limitations is questionable. The carrier must establish methods of oversight that ensure records are completed and submitted by a driver, when required.

5/385.5(g)/395
GENERAL

Do dispatchers and/or coordinators recap drivers' hours-of-service to ensure sufficient available hours to perform future driving?

No. There was no evidence to suggest that dispatchers or coordinators capture information to determine if a driver has sufficient hours to perform a planned trip within hours-of-service limitations. Under the regulations, records of duty status are to be submitted to the carrier no later than 13 days from the date the record was completed. As such, the motor carrier may not always have documentation to determine if a driver has available hours-of-service. However, a driver is prohibited from exceeding the hours-of-service limitations and the motor carrier should have some method of monitoring a driver's total hours on-duty, on a daily basis, to ensure compliance.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

3) Operational

Inspection No.: 2091003

In this Factor the motor carrier's management controls relating to drivers' hours-of-service are evaluated. The primary document used for recording time is the record of duty status (RODS or driver's log), as defined in Part 395 of the FMCSR. Part 390 addresses additional training and instructional requirements deemed the responsibility of the motor carrier.

There are several issues of concern that were found in this Factor. The first, and most serious, was the number of missing records detected during this review, which ultimately resulted in a critical violation being incurred. It is noted that most of the missing records were to account for the immediate preceding seven (7) days activities of a driver prior to first use by the carrier.

The second issue of concern found was a number of hour-of-service violations found, mostly by one driver, Balshiyev. The concern here is that the driver consistently did not have the requisite eight (8) consecutive hours of off-duty time between assignments. This indicates a lack of oversight by management, and also a lack of communications between drivers and dispatchers. These are significant safety management control problems.

A third issue of concern was the number of form/manner violations found on drivers' RODS. This indicates the lack of instructions provided to drivers on how to properly and completely fill out their RODS.

Lastly, evidence shows that drivers with employment outside of the carrier (non-driving jobs) do not report all hours of compensated time as required.

The lack of a comprehensive auditing program for drivers' RODS, as the carrier was not aware of the violations found prior to the audit, a lack of training, and a lack of knowledge and understanding of the specifics of the requirements of Part 395 of the FMCSR has led to the violations being incurred. The log-audit program should be coupled with a means to encourage drivers to correct misbehavior. This may include a progressive disciplinary action program, as well as retraining, if necessary. Under Section 390.3(e)(2), the motor carrier has the primary responsibility to instruct its drivers and employees of the regulations and ensure compliance. A well-executed audit program, coupled with progressive discipline is generally viewed as one means to an effective safety management control to maintain and ensure compliance. The carrier must set tolerance limits regarding repetitive violations and hold drivers accountable for violations.

The carrier was advised to review their current policy and auditing program. All personnel responsible for drivers' RODS must be more knowledgeable of the requirements, and be prepared to provide training to drivers.

Overall Results of Motor Carrier Pre-Qualification Compliance Report

Citation

Violation and Comments

39/40.111

GENERAL

Has the carrier obtained semi-annual aggregate statistical summaries from its drug-testing laboratory and is it retaining them for the required period of time?

No. The carrier was unable to provide a record of its laboratory's semi-annual, aggregate statistical summary report. Under the regulations, the laboratory must send statistical reports to the employer or their consortium by July 20 and January 20 for the preceding complete six-month period, and the reports are required to be retained by the motor carrier for five years.

If the carrier uses a TPA/Consortium it should be reminded that they are unregulated and acting on behalf of the motor carrier. Consequently, the motor carrier is held responsible for the actions of its consortium. This may include the failure to obtain and retain semi-annual statistical summaries.

40/382.601/655 Sub-B

GENERAL

Can the carrier produce written policies with required elements regarding its drug / alcohol testing programs?

No. The carrier was unable to produce a policy that contains required elements. The policy did not include specific required items such as the designated employer representative, and stated that booklets explaining the regulations would be issued to all employees.

Under the current regulations, the motor carrier is required to promulgate a policy, which includes the contents outlined in Section 382.601. The carrier is encouraged to review the provisions and develop a policy that includes all provisions listed in the regulations.

53/382.305(j)

GENERAL

Does the carrier have procedures to monitor a third party administrator (TPA)/consortium to ensure that random testing is at applicable rates?

No. The carrier does not have a means to keep track of its TPA's/consortium's testing processes. They seem to have abdicated the responsibilities of their program to their TPA.

A consortium may act on behalf of a motor carrier and include drivers from several motor carriers in its testing pool. It must, however, test the overall pool at prescribed rates. Failure to do so puts the carrier at risk of violation.

Consequently, it is imperative for a motor carrier to obtain periodic reports from its service agent regarding its testing processes to ensure compliance.