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For more information concerning the history of these regulations, please see the [Table of Regulations](#).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4291
Email: legislation@gov.pe.ca

EC2006-21

HIGHWAY TRAFFIC ACT

**COMMERCIAL DRIVER, CARRIER AND AUDIT REVIEW
SYSTEMS REGULATIONS**

Pursuant to section 148 of the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5, Council made the following regulations:

- 1. In these regulations** Definitions
- (a) “Act” means the *Highway Traffic Act* R.S.P.E.I. 1988, Cap. H-5; Act
- (b) “carrier” means a carrier as defined in clause 142(a) of the Act; carrier
- (c) “CCMTA” means the Canadian Council of Motor Transport Administrators; CCMTA
- (d) “CVSA” means the Commercial Vehicle Safety Alliance organization of Federal, State and Provincial Government agencies and representatives from private industry in the United States, Canada and the Republic of Mexico dedicated to improving commercial vehicle safety; CVSA
- (e) “Conviction Equivalency Table” means the table established by CCMTA that codifies the demerit points that are attributable to a driver and a carrier in respect of Conviction Equivalency Table
- (i) contraventions of the legislation governing the operation of commercial motor vehicles in any jurisdiction or in any reciprocating province, and
- (ii) contraventions of the *Criminal Code* (Canada);
- (f) “demerit point” means the demerit point value set out opposite each conviction, as codified in the Conviction Equivalency Table, results from CVSA inspections, and reportable collision results as outlined in Schedule 1; demerit point
- (g) “driver” means a driver as defined in clause 1(e) of the Act; driver
- (h) “facility audit” means an inspection and audit of the records of a driver or a carrier by the Registrar or a person authorized by the Registrar to determine compliance with applicable safety standards; facility audit
- (i) “inspection” means an inspection of a driver or a vehicle using the criteria established by the CVSA; inspection
- (j) “jurisdiction” means a province or a territory of Canada, any state of the United States, or the Republic of Mexico; jurisdiction

maximum allowable accumulated demerit points	(k) “maximum allowable accumulated demerit points” means, in relation to a driver or a carrier, the maximum allowable accumulated demerit points, as set out in Schedule 3, that the driver or carrier may accumulate and still operate or drive a commercial vehicle;
National Safety Code for Motor Carriers	(l) “National Safety Code for Motor Carriers” means the code of minimum performance and safety standards for commercial vehicles developed by CCMTA;
National Safety Code number	(m) “National Safety Code number” means an identifying number assigned to a driver or a carrier by the Registrar;
reportable collision	(n) “reportable collision” means a collision or an accident involving a commercial vehicle that results in injury or death to a person or damages to property of \$1,000 or more;
safety rating	(o) “safety rating” means the safety rating of a carrier as assigned by the Registrar pursuant to section 3 of these regulations. (EC21/06)
Adoption of Codes and Standards	<p>2. Pursuant to subsection 148(2) of the Act, the codes and standards respecting commercial vehicles, drivers and carriers of commercial vehicles that are made by CCMTA or CVSA are hereby adopted, as amended from time to time, and in particular:</p> <ul style="list-style-type: none"> (a) the Conviction Equivalency Table; (b) the National Safety Code for Motor Carriers; and (c) the CVSA Code for Out of Service Criteria. (EC21/06)
Safety rating record	<p>3. (1) The Registrar shall maintain a safety rating record on drivers and carriers outlining safety rating categories for drivers and carriers for the purposes of these regulations.</p>
Safety rating factors	<p>(2) The Registrar shall consider the following factors in determining the safety rating record of drivers and carriers under subsection (1):</p> <ul style="list-style-type: none"> (a) reportable collisions; (b) driving offences, violations, detentions and convictions pursuant to <ul style="list-style-type: none"> (i) the Act and its regulations, (ii) the <i>Roads Act</i> R.S.P.E.I. 1988, Cap. R-15 and its regulations, (iii) the <i>Dangerous Goods (Transportation) Act</i> R.S.P.E.I. 1988, Cap. D-3 and its regulations, (iv) the <i>Criminal Code</i> (Canada) in relation to the operation of a motor vehicle, (v) CVSA roadside inspections, and (vi) facility audit results; (c) results of any inspection of a commercial vehicle undertaken pursuant to the Act; (d) safety ratings as issued in any reciprocating province; and (e) driving offences that occur in any reciprocating province.

