

16 MAINE DEPARTMENT OF PUBLIC SAFETY

222 BUREAU OF THE MAINE STATE POLICE

Chapter 4: MAINE MOTOR CARRIER SAFETY REGULATION (*Cite as 16-222*
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TABLE OF CONTENTS

- § 1. Definitions
 - § 2. Applicability
 - § 3. Adoption and Incorporation by Reference of Federal Regulations, without State Amendments
 - § 4. Adoption and Incorporation by Reference of Federal Regulations, with State Amendments
 - § 5. Adoption and Incorporation by Reference of Additional Federal Regulations
 - § 6. Qualifications to Enforce this Chapter
 - § 7. Source of Federal Regulations
 - § 8. Severability
-

§ 1. DEFINITIONS

For the purpose of this Chapter, the following terms are defined as follows:

- A. **Commercial motor vehicle.** “Commercial motor vehicle” means any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle —
 - 1. Has a gross vehicle weight rating or gross combination weight rating, or gross vehicle weight or gross combination weight, of 4,536 kg (10,001 pounds) or more, whichever is greater; or
 - 2. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

3. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or
 4. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, subtitle B, chapter I, subchapter C.
- B. **FMCSA.** “FMCSA” means “Federal Motor Carrier Safety Administration.”
- C. **Motor carrier.** “Motor carrier” means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier's agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B of the Federal regulations adopted and incorporated by reference in this Chapter, this definition includes the terms employer and exempt motor carrier.
- D. **Special agent of the FMCSA.** “Special agent of the FMCSA,” as used in this Chapter, means a motor carrier inspector, state police officer, municipal officer, or sheriff, who has satisfactorily completed a prescribed course of instruction established by the Maine State Police with respect to the Federal regulations adopted and incorporated by reference, with or without State of Maine amendments, into this Chapter.
- E. **State.** “State” means State of Maine.

§ 2. APPLICABILITY

This regulation applies to any interstate or intrastate common, contract, and private motor carrier that transports passengers or property in Maine.

§ 3. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS, WITHOUT STATE AMENDMENTS

Pursuant to 29-A M.R.S.A. §555, sub-§2, the Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter, without State amendments:

- A. Title 49 Parts 40, 382, 390, 393, and 396, and Appendices to Subchapter B of the Code of Federal Regulations, as ~~amended~~ updated and as ~~of February 2011~~ most recently filed by the State Police with the Office of the Secretary of State;
- B. Title 49 Part 392, §§ 392.1 through 392.71 of the Code of Federal Regulations, as ~~amended~~ updated and as ~~of February 2011~~ most recently filed by the State Police with the Office of the Secretary of State; and
- C. Title 49 Part 392, §§ 392.80 and 392.82 of the Code of Federal Regulations, as ~~amended~~ updated and as ~~of February 2011~~ most recently filed by the State Police with the Office of the Secretary of State.

§ 4. ADOPTION AND INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS, WITH STATE AMENDMENTS

Pursuant to 29-A M.R.S.A. §555, sub-§2, the Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter (1) Title 49 Parts 383, 391, and 395, and Appendices to Subchapter B, of the Code of Federal Regulations, as ~~amended~~ updated and as ~~of February 2011~~ most recently filed by the State Police with the Office of the Secretary of State, with the following State amendments, and (2) Title 49, Section 391.41(b)(12)(i) as ~~amended~~ updated and as ~~of February 2011~~ most recently filed by the State Police with the Office of the Secretary of State, with the following State amendments:

A. Hazardous Materials

- 1. There are no exemptions for motor carriers, vehicles, or drivers transporting hazardous materials of a type or quantity that requires the vehicle to be marked or placarded in accordance with 49 CFR, Subchapter C, Pt. 172.

B. As to 49 CFR Pt. 383, the following amendments are made:

1. Intrastate motor carriers, vehicles, and drivers to whom this Chapter applies *are only subject to* 49 CFR §§ 383.1(a), 383.3(a), 383.5, 383.21, 383.23(a), 383.23(a)(2), 383.23(c), 383.31, 383.33, 383.37, 383.51, 383.52, 383.53, and 383.72.

C. As to 49 CFR Pt. 391, the following amendments are made:

1. Intrastate motor carriers, vehicles, and drivers to whom this Chapter applies that operate less than 100 air miles from their regular place of business *are only subject to* 49 CFR §§ 391.13, 391.15, 391.23(a), 391.23(a)(1), 391.25(a), 391.25(b), 391.27(a), ~~and 391.27(b)-, and 391.41(b)(12)(i).~~

Documents and records obtained from inquiries made pursuant to 49 CFR §§ 391.23, 391.25, and 391.27 must be maintained on file by the motor carrier for a period of two years.

2. Intrastate motor carriers, vehicles, and drivers to whom this Chapter applies that operate more than 100 air miles from their regular place of business *are exempt from* 49 CFR §391.11(b)(1). Intrastate drivers to whom this Chapter applies that operate more than 100 air miles from their regular place of business must be at least 18 years old.
3. Drivers to whom this Chapter applies *are exempt from* 49 CFR §391.41(b)(11).

D. As to 49 CFR Pt. 395, the following amendments are made:

1. Intrastate motor carriers, vehicles, and drivers to which this Chapter applies that operate less than 100 air miles from their regular place of business are exempt from 49 CFR Pt. 395.

§ 5. ADOPTION AND INCORPORATION BY REFERENCE OF ADDITIONAL FEDERAL REGULATIONS

The Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter Title 49 Part 385 of the Code of Federal Regulations, as ~~amended~~ updated and as of February 2011 most recently filed by the State Police with the Office of the Secretary of State.

§ 6. QUALIFICATIONS TO ENFORCE THIS CHAPTER

- A. Only special agents of the FMCSA may enforce this Chapter.
- B. Special agents of the FMCSA who are only approved to enforce driver-only aspects of this Chapter must have reasonable, articulable suspicion to stop a commercial motor vehicle.

§ 7. SOURCE OF FEDERAL REGULATIONS

Copies of the Federal rules adopted and incorporated by reference herein may be obtained from the following agencies:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

Maine Department of Public Safety
Bureau of Maine State Police
20 State House Station
Augusta, ME 04333-0020

§ 8. SEVERABILITY

Should any provision of this Chapter or the application of this Chapter to any person or circumstance be held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.

BASIS STATEMENT

This chapter, which applies to any interstate or intrastate common, contract, and private motor carrier that transports passengers or property in Maine, will ensure that Maine commercial vehicle rules remain current with the rest of the nation and that Maine's roads are safe for the traveling public.

The regulation is being amended to:

1. Clarify that the regulation incorporates by reference the specified parts of the Federal regulations, as those Federal regulations have been updated and most recently placed on file by the Maine State Police with the Secretary of State's Office;
2. Provide in the regulation that operators for intrastate motor carriers that operate less than 100 air miles from their regular place of business are subject to the provisions of 49 Code of Federal Regulations, Section 391.41(b)(12)(i) that prohibit the operation of a commercial motor vehicle by a person who has methadone or its metabolite in that person's body.