

ISSUE NUMBER

20-004-DRV

ISSUE NAME

Personal Conveyance Guidance - Regarding Inspections while Operating in Personal Conveyance

STATUS

Closed

Driver-Traffic Enforcement Committee

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Under interpretation questions for CFR 390.5 Question #5. A driver used by a motor carrier operates a CMV to and from his/her residence out of state. Is this considered interstate commerce? Guidance: If the driver is operating CMV at the direction of the motor carrier, it is considered interstate commerce and is subject to the FMCSR's. If the motor carrier is allowing the driver to use the vehicle for private personal transportation, such transportation is not subject to the FMCSR's.

NEW Guidance for personal conveyance time, question #11. Can a driver be inspected during personal conveyance? If so, what is the driver's duty status during the inspection? "Yes, Since the driver is still subject to the FMCSR's, the driver or vehicle can be inspected. The driver's duty status would be "on-duty, no driving" during the inspection.

JUSTIFICATION OR NEED

There is a clear conflict between guidance and interpretation questions as to whether or not a driver is subject to FMCSR's while off duty in the CMV. The industry needs clear cut guidance to be sure that internal policies/driver requirements, match up with regulations. If a driver is stopped while using the CMV in personal conveyance (and the officer confirms PC is used correctly) then makes him/her go on duty for the inspection, this causes a domino of catastrophic events. It could put the driver into an HOS violation, it could completely reset a 34 restart or 10 hours between shifts. This of course interferes with the drivers freedom to use the CMV how he/she chooses while off duty. It can affect load delivery, insurance in the event of crashes, CSA Scores, liability, and a number of other things.

REQUEST FOR ACTION

We would request that CVSA obtain guidance from FMCSA as to whether or not a driver is subject to FMCSR's while using the CMV in personal conveyance if used as outlined in the file ruling.

ACTION TAKEN BY COMMITTEE

FMCSA has provided guidance in the past that the driver needs to move to on-duty, not driving during an inspection if in PC status. FMCSA has provided guidance that the driver is still subject to the FMCSRs when operating under PC. It just allows the driver to record that time as off-duty under the HOS regulations.

FMCSA FAQ Guidance:

Can a driver be inspected during personal conveyance? If so, what is the driver's duty status during the inspection?

Yes. Since the driver is still subject to the FMCSRs, the driver or vehicle can be inspected. The driver's duty status would be "on-duty, not driving." during the inspection.