- (3) The Registrar may assign a zero point value to a reportable collision where no fault on the part of a driver or a carrier has been established. Zero point value
- (4) The Registrar shall assign to a driver or a carrier one of the following safety ratings: Safety ratings
- (a) satisfactory rating;
 - (b) satisfactory unaudited rating;
 - (c) conditional rating;
 - (d) unsatisfactory rating.
- (5) The Registrar may review the safety rating of a driver or a carrier at any time and may change the safety rating depending on demerit point accumulations, results of facility audits, and determinations made after an interview of a driver or a carrier. Review by Registrar
- (6) The safety rating for a driver or a carrier shall be determined by the Registrar based on the demerit points the driver or carrier has accumulated within the last 24 months. Demerit point safety rating
- (7) No driver shall drive, and no carrier shall operate, a commercial vehicle if the driver or carrier has exceeded the maximum allowable accumulated demerit points. Prohibition
- (8) A satisfactory safety rating shall be assigned to a driver or a carrier if the driver or carrier has not accumulated greater than 85% of the maximum allowable accumulated demerit points and has successfully passed a facility audit within the last 24 months. Satisfaction safety rating
- (9) A satisfactory unaudited safety rating shall be assigned to a driver or a carrier if the driver or carrier has not accumulated greater than 85% of the maximum allowable accumulated demerit points and has not been subject to a facility audit within the last 24 months. Satisfactory unaudited safety rating
- (10) A conditional safety rating shall be assigned to a driver or a carrier if the driver or carrier, within the last 24 months, Conditional safety rating
- (a) has exceeded 85% but not 100% of the maximum allowable accumulated demerit points and has failed an interview or a facility audit;
 - (b) has less than 85% of the maximum allowable accumulated demerit points and is within six months of the date that the driver or carrier first exceeded the 85% level;
 - (c) has failed a facility audit;
 - (d) has passed a facility audit but is within six months of the date of the failed audit;
 - (e) has exceeded 100% of the maximum allowable accumulated demerit points and the Registrar has determined by an interview

of the driver or carrier that the continued operation of the driver or carrier will not adversely affect the safety of the public;
 (f) has been reinstated by the Registrar after an unsatisfactory rating that did not result from having inadequate insurance but is within six months of the date of the reinstatement; or
 (g) has been placed on probation.

Unsatisfactory
safety rating

(11) An unsatisfactory safety rating shall be assigned to a driver or a carrier where the driver or carrier

- (a) has exceeded 100% of the maximum allowable accumulated demerit points and has failed an interview or a facility audit or both;
- (b) does not have proof of insurance or is not adequately insured;
- (c) has failed to comply with administrative conditions imposed by the Registrar after failing to comply with the Act or these regulations;
- (d) has failed to demonstrate an acceptable safety record in a reciprocating province;
- (e) has failed to meet the registration requirements outlined in the Act; and
- (f) has failed to appear for an interview with the Registrar without just cause, or has failed to participate in a facility audit.

Access to safety
rating

(12) The Registrar shall, on request, in person or in writing and on payment of the prescribed fee, provide to any person

- (a) a driver's or a carrier's safety rating certificate issued by the Highway Safety Division;
- (b) a certified abstract of the operating record of a driver or a carrier, as requested, outlining the reportable collisions, convictions, safety ratings of the driver or carrier, the results of inspections of the driver or carrier, and the results of facility audits of the driver or carrier; and
- (c) any other information that, in the opinion of the Registrar, is relevant to the driver's or carrier's safety rating.

