

OAR 581-053-5556

Updated by C Hunt on 1/30/08

[Appeal for Variance for Motor Coaches] School Pupil Activity Bus

[(1) As used in this rule, "motor coach" means a school activity vehicle that meets the Federal Motor Carrier Safety Regulations (FMCSR) standards for interstate transportation set forth in 49 C.F.R. 390 on October 1, 2007.

(2) A school or school district desiring to contract with a carrier for the use of one or more motor coaches as school activity vehicles that cannot meet all required minimum construction standards for school buses or school activity vehicles as applicable in Oregon must forward an "Appeal for Variance for Motor Coaches" request to the State Superintendent of Public Instruction, Salem, Oregon. This appeal must be made by the highest ranking official with the school or school district and contain at least the following information:

(a) The need for the use of a motor coach;

(b) The reason why a standard school bus or school activity vehicle will not suffice;

(c) The proposed uses of a motor coach under the contract;

(d) The name of the carrier with which the school or school district has a contract or is proposing to have a contract;

(e) The number issued to the carrier by the United States Department of Transportation;

(f) A copy of the Certificate of Insurance for the carrier;

(g) Documentation that the carrier has received a satisfactory safety rating from the United States Department of Transportation based on a safety inspection or has received an equivalent safety inspection;

(h) An assurance that the drivers used by the carrier have passed a criminal background check; and

(i) Any other information required by the Department of Education.

(3) The State Superintendent of Public Instruction may grant a variance that allows the requesting school or school district to contract for the use of motor coaches as school activity vehicles. The State Superintendent of Public Instruction may place safety-related and other conditions on the school or school district requesting the variance.

(4) The State Superintendent of Public Instruction may limit the time period for which the variance is granted.

(5) The State Superintendent of Public Instruction may delegate the duties of the superintendent under this rule to an employee of the Department of Education.]

(1) Definitions of terms used in this rule:

(a) "School pupil activity bus (SPAB)" means a motor coach operated by a motor carrier, used under a contractual agreement between a district or school and a carrier to transport school pupils at or below the 12th grade level on activity trips.

(b) "Activity trip" means transportation between a school or location to another school or location.

(b) "Approved" means a motor carrier approved by the Oregon Department of Education for transportation of school children for activity trips.

(c) "Carrier or Motor carrier" means for-hire carrier or private carrier as defined in ORS 825.005

(d) "Chaperone" means a district or school employee.

(e) "For-hire carrier" means:

(i) Any person who transports persons for hire by motor vehicle; or

(ii) Any person who leases, rents or otherwise provides a motor vehicle to the public and who in connection therewith in the regular course of business provides, procures or arranges for directly, indirectly or by course of dealing, a driver or operator therefore.

(f) "Certificate of Carrier Approval" means a certificate from the Department of Education authorizing a motor carrier to transport students for Oregon schools.

(g) "Home to School" means transportation between the student's resident, babysitter, daycare or designated pick up spot and their educational facility.

(h) "Motorcoach" means an over-the-road bus, having a gross vehicle weight rating (GVWR) of 26,000 lbs or more but does not include the following:

(A) Buses used in public transportation provided by a State or local government; and

(B) School buses, including multifunction school activity buses.

(C) Vehicles owned or operated by a mass transport district created under ORS Chapter 267.

(i) "Provider of Motorcoach services" means a motor carrier providing passenger transportation service with a motorcoach for compensation, including per-trip compensation or chartered compensation.

(2) Authorization to use SPABs. A school district or school may only use school buses, activity vehicles and SPABs to provide transportation for students for school activity trips. A district or school may only use a SPAB if the district or school and the SPAB meets the requirements of this rule.

