



December 7, 2015

Mr. T.F. Scott Darling, III
Chief Counsel and Acting Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

Re: Docket No. FMCSA–2015–0176; Parts and Accessories Necessary for Safe Operation; Inspection, Repair, and Maintenance; General Amendments

Dear Acting Administrator Darling:

The American Bus Association (ABA) appreciates the opportunity to comment on the Federal Motor Carrier Safety Administration’s (FMCSA or Agency) Notice of Proposed Rulemaking (NPRM), Docket No. FMCSA-2015-0176, “*Parts and Accessories Necessary for Safe Operation: Inspection, Repair, and Maintenance; General Amendments.*”

The ABA is the leading trade association representing private and over-the-road motorcoach operators who transport the public, along with members of the tour and travel industries. The ABA has been in operation for nearly 90 years and has over 800 bus operating company members. Our members include small and large fleet operations and provide all manner of transportation services, including intercity scheduled service, charter and tour operations, airport and employee shuttle services. Additionally, ABA membership includes hotels, convention and visitors bureaus, attractions, restaurants, motorcoach manufacturers and companies that provide services to the motorcoach industry.

Generally, ABA supports the agency’s proposals and appreciates FMCSA’s effort to provide additional clarity for these regulations. The ABA believes these proposed changes, if finalized, will help eliminate confusion and provide for more consistent enforcement of the Federal Motor Carrier Safety Regulations (FMCSRs), leading to the overall enhancement of safety. Also, ABA agrees with FMCSA’s determination that many of the recommended changes will not have a significant economic impact on industry, as the changes are mostly clarifications and corrections to existing regulations. However, based on our review, a few of the proposals may result in unintended consequences that run counter to the Agency’s intent and may unnecessarily impede interstate commerce. Below, ABA provides specific comments on the proposed changes outlined in the NPRM.

393.5. Definition of “Major Tread Groove”.

The ABA fully supports the Agency’s decision to amend Part 393.5 of the FMCSRs by adding a definition for the term ‘major tread groove’. Currently, the absence of a definition for this term leads to confusion for both the enforcement community as well as the industry.

393.11. Table 1, License Plate Lights.

The ABA is not opposed to this proposal.

Appendix G to the FMCSRs – Antilock Brake Systems

The ABA generally supports FMCSA’s proposed language adding antilock braking systems (ABS) to Appendix G of the FMCSRs. The intent of the language is to provide clarification of the requirements necessary for maintaining ABS, as well as for periodically inspecting such systems. With the advent of automatic brake adjusters, manual tunings and former routine maintenance practices have become outdated; yet, as noted in the NPRM, the need to inspect these systems, has not. If the intent is achieved, we support the change as it will enhance safety.

However, after reviewing the proposed language with several ABA members engaged in the manufacture of motorcoaches, the Agency’s intent remains unclear due to the reference to ABS indicators. Apparently, there are a variety of ABS malfunction indicators commercially available, ranging from paints to tape to electronic lights on the dashboard, all with varying degrees of effectiveness. Therefore, compliance with the ABS proposal may be difficult to determine by law enforcement. Specifically, the proposed text requiring visible brake adjustment indicators may not be practical; alternatively, the inspection of a well-maintained brake malfunction indicator as described under 393.55 may still meet the intent.

396.9. Inspection of Motor Vehicles and Intermodal Equipment in Operation.

ABA fully supports the Agency’s proposal to add language clarifying when a defect found on a commercial motor vehicle must be corrected. Currently, the language in §396.9 is not specific on this point, resulting in uncertainty and inconsistency in terms of enforcement and compliance. By adding a reference to the requirements in § 396.11(a)(3), FMCSA can eliminate confusion, leading to more effective compliance and consistent enforcement.

However, there is some concern over the 15-day requirement found in 396.9(d)(3). In limited circumstances, such as when a replacement part is not easily accessible to conduct a repair, the 15-day limit may be insufficient. For example, there are times when a replacement part must be ordered from another country, adding significant time to the repair process. In fact, 3 of the 4 major motorcoach manufacturers serving the United States market (i.e. Prevost, Motor Coach Industries, Temsa, and Van Hool) are not based in the U.S., nor do they have large-scale manufacturing facilities in this country. So, the 15-day requirement may exacerbate repair scenarios, particularly if they are in the middle of a multi-day or multi-leg charter or tour trip. Alternatively, ABA would advocate a 30-day requirement for motorcoaches, to assist in these

types of situations.