Record of
information

(13) The Registrar shall maintain a record of the information provided to any person under subsection (12). (EC21/06)

Sanction

4. (1) The Registrar may, by order in writing, place a driver or a carrier under sanction

- (a) for an unsatisfactory safety rating;
- (b) for any conviction under the Act, *Dangerous Goods (Transportation) Act*, *Roads Act*, and their accompanying regulations;

(c) for any conviction under sections 220, 221, 236 or subsections 249(1), (2), or (4), or 254(5) or clauses 253(a) or (b), of the *Criminal Code* (Canada);

(d) for any reportable collision, unless it can be shown that the driver or carrier was in no way responsible for the collision; or

(e) for any other reason that, in the opinion of the Registrar, renders any driver or carrier unfit to act as a driver or a carrier.

(2) The Registrar may, at any time, conduct a review consisting of four different levels of the safety rating of a driver or a carrier and may change the safety rating of the driver or carrier depending on demerit point accumulations, results of facility audits, and determinations made by the Registrar after an interview of a driver or a carrier. Review by Registrar

(3) A driver or a carrier may attend any level of review conducted by the Registrar. Driver or carrier may attend review

(4) Where the Registrar places a driver or a carrier under sanction under subsection (1), or conducts a review under subsection (2), the Registrar shall Nature of review, sanction

(a) at the first level review, where a driver's or a carrier's accumulated demerit points exceed 25% but do not exceed 60% of the driver's or carrier's maximum allowable accumulated demerit points, notify the driver or carrier in writing to that effect, and advise that an inspection or audit may be carried out;

(b) at the second level review, where a driver's or a carrier's accumulated demerit points exceed 60% but do not exceed 85% of the driver's or carrier's maximum allowable accumulated demerit points, issue a warning letter to the driver or carrier to that effect, and advise that an inspection or an audit may be carried out, and that the driver or carrier may be required to attend an interview with an officer of the Highway Safety Division if further demerit points are attributed to the driver or carrier;

(c) at the third level review, where a driver's or a carrier's accumulated demerit points exceed 85% but do not exceed 100% of the driver's or carrier's maximum allowable accumulated demerit points, notify the driver or carrier in writing to that effect, and advise that an inspection or an audit may be carried out, and that the driver or carrier is required to attend an interview with an officer of the Highway Safety Division, on the date and place specified in the notice; or

(d) at the fourth level review, where a driver's or a carrier's maximum allowable accumulated demerit points exceed 100% impose or issue one or more of the following:

- (i) a conditional or an unsatisfactory safety rating,
- (ii) suspension of the vehicle registration,

- (iii) suspension of the class of license,
- (iv) suspension of the license plate or plates,
- (v) suspension of the vehicle or vehicles,
- (vi) probation,
- (vii) a summary offence ticket.

Appeal (5) Where the Registrar imposes one or more of the sanctions listed in clause (4)(d) on a driver or a carrier, the driver or carrier may, by notice in writing, request an appeal to the Registrar within 30 days of the date of the imposition of the sanction.

Idem (6) Where a request for an appeal has been made by a driver or a carrier within the stipulated time-frame, the Registrar shall afford an appeal hearing before an appeal board consisting of the Director, the Highway Safety Co-ordinator, and the Deputy Registrar or any other person authorized by the Registrar, and the decision of the board is final. (EC21/06)

Registration of commercial vehicle **5.** (1) The Registrar may not register a commercial vehicle in the name of a driver or a carrier who operates the vehicle unless the driver or carrier holds or has been issued

- (a) a duplicate license number plate and replacement validation sticker for the current calendar year;
- (b) a subsisting and valid vehicle permit; and
- (c) a subsisting and valid safety rating certificate.

Safety rating certificate (2) An application for a safety rating certificate referred to in subsection (1) must be made on the form prescribed by the Registrar and include

- (a) proof of valid vehicle insurance;
- (b) proof of incorporation or partnership registration and driver license numbers of all principals, officers, directors and partners of the business;
- (c) a declaration that contains the following statements and information:
 - (i) certification that the information contained in the application is true,
 - (ii) acceptance of responsibility by the driver or carrier relating to legal requirements for the operation of commercial vehicles,
 - (iii) confirmation of whether any principal, director, officer or partner of a driver or a carrier has a safety rating certificate from the province or equivalent from any other jurisdiction, and if such certificate is unsatisfactory, details surrounding the revocation of the certificate or its equivalent;
- (d) a certified copy of the driver's or carrier's operating record from any other jurisdiction where the carrier has been issued a safety

- rating certificate or equivalent where the driver or carrier is moving its operation from another jurisdiction to the province;
- (e) a list of all existing trade or business names being operated under;
- (f) a list of all commercial vehicles owned or operated by the applicant including the year, make, plate number and vehicle identification number;
- (g) a list of all drivers employed, if the applicant is a carrier, including names, dates of birth, license numbers and license jurisdictions;
- (h) all transportation services provided by the applicant;
- (i) a statement as to whether the applicant intends to transport dangerous goods in the vehicle, if applicable; and
- (j) any other information considered necessary by the Registrar.