(3) Certificate of Carrier Approval. Providers of Motorcoach services must receive a Certificate of Carrier Approval from the Oregon Department of Education. The Department of Education will issue a "Certificate of Carrier Approval" to a provider of motorcoach services if the provider meets the following criteria. The provider must submit:

(a) Complete application form number ## annually;

(b) Copy of insurance information obtained through Federal Motor Carrier Safety Administration (FMCSA's) SAFER site;

(c) Documentation of a safety rating of:

- (A) “Satisfactory” from the USDOT within the last 3 years; or
- (B) “1, 2, or 3” from Pupil Transportation Safety Program (PTSP); or
- (C) “1, 2, or 3” from Department of Defense (DOD); or
- (D) Current copies of:
 - (i) A level 1 safety inspection report with the number of Commercial Vehicle Safety Alliance (CVSA) decal for each SPAB; and
 - (ii) Documentation that the provider has implemented an alcohol and controlled substance testing program in compliance with 49 CFR parts 40 and 382; and that all drivers seeking SBAP certification are enrolled in a random testing program for alcohol and controlled substance meeting all applicable requirements; and
 - (iii) Driver logs as requested by the Oregon Department of Education during the past 6 months; and
 - (d) List of SPABs by license plate number that will be used for student activities.
 - (e) The Oregon Department of Education may inspect records of vehicles and drivers at the carrier’s facility. Failure to allow the Department of Education to inspect records could result in revocation of the “Certificate of Carrier Approval”.
 - (f) The Oregon Department of Education may suspend or revoke a “Certificate of Carrier Approval” for failure to maintain or meet requirements of this rule.
- (4) Operations.
 - (a) A SPAB may:
 - (A) Only be used for intrastate transportation;
 - (B) Not be used for home to school.
 - (b) The district or school shall notify the parents or guardians of students if the district or school is using SPABs for pupil transportation.
 - (c) A chaperone is to be present on the SPAB any time students are present.
 - (d) Districts and schools must ensure that owners and operators of SPABs meet the requirements stated in this rule.
 - (e) Safety Instructions.
 - (A) Prior to departure the SPAB operator shall instruct passengers on the operation and location of all emergency exits;
 - (B) Districts and schools should encourage students to:
 - (i) Limit the amount of time that they are out of their seat during vehicle operation;
 - (ii) Have a good grip on seat back or designated hand grips when students are out of their seat during vehicle operation; and
 - (iii) Not walk or stand during stop and go traffic circumstances or while the coach is traveling roads with many twists and turns.
 - (C) SPAB operators shall instruct students to:
 - (i) Keep hand and head inside the vehicle at all times;
 - (ii) Keep aisle clear;
 - (iii) Use caution when opening the overhead compartments; and
 - (iv) Use seat belts if equipped.
 - (f) Districts and schools shall keep a copy of the carrier’s:
 - (A) Current “Certificate of Carrier Approval” issued by the Oregon Department of Education.
 - (B) List of SPAB qualified drivers.

(C) Districts shall document and keep evidence of required safety instructions for 2 years.

(g) Districts and schools shall report to the Oregon Department of Education carriers or their drivers that have been observed by patrons, staff, parents or students engaging in any of the following:

(A) Violating speed laws;

(B) Unsafe vehicle operation;

(C) Unsafe or poorly maintained SPAB;

(D) Inappropriate behavior, contact or language;

(E) Students left or stranded because the carrier failed to perform duties of the contract; or

(F) Supplies an unqualified SPAB driver.

(h) Districts and school may only use a carrier that has a valid "Certificate of Carrier Approval".

(i) District and schools may only use SPAB drivers that have been certified by the Oregon Department of Education.

(j) Contractors may only subcontract with carriers that possess a "Certificate of Carrier Approval" from the Oregon Department of Education to provided motorcoach services.

(k) SPABs shall not exceed 55 mph.

(5) SPAB Training and Certification. A person may not transport pupils in a SPAB unless the person has completed all requirements for a SPAB and meets the standards established by the Department for issuance of certificates or holds a valid School Bus Certificate or Permit.

