



United States Naval Sea Cadet Corps

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NSCC INFORMATION LETTER 3-95

Subj: FEDERAL MOTOR CARRIER SAFETY REGULATIONS

Encl: (1) Highlights of the Private Motor Carriers of
Passengers (PMCP) Final Rule

1. Enclosure (1) is forwarded for information and action where appropriate. Effective 1 January 1995 private motor carriers of passengers (PMCPs) will be subject to the Federal Motor Carrier Safety Regulations (40 CFR Part 390, et al). PMCPs may include business and non-business categories. Conversation with the Federal Highway Administration, Office of Motor Carriers indicates that NSCC is subject to certain parts of this regulation applicable to the non-business category if the NSCC Unit purchases, leases, or borrows a vehicle for the transportation of Unit members which meets the following criteria:

- Vehicle used has a gross vehicle weight rating of 10,001 or more pounds
- Such vehicle is designed to transport 16 or more passengers, including the driver

Responsibility for compliance with this regulation as to a vehicle furnished to a Unit at no cost by a parent or other interested person is the responsibility of the owner. The Unit should assure itself that the vehicle and driver are in compliance with the regulation before accepting an offer to use a vehicle for transportation of Unit members on an occasional basis.

2. Subject to the above, the following regulations apply:

- Drivers must be properly licensed and physically qualified
- Certified equipment must be used
- Vehicles must be registered and driver/vehicle must receive a DOT number (Submit FHA Form MCS-150)
- Vehicle must be properly marked with DOT number
- Drivers/vehicles are subject to roadside inspections
- Subject to Federal Motor Carrier Safety Regulations

3. Persons not operating in interstate traffic may still be subject to state regulations similar to federal. Drug and alcohol testing for drivers will become mandatory on 1 January 1996.

4. For additional information or to register and apply for a DOT number, you may write or contact the following address:

Federal Highway Administration, Office of Motor Carrier
Information Management & Analysis, HIA-10
400 Seventh Street, S.W.
Washington, DC 20590 or, Tel: (202) 366-4009/0834



A. J. Kreiser
Executive Director

Distribution:
NSCC/NLCC Commanding Officers
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HIGHLIGHTS OF THE PRIVATE MOTOR CARRIERS OF PASSENGERS FINAL RULE

DATES:

- The final rule is effective January 1, 1995.
- ~~Comments regarding the type and scope of educational and technical assistance needed to assist private motor carriers of passengers will be accepted until October 1, 1994.~~

GROUPS SUBJECT:

- The final rule separates the private bus population into two categories (business and nonbusiness) based on whether or not the carrier is providing transportation of passengers in the furtherance of a commercial purpose. The FHWA estimates that ninety percent of the private bus population will fall into the nonbusiness category.
- **Business PMCPs** provide private, interstate transportation of passengers in the furtherance of a commercial purpose. Examples include companies that use buses to transport their own employees and professional musicians who use buses for concert tours.

Commercial businesses, such as whitewater rafting operations, that provide passenger transportation services to the general public are not business PMCPs. They are considered for-hire and are already subject to the FMCSRs.

- **Nonbusiness PMCPs** provide private, interstate transportation of passengers that is not in the furtherance of a commercial purpose. Examples include churches, scout groups, and private schools.

When a church or other charitable organization offers charter bus operations to the general public it is operating as a for-hire carrier.

AREAS OF FMCSRs SUBJECT:

- **Business PMCPs** are subject to all of the FMCSRs.
- **Nonbusiness PMCPs** are subject to all of the FMCSRs except subpart C of part 391 (background and character) and the **current** controlled substances testing requirements. However, nonbusiness PMCPs are exempt from all paperwork and recordkeeping requirements of the FMCSRs. In essence, nonbusiness PMCPs must have qualified drivers, comply with the hours of service requirements and maintain their vehicles, but they will not be required to maintain driver qualification files, records of duty status, or most maintenance records.

- **Nonbusiness PMCP** drivers are subject to the minimum physical qualifications of part 391, but are not required to be medically examined.

Note: A separate rule issued in response to the Omnibus Transportation Employee Testing Act of 1991 was published on 02-15-94. That rule requires all operators of CMVs subject to the Commercial Driver's License (CDL) requirements, including nonbusiness PMCPs, to be tested for controlled substances and alcohol. No waiver or exemption from any provision of that rule, including the recordkeeping requirements, was provided for nonbusiness PMCPs. PMCPs with fewer than 50 drivers will be required to comply with that rule beginning on January 1, 1996.

- Both groups of PMCPs are exempt from the road and written test requirements of part 391.
- Both groups of PMCPs are exempt from Part 387 (Insurance).
- Both groups of PMCPs are exempt from the fuel system requirements of 393.67, provided the vehicle fuel systems are maintained to the original manufacturer's standards.