(3) The safety rating certificate issued by the Registrar for a driver or a carrier shall contain Idem

- (a) the name of the driver or carrier;
- (b) the driver's or carrier's safety rating at the time the certificate is issued;
- (c) the date the certificate is issued; and
- (d) any other information considered necessary by the Registrar.

(4) No person shall make a false statement in an application under subsection (2). Offence

(5) Where a person makes a false statement in an application under subsection (2), the Registrar may False statement

- (a) revoke any safety rating certificate that has been issued to a driver or a carrier; and
- (b) cancel any number plates and vehicle permits that have been issued to a driver or a carrier.

(6) Where the Registrar has revoked a safety rating certificate, the driver or carrier shall return to the Registrar within ten calendar days from the date of revocation, all number plates and vehicle permits. (EC21/06) Revocation of safety rating certificate

6. (1) The Registrar or a person authorized by the Registrar may, on the request of a carrier and on the payment of the fee specified in subsection (2), conduct a facility audit of a carrier. Facility audit

(2) The fee for a facility audit of a carrier is \$30 per hour. Fee

(3) Demerit point accumulations resulting from a facility audit of a carrier are outlined in Schedule 2. (EC21/06) Demerit point accumulations

Records for facility audit	<p>7. For the purposes of a facility audit, each carrier shall maintain</p> <p>(a) the following records for each driver who operates a commercial vehicle on the carrier's behalf:</p> <ul style="list-style-type: none"> (i) the driver's employment application, (ii) an annual certified abstract of the driver's operating record obtained from the Registrar, (iii) the class of license held by the driver, (iv) the medical records of the driver, (v) the training and special qualifications of the driver, with expiry dates, (vi) the hours of service worked by each driver, (vii) all summary or indictable convictions for driving offences or <i>Criminal Code</i> (Canada) driving offences for each commercial vehicle driver, (viii) all traffic accidents in which the driver was involved, (ix) the driver's Trip Inspection Reports, (x) the driver's receipts for on-road travel; <p>(b) for each commercial vehicle owned or operated by the carrier:</p> <ul style="list-style-type: none"> (i) records of all vehicle maintenance and inspection procedures carried out in accordance with the Commercial Vehicle Trip Inspection and (Records) Regulations, and the Motor Vehicle Inspection Regulations, (ii) records of any notice of defect received from the vehicle manufacturer, and proof that the defects have been corrected, (iii) fuel receipts, bills of lading and shipping documents, (iv) CVSA Inspections Reports; <p>(c) the results of CVSA Inspections;</p> <p>(d) the carrier's policy and procedures for driver management and vehicle maintenance; and</p> <p>(e) any other records considered necessary by the Registrar to determine the safety rating of a carrier. (EC21/06)</p>
Retention of Records	<p>8. (1) Every carrier shall maintain records in accordance with section 7 for the current calendar year and four calendar years thereafter.</p>
Carrier under sanction	<p>(2) Notwithstanding subsection (1), where a carrier is under sanction under section 4, the Registrar may require the carrier to maintain records in accordance with section 7 for a period in excess of the time stipulated under subsection (1). (EC21/06)</p>
Location of records	<p>9. (1) The records required to be maintained by the carrier under section 145 of the Act and section 7 of these regulations shall be kept and made available at the carrier's main place of business within the province.</p>

(2) Where a carrier's main place of business within the province is changed, the carrier shall provide notice of the change to the Registrar within ten calendar days.