396.17. Periodic Inspection & Appendix G.

The ABA also supports the Agency's decision to revise the regulation, clarifying that a roadside inspection is not equivalent to an annual or periodic inspection required under 396.17. The ABA strongly believes the roadside inspection program and the periodic inspection requirements need to be decoupled. The roadside inspection program and the *North American Standard Out-of-Service Criteria* (OOSC) are not equivalent to a "government mandated maintenance standard" for annual or periodic inspections. We agree with FMCSA's determination that motor carriers are responsible for having the means of ensuring the completion of a periodic inspection, regardless of whether roadside inspection (or comprehensive investigation) is performed during that period as part of a proper maintenance program.

However, ABA notes, again, unintended consequences may occur as a result of this proposal. For example, several states do not currently have mandatory inspection programs; or, alternatively, permit motor carriers to self-certify their annual inspections. This causes issues for carriers from these self-certifying states oftentimes when they travel to states with mandatory inspection programs. For example, a carrier domiciled in South Carolina, a "self-certifying state", traveling to a state with a mandatory inspection program such as New York, may be stopped and required to have the vehicle inspected, because New York does not accept "self-certification." This lack of uniformity among the states, in terms of inspection programs, is burdensome to interstate commerce and travel. It can also be detrimental as it potentially creates safe harbors, for those states with differing inspection programs.

ABA strongly supports harmonizing state inspection programs and looks forward to the Agency's proposal concerning annual inspection programs. Action on the Agency's pending inspection program proposal could address these unintended consequences. However, until state annual inspection programs are harmonized or there is required reciprocity on this point, ABA recommends postponing additional revisions to this section of the FMCSRs.

396.19. Inspector Qualifications.

The ABA does not oppose amending of Part 396.19 to make the section consistent with the change being made to 396.17.

Speed-Restricted Tires in Appendix G.

The ABA supports the National Transportation Safety Board recommendations seeking to improve commercial motor vehicle safety by restricting use of speed rated tires from use on interstate highways. The ABA is in complete agreement with this goal of this recommendation, to ensure appropriate tires are used on motorcoaches.

However, as written, this proposal falls short of achieving its intended goal, and FMCSA notes this in the NPRM. Fundamentally, absent a requirement for labeling maximum speeds on all tires, it will be difficult for the law enforcement community to easily determine whether tires on

a vehicle in use, are appropriate. To address this concern, ABA recommends FMCSA provide additional guidance within the FMCSRs to further clarify and qualify: 1) the intended meaning of “extended periods of time”; 2) how a carrier might adequately designate appropriate use of speed-restricted tires; and 3) when/where will this designation need to be produced, for the purposes of compliance. The ABA supports FMCSA’s intent to address speed restricted tires in Appendix G, but believes additional refining of this proposal could mitigate further confusion.

Motorcoach Seat Anchorage Strength in Appendix G.

As pointed out in the NPRM, the new seat anchorage requirements of FMVSS 210 concerning three-point seatbelts installed in new motorcoaches manufactured after November 28, 2016, are difficult to visually inspect for purposes of determining whether they operating as intended.

As alternative to assist in this safety pursuit and ensure the safety system is operational may be to make a more complimentary change to Appendix G in line with the requirements of § 393.93, and develop a proposal to look for the presence of, and evidence of well maintained, seat belt assemblies at all driver and passenger seating positions, as appropriate.

ABA appreciates the opportunity to partner with FMCSA and the enforcement community toward the goal of improving safety and compliance. Please let us know there is any additional information we may provide to assist the Agency in this or other motor carrier matters. I may be reached at (202) 218-7227 or bbuchanan@buses.org.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Brandon Buchanan". The signature is fluid and cursive, with a long horizontal stroke at the end.

Brandon Buchanan
Director of Regulatory Affairs