(a) SPAB Driver Certificate. The Oregon Department of Education may issue a SPAB certificate to qualified individuals who meet the following requirements:

(A) Has filed with the Oregon Department of Education an application for a SPAB certification provided by the Department, signed by an official designated by the motor carrier certifying that the driver:

(i) Has demonstrated the knowledge and ability to perform the duties of a SPAB driver; and

(ii) To the best of the local employer's knowledge, has not been convicted of any driving or criminal offense listed in OAR 581-053-0006(8) which could prevent certification.

(B) Applicants shall submit a copy of a valid medical certificate.

(b) Applicants shall:

(A) Possess a valid Commercial Drivers License with the proper endorsements for the vehicle being driven. The Oregon Department of Education may approve an out of state operator's license if it is consistent in provisions with the required Oregon license;

(B) Possess a valid medical certificate; and

(C) Pass a check of driving and criminal records by the Oregon Department of Education.

(c) SPAB certificates shall expire when the medical certificate expires.

(d) Drivers must strictly adhere to all alcohol and controlled substance use and testing requirements of the US Department of Transportation (USDOT) and the Federal Motor Carrier Safety Administration (FMCSA) contained in 49 CFR parts 40 and 382.

(e) In cases of serious illness, injury, or change in physical or mental condition which may impair ability to fulfill the duties and responsibilities of a SPAB driver re-examination and medical approval are required prior to resumption of driving.

(6) Driving and Criminal Records: The Oregon Department of Education will review the driving record of each applicant before a SPAB certificate is issued or renewed. Applicants who have held a driver's license in a state other than Oregon anytime during the preceding three-year period must furnish, upon request, a copy of the driving record from such state or states to the Oregon Department of Education at time of application.

(a) The Oregon Department of Education will review the criminal record of a driver upon application for a SPAB certificate or renewal.

(b) An applicant will be refused a SPAB driver's certificate or a current certificate will be suspended or revoked if the applicant or driver:

(A) Has ever been convicted of crime listed in ORS 342.143;

(B) Has ever been convicted of a crime involving violence, threat of violence, or theft. This will not apply if applicant or driver has been free from custody, probation and parole for the preceding three-year period from date of application;

(C) Has ever been convicted of a crime involving activity in drugs or alcoholic beverages. This will not apply if the applicant or driver has been free from custody, probation, and parole for the preceding three-year period from date of application;

(D) Has had a driver's license suspended by any state, within the preceding three year period, for a cause involving the unsafe operation of a motor vehicle or because of driving record or because of violations of state or Federal Motor Carrier Safety Regulations ;

(E) Has been convicted within the preceding three-year period of:

(i) Hit-and-run driving;

(ii) Driving under the influence of intoxicants as defined in ORS 813.010;

(iii) Reckless driving as defined in ORS 811.140;

(iv) Fleeing or attempting to elude a police officer while driving a motor vehicle;

(v) Failure to perform the legal duties of a driver involved in an accident or collision which results in injury or death of any person;

(F) Has had driving privileges revoked or suspended as a habitual offender under ORS 809.600. This shall not apply if applicant or driver has had driving privileges restored under ORS 809.660 for the preceding three years; or

(G) Has a driving record for the preceding three-year period that has an accumulation of 31 or more points based upon the following point system:

(i) Each chargeable accident and each conviction for a moving violation of traffic laws shall have a value of 10 points. A chargeable accident is one in which the driver is answerable as the primary cause of, or chargeable with the result of an accident;

(ii) One point shall be subtracted from the total number of points for each full month, since the last chargeable accident or conviction, to the time of driving record check; however, all subtracted points will be reinstated if any additional moving violation convictions or chargeable accidents occur within the three-year calculation period.

(7) Refusals and Suspensions.

(a) The Oregon Department of Education may refuse, suspend or revoke the certificate of a SPAB driver for noncompliance with certification or physical requirements, giving false or incomplete information on application forms, or failure to

comply with laws, rules and regulations applicable to SPAB drivers. Applications with obvious incomplete or inaccurate information will be returned to the employer with no action taken regarding denial or approval.