Notification of change

(3) Where a carrier's name is changed, or where there is a change in the officers, directors, or principals of the carrier's business, the carrier shall provide notice of any change to the Registrar within ten calendar days. (EC21/06)

Idem

10. Where a facility audit or an inspection is conducted outside the province, the carrier shall pay any costs incurred by the Department in carrying out a facility audit or an inspection of the carrier. (EC21/06)

Cost of audit outside province

11. (1) The records required to be maintained under section 7 shall be made available for inspection within two business days from the date the request was made by the Registrar, and shall be available for inspection during the carrier's normal business hours at the location described in section 9.

Inspection of records

(2) Where the Registrar or a person authorized by the Registrar is conducting a facility audit, the Registrar or the person authorized by the Registrar may remove any record produced as a result of an audit for the purposes of making copies or taking extracts, together with any equipment, hardware, software or any other thing necessary to enable access to records.

Removal of records

(3) The Registrar or a person authorized by the Registrar shall provide a detailed list of all materials removed from the carrier's main place of business and return the materials to the carrier upon completion of the facility audit. (EC21/06)

List of materials removed

12. No person shall

Offences

- (a) alter, deface, destroy, or otherwise falsify any records required to be maintained;
- (b) obstruct or prevent any person authorized to carry out a facility audit from entering the carrier's premises for the purposes of inspecting the carrier's records or any of the carrier's commercial vehicles;
- (c) obstruct any person authorized to carry out a facility audit;
- (d) fail to maintain required records; or
- (e) fail to produce required records for a facility audit. (EC21/06)

13. Where the Registrar or a person authorized by the Registrar has reasonable grounds to believe that an offence has occurred as a result of a facility audit, the Registrar or the person authorized by the Registrar may impose one or more of the following sanctions on a carrier:

Sanctions

- (a) issue a summary offence ticket;

- (b) assign a conditional or an unsatisfactory safety rating;
- (c) suspend the carrier's vehicle registration privileges;
- (d) suspend the carrier's license plates;
- (e) suspend the carrier's vehicle; or
- (f) place the carrier on probation for a period of time during which the carrier must show improvement in the carrier's safety rating record. (EC21/06)

PRINCE EDWARD ISLAND
HIGHWAY SAFETY DIVISION

SCHEDULE 1
COLLISION AND INSPECTION RESULTS

Type of Collision	Demerit Points
Not at Fault	0
At Fault Collision	
Property Damage	2
Injury	4
Fatality	6
CVSA Roadside Inspection Results	Demerit Points
Pass	0
Warning	1
Out of Service	3

(EC21/06)

SCHEDULE 2
FACILITY AUDIT RESULTS

Facility Audit Results	Demerit Points
Complaint	0
Action Required	1
Non-complaint	3

(EC21/06)

SCHEDULE 3
TABLE OF ACTION LEVELS FOR POINTS ACCUMULATED
RELATIVE TO CARRIER FLEET SIZE

Fleet-size	Advisory 25%	Warning 60%	Interview 85%	Show-cause Hearing and Sanction 100%
1	4	10	14	16
2	6	13	19	22
3	7	16	22	26
4	7	17	25	29
5	8	19	26	31
6	9	20	29	34
7	9	22	31	36
8	10	23	32	38
9	10	23	33	39
10	10	25	35	41
11	11	26	37	43
12	11	26	37	44
13	12	28	39	46
14	12	28	40	47
15	12	29	42	49
16	13	30	43	50
17	13	31	44	52
18	13	32	45	53
19	14	33	47	55
20	14	34	48	56
21	14	34	48	57
22	15	35	50	59
23	15	36	51	60
24	15	37	52	61
25	16	38	54	63
26	16	38	54	64
27	16	39	55	65
28	17	40	56	66
29	17	41	60	68
30	17	41	59	69
31	18	42	60	70
32	18	43	60	71
33	18	43	61	72
34	19	44	63	74
35	19	45	64	75
36	19	46	65	76
37	19	46	65	77
38	20	47	66	78
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58	25	61	86	101
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60	26	62	88	104
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81	32	76	108	127
82	32	77	109	128
83	32	77	110	129
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86	33	79	112	132
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97	36	86	122	144

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(EC21/06)