**16 MAINE DEPARTMENT OF PUBLIC SAFETY**

**222 BUREAU OF THE MAINE STATE POLICE**

**Chapter 4: Maine mOTOR CARRIER SAFETY regulation** (*Cite as* 16-222 CMR c. 4)

**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 eight (8) passengers (including the driver) for compensation; or

3. Is designed or used to transport more than fifteen (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 C.F.R., 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. §555, sub-§2, the Bureau of the Maine State Police hereby adopts and incorporates by reference into this Chapter, without State amendments:

1. Title 49, Parts 40, 382, 390, 393, and 396, and Appendices to Subchapter B of the *Code of Federal Regulations* as amended;
2. Title 49, Part 392, §§ 392.1 through 392.71 of the *Code of Federal Regulations*, as amended; and
3. Title 49, Part 392, §§ 392.80 and 392.82 of the *Code of Federal Regulations*, as amended*.*

**§ 4. adoption and incorporation by reference of federal regulations, with state amendments**

Pursuant to 29-A M.R.S. §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, with the following State amendments, and (2) Title 49, Section 391.41(b)(12)(i) as amended, 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 C.F.R., Subchapter C, Pt. 172.

B. As to 49 C.F.R. Pt. 383, the following amendments are made:

1. Intrastate motor carriers, vehicles, and drivers to whom this Chapter applies ***are only subject to*** 49 C.F.R. §§ 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.

B-1. As to 49 C.F.R. Pt. 390, the following amendments are made:

1. Intrastate vehicles to which this chapter applies that have a gross vehicle weight rating of 10,000 lbs. to 26,000 lbs., and that neither meet the definition of a “bus” nor transport hazardous materials, are exempt from 49 C.F.R. §§ 390.19 and 390.21.

 C. As to 49 C.F.R. 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 C.F.R. §§ 391.13, 391.15, 391.23(a), 391.23(a)(1), 391.25(a), 391.25(b), 391.27(a), 391.27(b), and 391.41(b)(12)(i).

Documents and records obtained from inquiries made pursuant to 49 C.F.R. §§ 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 C.F.R. §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 C.F.R. §391.41(b)(11).

D. As to 49 C.F.R. 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 C.F.R. 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.

**§ 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.

Statutory AUTHORITY: Title 29-A M.R.S.A. §555

EFFECTIVE DATE:

 August 1, 1982

AMENDED:

 September 25, 1985

 October 26, 1986

REPEALED & REPLACED:

 January 1, 1987 - 29 M.R.S.A Sec. 2707

 December 10, 1989 - except part 391, subpart H of FMCSR which shall be effective December 21, 1989

AMENDED:

 December 21, 1989 - (EMERGENCY)

 March 27, 1993 - (also REPEAL of Chapter 5)

 January 12, 1994 - (EMERGENCY)

 February 4, 1994 - (EMERGENCY)

 March 1, 1995

 January 19, 1996 - (EMERGENCY) - Sec. 4

EFFECTIVE DATE (ELECTRONIC CONVERSION):

 May 15, 1996

NON-SUBSTANTIVE CORRECTION:

 August 13, 1996 - added note on January 19, 1996 emergency filing.

AMENDED:

 November 17, 1997

 January 14, 1999 - Section 4.04(5) added (EMERGENCY - expired January 24, 1999)

  *(Note: on November 17, 1999 the older version was restored to the Web.)*

 January 24, 2000 - Sections 4.04 (5), (6) (EMERGENCY - expired February 25, 2000)

 April 17, 2000

 December 19, 2000 - Section 4(A)(1)(b) and (c) added (EMERGENCY - expired December 26, 2000 by request of the agency)

 July 9, 2001

 January 22, 2003 - Section 4(A)(1)(b) and (c) added (EMERGENCY - expires February 22, 2003 by request of the agency) - filing 2003-31

 June 1, 2003 - filing 2003-168

 January 4, 2004 - filing 2003-486

 February 6, 2006 – filing 2006-57

REPEALED AND REPLACED:

September 15, 2006 – filing 2006-394 (EMERGENCY)

November 26, 2006 - filing 2006-492

 November 19, 2007 - as “Maine Motor Carrier Safety Regulation, Part 1,” filing 2007-484

 May 28, 2008 - combined Ch. 4 and 4 Part 1 into one document, filing 2008-212

 January 3, 2010 - filing 2009-710

 May 14, 2011 - filing 2011-144

 June 23, 2012 – filing 2012-175 (EMERGENCY adoption, major substantive)

 July 18, 2012 - Section 3, filing 2012-194

 October 3, 2013 - filing 2013-235 (EMERGENCY adoption, major substantive)

CORRECTION:

 May 15, 2014 - inserted into §4(C)(1), this language, “and 391.41(B)(12)(i)”, which was present in the paper filing but missing from the Secretary of State’s e-version

AMENDED:

 July 5, 2014 – filing 2014-111 (Final adoption, major substantive)

 June 19, 2015 - filing 2015-096 (Final adoption, major substantive)