ENFORCEMENT:

- **Business PMCPs** are subject to Federal and State driver/vehicle inspections, compliance reviews, the FHWA safety rating process, and provisions of the Motor Carrier Safety Act of 1990 regarding Unsatisfactory safety ratings.
- **Nonbusiness PMCPs** are subject to Federal and State driver/vehicle inspections. Drivers are only required to carry a CDL. Drivers do not have to carry a medical examiner's certificate or records of duty status. These carriers will not be subject to compliance reviews or the FHWA's safety rating process unless information systems reveal ongoing safety inspection problems.

NONBUSINESS PRIVATE MOTOR CARRIERS OF PASSENGERS (PMCPs)

Nonbusiness PMCPs provide private transportation of passengers that is not in the furtherance of a commercial purpose. Examples of nonbusiness PMCPs are: Churches, civic organizations, scout groups, and other charitable organizations that may purchase or lease buses for the transportation of their respective groups.

Note: When a church or other charitable organization offers charter bus operations to the general public it is operating as a for-hire carrier.

- Nonbusiness PMCPs **are not** subject to compliance reviews or the FHWA's safety rating process unless they are identified as having ongoing safety problems.
- Nonbusiness PMCPs **are** subject to the marking requirements in section 390.21.
- Nonbusiness PMCPs are subject to the Federal Motor Carrier Safety Regulations (FMCSRs). However, they **are exempt** from the financial responsibility requirements of part 387, subpart C of part 391 (background and character), the road and written test requirements of part 391, subpart F of part 391 (files and records), subpart H of part 391 (controlled substances testing), and all paperwork requirements of parts 390, 391, 395 and 396.
- Nonbusiness PMCP drivers are subject to the minimum physical qualification standards found in Section 391.41. However, Section 391.68 specifically exempts them from having to be medically examined as required by Section 391.45.
- Nonbusiness PMCPs **are exempt** from the fuel system requirements of Part 393.67, provided the vehicles fuel systems have been maintained and meet the original manufacturer's standards.

The chart below summarizes the applicability of the FMCSRs to nonbusiness PMCPs.

<u>49 CFR</u>	<u>TOPIC</u>	<u>APPLICABLE</u>
Part 383	CDL	Yes
Part 387	Insurance	No
Part 390	General Applicability	Yes
Part 391	Qualifications of Drivers	Yes
Part 392	Driving of Motor Vehicles	Yes
Part 393	Parts & Accessories	Yes
Part 395	Hours of Service	Yes
Part 396	Inspection, Repair and Maintenance	Yes

**COMMON QUESTIONS ABOUT THE PRIVATE MOTOR CARRIERS
OF PASSENGERS RULE**

- 1. Are private motor carriers of passengers required to mark their vehicles as required by 49 CFR part 390.21 ?**

Yes. All private motor carriers of passengers must register with the FHWA as required by 49 CFR part 385 and mark their vehicles with their name, city and state, and US DOT number.

- 2. Are nonbusiness private motor carrier of passenger drivers required to be medically examined ?**

No. Section 391.68(a)(4) specifically states that so much of § 391.41 and § 391.45 as require a driver to be medically examined and to have a medical examiner's certificate on his/her person do not apply to nonbusiness PMCPs. However, nonbusiness PMCP drivers are subject to the minimum physical qualification standards found in § 391.41 (b)(1)-(13).

Nonbusiness PMCPs should become familiar with the minimum physical qualification standards found in § 391.41 and the driver waiver conditions of § 391.49.

Nonbusiness PMCP drivers may be placed out-of-service during terminal, enroute, or destination inspections if they are required by § 391.41 to have a waiver and do not possess one.

- 3. Are nonbusiness private motor carriers of passengers subject to the current controlled substances testing regulations (Subpart H of part 391) ?**

No. However, A separate rule was published in response to the Omnibus Transportation Employee Testing Act of 1991. That rule, which is effective on January 1, 1996 for entities with fewer than 50 drivers, will require drug and alcohol testing for all operators of vehicles who are required by part 383 to have a commercial driver's license (CDL). No waiver or exemption from any part of that rule, including the recordkeeping requirements, was provided to nonbusiness private motor carriers of passengers.

- 4. Are nonbusiness private motor carrier of passenger drivers subject to the driver's hours of service regulations ?**

Yes. However, they will not be required to prepare or maintain records of duty status. Nonbusiness PMCP driver's hours of service will be evaluated by enforcement officers during terminal, enroute and destination inspections based on evidence available at the inspection location.

It is recognized that some individuals who volunteer to drive for nonbusiness PMCPs may also drive for other motor

carriers and in that capacity are required to maintain a record of duty status. All on-duty time performed for a nonbusiness PMCP must be recorded on the records of duty-status submitted to that driver's regularly employing motor carrier.

5. **Are nonbusiness private motor carriers of passengers required to have their vehicles inspected ?**

Yes. 49 CFR Section 396.17 requires commercial motor vehicles be inspected at least once annually. The inspection must be completed in accordance with § 396.17 and must include all components identified in Appendix G of the FMCSRs. Documentation of such inspection must be kept on the vehicle.