**94-591 MOTOR CARRIER REVIEW BOARD**

**Chapter 2:** **THE PROCESS FOR THE SELECTION AND REVIEW OF MOTOR CARRIERS WITH SIGNIFICANT AND REPEATED SAFETY VIOLATIONS.**

**SUMMARY**: This chapter contains the selection process for motor carriers with significant safety violations and establishes threshold rating factors and the method and timing of carrier notification.

**SECTION 1. Purpose**

1. The purpose of this chapter is to set forth the process for the suspension of a motor carrier’s privilege to operate a commercial motor vehicle in the State of Maine.

2. This chapter:

A. Establishes the process to be used in developing a list of carriers to be selected for suspension of motor carrier’s privilege to operate a commercial motor vehicle in the State of Maine;

B. Sets forth the conditions for suspension of a motor carrier’s privilege to operate a commercial motor vehicle in the State of Maine; and

C. Establishes the carrier notification process.

**SECTION 2. Definitions**

The following definitions apply to the entire rule. Any undefined terms shall have the same meaning as in Title 29-A of the Maine Revised Statutes.

1. **ACCIDENT**: means a reportable accident as defined in 29-A M.R.S. §2251.

2. **BEHAVIOR ANALYSIS AND SAFETY IMPROVEMENT CATEGORIES (BASICs**): means the seven carrier and driver behavior categories used by the Federal Motor Carrier Safety Administration’s Safety Measurement System (SMS) to quantify the on-road safety performance of carriers and drivers to identify candidates for interventions, discover and target specific safety problems unique to a carrier or driver, and monitor safety problems throughout the intervention process. The seven BASICs are as follows:

A. **Unsafe Driving** - operation of a commercial motor vehicle by a driver in a dangerous or careless manner;

B. **Fatigued Driving** - operation of a commercial motor vehicle by a driver who is ill, fatigued, or in non-compliance with the Hours of Service regulations;

C. **Driver Fitness** - operation of a commercial motor vehicle by a driver who is unfit to operate a commercial motor vehicle due to lack of training, experience, or medical qualifications;

D. **Controlled Substances/Alcohol** - operation of a commercial motor vehicle by a driver who is impaired due to alcohol, illegal drugs, and misuse of prescription or over-the-counter medications;

E. **Vehicle Maintenance** - failure to properly maintain a commercial motor vehicle;

F. **Cargo-Related** - failure to properly prevent shifting loads, spilled or dropped cargo, overloading, and unsafe handling of hazardous materials on a commercial motor vehicle; and

G. **Crash Indicator** – commercial motor vehicle operation with a history or pattern of high crash involvement, including frequency and severity.

3. **BUREAU**: means the Maine Bureau of Motor Vehicles.

4. **COMMERCIAL MOTOR VEHICLE**: means any self-propelled or towed vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle:

A. Has a gross vehicle weight rating (GVWR) or gross combination weight rating, or gross vehicle weight (GVW) or gross combination weight, of 10,001 pounds or more, whichever is greater; or

B. Is designed or used to transport more than 8 passengers (including the driver) for compensation; or

C. Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation; or

D. Is used in the transport of hazardous materials in a quantity requiring placarding under the Hazardous Materials Transportation Act (HMTA).

5. **COMPLIANCE, SAFETY, and ACCOUNTABILITY (CSA):** means the Federal Motor Carrier Safety Administration (FMCSA) initiative to improve large truck and bus safety in order to reduce crashes, injuries, and fatalities that are related to commercial motor vehicles. CSA uses inspection and crash results to measure safety performance and identify carriers whose behaviors could reasonably lead to crashes. The Safety Measurement System (SMS) quantifies the on-road safety performance of carriers and drivers and allows FMCSA to more effectively evaluate safety performance and address high-risk behavior with interventions specifically tailored to a carrier’s safety problems.

6. **DRIVER**: means any person who operates a commercial motor vehicle.

7. **FMCSA**: means the Federal Motor Carrier Safety Administration.

8. **FOR-HIRE MOTOR CARRIER**: means any individual, partnership, association, corporation, business trust, or any other organized group of individuals engaged in the transportation of goods or passengers for compensation.

9. **INTERSTATE COMMERCE**: means any trade, traffic, or transportation in the United States not described as a part of Intrastate Commerce.

10. **INTRASTATE COMMERCE**: means transportation entirely within the State of Maine. No part of the transportation may originate or terminate in another state or province, or pass through another state or province.

