***\*Question 26:*** Is the operation of fire trucks and rescue vehicles in interstate commerce by a private firefighting company subject to the FMCSRs when the company provides its services under contract to Federal or State agencies?

*Guidance:* Generally, 49 CFR parts 390-399 (FMCSRs) are not applicable to the operation of fire trucks and rescue vehicles by private contract fire companies while such vehicles are being used in emergency and related operations, i.e., while their personnel are engaged in firefighting or participating in rescue operations, and when their vehicles are returning from the emergency or rescue scene [see 49 CFR 390.3T(f)(5)]. In such cases, private contract fire companies’ drivers and vehicles are not subject to most of the safety regulations.

In addition to 49 CFR 390.3T(f)(5), private contract firefighting companies are also exempted by 49 CFR 390.23 when providing direct assistance during national, regional or local emergencies. The term “emergency,” as used in § 390.23, means an occurrence, natural or manmade, that interrupts the delivery of services (such as electricity, medical care, sewer, water, telecommunications, and telecommunications transmissions) or supplies (such as food and fuel), or that otherwise immediately threatens human life or public welfare. The occurrence must result in a declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; such as the FMCSA Field Administrator for the geographical area in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies. Direct assistance means transportation or other relief services provided by a motor carrier (including a private contract fire company) or its driver(s) incident to the immediate restoration of essential services or essential supplies. Direct assistance does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to human life and property has passed.

With regard to non-emergency and rescue activities, such as training exercises, emergency preparedness drills, or pre-positioning of personnel and equipment prior to an actual emergency, private contract fire companies must comply with the FMCSR while operating commercial motor vehicles in interstate commerce.