(b) The Oregon Department of Education may reinstate a SPAB driver certificate or permit if a driver provides or demonstrates the following:

(c) Upon suspension or revocation, the certificate holder must surrender the suspended or revoked certificate to the Oregon Department of Education.

(d) Hearings on appeal for refusal, suspension or revocation of SPAB driver's certificates will be pursuant to ORS Chapter 183.

(e) A certificate may be suspended for any period up to 90 days. If conditions of the suspension have not been met within the suspension period, the certificate will be revoked.

(f) Districts, Schools, Carriers and SPAB operators will inform the Oregon Department of Education if the SPAB operator no longer meets the qualifications of section 4 and 5 of this rule.

(8) Operator of SPAB's must:

(a) Notify the Oregon Department of Education within 30 days of a change of name, address or employer . A duplicate certificate will be issued if necessary; and

(b) Not use a cellular telephone while operating a motorcoach except under the following conditions:

(A) For the purpose of communication with any of the following regarding an emergency situation:

(i) An emergency system response operator or 911 public safety communications dispatcher;

(ii) A hospital or emergency room;

(iii) A physician's office or health clinic;

(iv) An ambulance or fire department rescue service;

(v) A fire department; or

(vi) A police department;

(B) To call for assistance if there is a mechanical breakdown or mechanical problem impairing the operation of the bus; or

(C) When the SPAB is parked.

(9) SPAB equipment requirements:

(a) Emergency exits must be labeled with instructions to meet FMVSS 217.

(b) Must have roof hatches that meet FMVSS 217.

(c) Must have reflective material on both sides and rear that have reflective values equal or greater than 3 M Scotchlite Diamond Grade.

(d) A SPAB must not have any flammable material exposed in rear wheel wells; or must have pressure and temperature sending units mounted inside rear wheel rims that will activate an alarm in the drivers compartment when either pressure or temperature are outside normal ranges.

(10) Emergency Equipment:

(a) Belt cutter: Each SPAB equipped with passenger seat belts or webbed restraining devices must have a belt cutter mounted in the driver's compartment, readily accessible and in plain view of the driver. Device shall be of a design offering

protected cutting edges to prevent accidental or intentional injury to drivers or passengers;

(b) Emergency road reflectors:

(A) Each SPAB must be equipped with at least three DOT triangle reflectorized disabled vehicle warning devices;

(B) Reflectors must be in a container securely mounted with nut-and-bolt fasteners enhanced with large flat (fender) washers or held in place by a nut-and-bolt mounted metal bracket that also protects and secures the container lid. Both must be located in an accessible location. Reflectors must not be mounted in any engine compartment;

(C) If not mounted in plain view of the driver, the location must be clearly designated.

(c) Body fluid cleanup kit: Each SPAB must have a removable moisture proof and dust proof body fluid cleanup kit, mounted in an accessible place within the driver's compartment. This place must be marked to identify its location. Contents must include at least the following items:

(A) Two pair rubber or latex gloves;

(B) Two four-ounce packages of stabilized chlorine absorbent deodorant (or equivalent) capable of stabilizing at least 1 litre/36 fl. oz. of body fluids;

(C) One spatula for pick up of congealed fluid;

(D) One plastic bag in which to place congealed fluid;

(E) One red plastic bag with tie, identified for infectious waste and as a bio-hazard;

(F) One two-ounce bottle of germicidal detergent to apply to a contaminated area;

(G) Four paper towels to wipe up contaminated area;

(H) One one-ounce antiseptic alcohol hand rinse (or equivalent);

(I) One placard of step by step use instructions;

(J) Germicidal detergents, stabilized chlorine absorbent deodorant, alcohol hand rinse, or their equivalents shall provide documentation of EPA approval regarding their microbiological efficacy for at least the following:

(i) Staphylococcus aureus;

(ii) Pseudomonas aeruginosa;

(iii) Salmonella choleraesuis;

(iv) Streptococcus species;

(v) Herpes simplex Type II;

(vi) HIV (Associated with AIDS);

(vii) Fungi (athlete's foot);

(viii) Poliovirus; and

(ix) Tuberculosis; and

(K) Documentation of efficacy for Hepatitis B may be hospital or test studies. The certified effective shelf life of these products shall be a minimum of 12 months. Product expiration date shall be clearly displayed on all time-sensitive products.