11. **IRP**: means the International Registration Plan. The IRP is a commercial vehicle registration pro-rata agreement, in which the registrant pays a percentage of each jurisdiction’s registration fee determined by the percentage of mileage operated in each jurisdiction.

12. **MOTOR CARRIER**: means a for-hire motor carrier or a private motor carrier. The motor carrier is responsible for the safe operation of vehicles under the carrier’s control. The term “motor carrier” includes a motor carrier’s agents, officers, and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching drivers and owner-operators.

13. **MOTOR VEHICLE**: has the same meaning as in 29-A M.R.S. §101(42).

14. **OWNER-OPERATOR**: means a person who provides a motor vehicle with driver to a motor carrier.

15. **PRIVATE MOTOR CARRIER**: means any individual, partnership, association, corporation, business trust, or any other organized group of individuals, not a for-hire motor carrier, that provide transportation of property or passengers by commercial motor vehicle.

16. **SAFETY MEASUREMENT SYSTEM (SMS):** means the automated, data driven analytical system designed to quantify a motor carrier’s relative performance in any of seven Behavior Analysis and Safety Improvement Categories (BASICs) using data from roadside inspections, including all safety-based violations, State-reported crashes, and the Federal motor carrier census. A carrier’s measurement for each BASIC depends on the number of adverse safety events, the severity of violations or crashes, and when the adverse safety event occurred. More recent events are weighted more heavily. After a measurement is determined the carrier is placed in a peer group consisting of carriers with a similar number of safety events. The SMS computes a percentile ranking based on a 0-100 scale for each BASIC by comparing the carrier’s measurement to the measurements of all other carriers in the peer group. A percentile rank of 100 indicates the worst performance. Carriers with percentiles above a certain threshold and meeting minimum data sufficiency requirements in a BASIC are targeted for specific safety interventions designed to reduce the at-risk behavior(s) that are frequently associated with commercial motor vehicle crashes.

17. **SECRETARY**: means the Maine Secretary of State.

18. **SERIOUS VIOLATION**: means a violation by a motor carrier or driver that has a severity factor point value of seven or more points.

19. **SEVERITY FACTOR POINT VALUE**: means a severity weight assigned to all roadside inspection violations and traffic violations that reflect their association with motor carrier crash occurrence and consequences, the level of crash risk associated with each violation, and unsafe motor carrier operations. The severity factor points are assigned on a scale of 1 to 10, where 1 represents the lowest crash risk/association with unsafe operation and 10 represents the highest crash risk/association with unsafe operation.

20. **THRESHOLD LIMITS**: means the statistical limit established by the Bureau of Motor Vehicles at which a carrier may not exceed without warning or suspension.

21. **TRAFFIC INFRACTION**: shall have the same meaning as in 29-A M.R.S. §101(85).

22. **VIOLATION**: means the performance of an act prohibited by federal or state statute, rule or regulation, or ordinance; or the failure to perform an act required by statute, rule, regulation or ordinance, including traffic infractions.

23. **USDOT NUMBER**: also known as a census number, means a motor carrier identification number issued by FMCSA, provided for under 49 CFR §390.19(h) (1). Safety events are accumulated under the carrier’s USDOT Number.

**SECTION 3. Communications**

1. All communications and document submissions shall be addressed to Motor Carrier Review Board, Bureau of Motor Vehicles, 29 State House Station, Augusta, Maine 04333-0029.

2. All communications and document submissions are deemed to be officially received when delivered to the Motor Carrier Review Board staff at the Bureau of Motor Vehicles Main Office in Augusta, Maine.

3. The contact information for the Motor Carrier Review Board is as follows:

A. Telephone: (207) 624-9000 ext. 52131;

B. Fax: (207) 622-5332.

**SECTION 4. Method of Selection and Threshold limits for Suspension**

1. The Bureau, on a quarterly basis, shall prepare a list of motor carriers that meet or exceed the threshold limits for suspension of their privilege to operate a commercial motor vehicle in the state (the “Suspension List”). The list shall be compiled using the Federal Motor Carrier Safety Administrations CSA severity weights, adjudicated violations, driver violations and other relevant carrier and driver information. The “Threshold Limit” for suspension and warning shall be established by Bureau policy and periodically reviewed.
2. The Bureau may at the request of the Secretary of State, FMCSA, the Commanding Officer of the Maine State Police Commercial Enforcement Unit or based on an adverse report, calculate relevant statistical information to determine if a carrier has met the threshold limits outside the quarterly time schedule, and include additional carriers on the suspension list.

3. When available, individual driver violations and serious driver violations will be included in the violation history for a carrier.

