***Question 10:*** Does the FMCSA define for-hire transportation of passengers the same as the former ICC did?

*Guidance:* To the extent FMCSA’s authority stems from 49 U.S.C. 31502 or other sections of Title 49 which are rooted in the Interstate Commerce Act, the FMCSA is bound by judicial precedent and legislative history in interpreting that Act, much of which relates to the operations of the former ICC. However, since the MCSA of 1984 re-established the FHWA/FMCSA’s jurisdictional authority and resulted in a re-promulgation of the FMCSRs, the FHWA/FMCSA have established their own precedents based on "safety" rather than "economics" as the overriding consideration. This has resulted in some deviation in the definition of terms, e.g., commercial zones, for-hire transportation, etc.

The term "for-hire motor carrier" as defined in § 390.5T means a person engaged in the transportation of goods or passengers for compensation. The FMCSA has determined that any business entity that assesses a fee, monetary or otherwise, directly or indirectly for the transportation of passengers is operating as a for-hire carrier. Thus, the transportation for compensation in interstate commerce of passengers by motor vehicles (except in six-passenger taxicabs operating on fixed routes) in the following operations would typically be subject to all parts of the FMCSRs, including part 387: whitewater river rafters, hotel/motel shuttle transporters, rental car shuttle services, etc. These are examples of for-hire carriage because some fee is charged, usually indirectly in a total package charge or other assessment for transportation performed.