(d) Fire extinguishers:

(A) Each SPAB shall be equipped with at least one pressurized, dry, chemical type fire extinguisher, mounted in a bracket. A pressure gauge shall be mounted on each extinguisher so as to be readily read without removing the extinguisher from its mounted position. A SPAB must have either:

- (i) One or more fire extinguishers of a type approved by the Underwriters Laboratories, Inc., with a rating of 5 BC or more; or
- (ii) Two or more fire extinguishers, each of which has Underwriters Laboratories, Inc., rating of 4 BC or more.

(B) Extinguishers with plastic heads are not permitted.

(e) First aid kit:

(A) Each SPAB shall have a readily removable, moisture proof and dustproof first-aid kit container mounted in an accessible place within driver's compartment. If not mounted in plain view of the driver, the location shall be clearly designated;

(B) The first aid kit must contain a minimum of 24 units that shall include the following:

- (i) One 1" adhesive compress -- 16 per unit;
- (ii) Two 2" bandage compress -- 4 per unit;
- (iii) Two 3" bandage compress -- 2 per unit;
- (iv) Two 4" bandage compress -- 1 per unit;
- (v) Two 3" x 3" plain gauze pads -- 4 per unit;
- (vi) Two 2" x 6 yards gauze roller bandage -- 1 per unit;
- (vii) Three 1/2 square yard gauze;
- (viii) Three 24" x 72" gauze;
- (ix) Four Triangular bandage;
- (x) One 1/2 x 5 yard adhesive tape-one per unit;
- (xi) One round nose scissors and tweezers. Latex gloves-one pair; and
- (xii) One microshield for mouth to mouth airway (to lay on top of other contents).

(C) Specific local requirements may be substituted in lieu of 2 units of 1/2 square yard gauze.

(11) Maintenance and inspections:

(a) SPABs must be maintained in safe operating condition and must meet or exceed the minimum standards in effect at the time of purchase, plus any subsequent rules applicable to the vehicle.

(b) Vehicle maintenance records must be kept for each vehicle used to transport students. These records must be available to Department of Education personnel upon request. The following minimum information must be kept for each vehicle by date and mileage at the time of service, adjustment or repair:

- (A) Chassis lubrication;
- (B) Engine oil and filter changes;
- (C) Major engine tune-ups and repairs;
- (D) All adjustment, service and repair of brake system;
- (E) All adjustment, service and repair of steering mechanism and other related

parts;

(F) Tires; and

(G) Drive train components.

(c) Motorcoach carriers must have all vehicles used in transporting pupils inspected annually, and certify to the Oregon Department of Education that all deficiencies have been corrected before the SPAB is used to transport students. Copies of the Annual Vehicle Inspection Report must be sent to the Oregon Department of Education.

(d) The Oregon Department of Education must furnish forms for the certification reports.

(e) Oregon Department of Education personnel may conduct an inspection of a SPAB at any time or upon request of the motorcoach carrier. The Department may investigate accidents and examine SPABs involved in accidents as the Department considers necessary.

(f) Upon inspection of a SPAB by Oregon Department of Education personnel, motorcoach carrier must be notified in writing of deficiencies. Such deficiencies must be corrected by the motorcoach carrier before the SPAB is dispatched.

(g) The motorcoach carrier must notify the Oregon Department of Education in writing that the deficiency is corrected before transporting students in a SPAB that has been declared unsafe in subsection (f) of this section.

(12) Extension of variance. Districts or schools that have been granted a variance from the Oregon Department of Education for the use of one or more Motor Carriers prior to the effective date of this rule are granted an extension of that variance until June 22, 2008.

Stat. Auth.: ORS 820.100 and 820.150

Stats. Implemented: ORS 820.100 to 820.190