4. A severity factor point value is assigned to each violation using the CSA severity weights assigned to all Federal Motor Carrier Safety Regulations (FMCSRs) and Hazardous Materials Regulations (HMRs) that can lead to roadside violations. The severity factor point value assigned to a roadside violation will be equal to the CSA severity weight assigned to the regulation violated ([See FMCSA's Safety Measurement System (SMS) Methodology](http://csa.fmcsa.dot.gov/Documents/SMSMethodology.pdf)). The severity factor point values assigned to adjudicated violations not assigned a CSA severity weight can be found in Appendix A.

5. After compilation, calculation and analysis of relevant data, the Bureau shall select from the Suspension List those carriers to recommend to the Secretary of State that their privilege to operate a commercial motor vehicle be suspended.

6. The Secretary of State shall act on the recommendation of the Bureau within fifteen days of receipt of the recommendation.

**SECTION 5. Warning Letter**

1. After compilation, calculation and analysis of relevant data, the Bureau may issue a Warning Letter to those carriers whose safety record indicates the carrier is at risk of having the Secretary suspend its privilege to operate a commercial motor vehicle.

2. The Warning Letter shall include the basis for the determination that the carrier’s privilege to operate a commercial motor vehicle is at risk and to recommend to the carrier actions that carrier should consider in order to improve its safety record.

3. The Warning Letter shall further state that the Bureau will review the carrier’s safety record again no later than the next scheduled quarterly review or sooner if circumstances warrant.

**SECTION 6. Notification of Motor Carriers**

1. The Secretary of State shall notify a motor carrier by certified mail of the suspension of the carrier’s privilege to operate a commercial motor vehicle.

2. The notice shall state that the carrier has fifteen (15) days from the date of the letter to appeal to the Board the decision of the Secretary of State to suspend the carrier’s privilege to operate a commercial motor vehicle in the State of Maine.

**APPENDIX A**

**MOTOR CARRIER REVIEW BOARD**

**RELATIVE SEVERITY FACTOR RATINGS FOR**

**AJUDICATED VIOLATIONS OR NO ASSOCIATED FEDERAL REGULATION**

**VIOLATION MAINE LAW SEVERITY**

**FACTOR**

AGGRAVATED GROSS WEIGHT 29-A §2361-A 7

EXCESS VEHICLE WEIGHT 29-A §2360 4

OPERATING BEYOND ROAD RESTRICTIONS 29-A §2395 4

TOWING OVERWIDTH TRAILER W/O PERMIT 29-A §§ 2381, 2382 4

OPERATING OVER POSTED WEIGHT 29-A §2395 4

OPERATING OVER WIDTH 29-A §§ 2380, 2381 3

OPERATING OVER HEIGHT 29-A §§ 2380, 2381 3

OPERATING OVER LENGTH 29-A §§ 2381, 2390 3

SEMITRAILER NOT PROPERLY MARKED 29-A §2390-(1) (J) (5) 3

W/LIGHTS/WARNINGS

FAILURE TO PROVIDE EVIDENCE 29-A §1601 2

OF INSURANCE

OPERATING BEYOND OVERLIMIT PERMIT 29-A §2382 2

FAILURE TO STOP AT WEIGH STATION 29-A §2358 2

EXPIRED INSPECTION 29-A-§§ 1751, 1753, 1758 1

EVASION REGISTRATION FEES TAXES 29-A §514 1

ILLEGAL ATTACHMENT OF PLATES 29-A §2104 1

FAILURE TO SURRENDER 29-A §2458 1

SUSPENDED LICENSE/REGISTRATION

OPERATING INTRASTATE COMMERCIAL 29-A §109(3) 1

WITHOUT REGISTRATION

FAILURE TO DISPLAY FUEL DECAL 29-A §525 1

FAILURE TO SURRENDER FUEL DECAL 29-A §2458 1

FAILURE TO COMPLY WITH IRP 29-A §532 1

FAILURE TO COMPLY WITH UCR 29-A §551 1

FAILURE TO REPORT ACCIDENT – CMV 29-A §2251 1

**Rule history**

EFFECTIVE DATE:

September 28, 1996

AMENDED:

September 1, 1998 (included filing of electronic text)

October 4, 1999

NON-SUBSTANTIVE CORRECTIONS:

March 15, 2000 - corrected unit number

REPEALED AND REPLACED:

November 10, 2003 - filing 2003-410

September 20, 2004 - filing 2004-399

February 18, 2006 – filing 2006-79

July 1, 2012 – filing 2012-171

AMENDED:

March 14, 2016 – filing 2016-039