

**RE: Highway Infrastructure Crash Progressive Enforcement Framework**

**TO:**

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Commercial carriers and drivers operating in B.C.  
Commercial Vehicle Safety and Enforcement (CVSE)  
Law Enforcement Agencies

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**Purpose of Circular:**

To set out the progressive enforcement framework used by the Director of Commercial Vehicle Safety (the "Director") in deciding whether to take administrative action in response to highway infrastructure crashes by commercial motor vehicles (CMVs) within B.C.

**Background**

This framework has been developed as part of the Ministry of Transportation and Infrastructure's response to recent incidences of CMVs hitting highway infrastructure. The framework relies on the authority provided to the Director in section 118.95 of the *Motor Vehicle Act*:

*If the director considers it desirable in order to ensure road safety, the director may suspend a safety certificate issued to a carrier...*

Since Motor Vehicle Act Regulations (MVAR) 37.07 (1) requires that all CMVs must operate under a valid safety certificate, the suspension of a safety certificate requires a carrier to park all CMVs and cease on-road operations for the duration of the suspension.

As there can be major safety implications if a CMV hits highway infrastructure, the Director may consider suspending the safety certificate of any carrier involved in an infrastructure crash, based on the framework below. If a suspension is issued, the carrier must cease on-road operations and the carrier will be investigated. The Director may consider whether any future safety risks have been mitigated before lifting the suspension, allowing the carrier to resume operations. If the safety risks cannot be mitigated, the carrier's safety certificate may be recommended for cancellation.

Failure to comply with a suspension may result in a violation ticket being issued each time a vehicle is found to be operating, to:

- a driver for operating a CMV without a valid safety certificate under MVAR 37.07 (ticketed amount of \$598)
- a carrier for operating a CMV under a suspended safety certificate under MVAR 37.75 (a) (ticketed amount of \$598)

The framework detailed below sets out escalating consequences for carriers involved in infrastructure crashes. This framework is not legally binding and does not limit the Director's discretion, including a determination of whether a suspension is warranted based on the circumstances of the specific case, or whether the response should be escalated or reduced based on the circumstances of the incident and/or the carrier's response.

### **Carriers holding a B.C. safety certificate**

Upon notification of an infrastructure crash, and identification of the vehicle and carrier involved, CVSE will review if the carrier has been involved in any previous infrastructure crashes in order to determine an appropriate level of response. A carrier's overall on-road performance and intervention history may result in the response being escalated.

If a suspension is issued, failure to comply with the suspension or to cooperate with the investigation or audit may result in the carrier's suspension being in place longer than indicated below as the Director may not be able to determine if the risks to road safety have been addressed. Failure to comply with a suspension may also result in the carrier's safety certificate being cancelled due to the risks to road safety.

For a first infrastructure strike:

- The carrier may be suspended pending an investigation of the incident.
- Where possible, the suspension will be effective within approximately 24 hours of CVSE receiving notification of the incident.
- The anticipated length of the suspension is likely to range from 1-2 days to 7-10 days depending on the carrier's cooperation and their general level of compliance with the relevant regulatory requirements.
- Prior to the suspension being lifted, the carrier will, in general, be required to address any areas of non-compliance identified during the investigation, including addressing the specific cause of the infrastructure crash.
- Next steps for the carrier may include:
  - Scheduling a full audit of their operations for compliance with MVAR Division 37, or
  - Recommending cancellation of the carrier's safety certificate if warranted and considered desirable to ensure road safety.

For a second infrastructure strike:

- The carrier may be suspended pending a full audit of their compliance with MVAR Division 37.
- Where possible, the suspension will be effective within approximately 24 hours of CVSE receiving notification of the incident.
- The anticipated length of the suspension is likely to range from 1 to 3 weeks depending on the carrier's cooperation, their general level of compliance with the relevant regulatory requirements, and the time required to complete the audit due to the size of the carrier.
- Prior to the suspension being lifted, the carrier will, in general, be required to address any areas of non-compliance identified during the audit, including addressing the specific cause of the infrastructure crash.
- Next steps for the carrier may include:

- Scheduling a follow-up audit of their operations for compliance with MVAR Division 37, or
- Recommending cancellation of the carrier's safety certificate if the audit results, and the carrier's previous history indicate the carrier is unwilling or unable to operate in compliance, and cancellation is desirable to ensure road safety.
  - If recommended for cancellation, the suspension will, in general, remain in place until the cancellation process has been completed or the carrier has successfully shown cause under MVA 118.97 why the cancellation should not take place.

For a third infrastructure strike:

- The carrier may be suspended pending cancellation of their safety certificate.
- Where possible, the suspension will be effective within approximately 24 hours of CVSE receiving notification of the incident.
- Based on the previous attempts to bring the carrier into compliance, a third infrastructure crash may result in a recommendation for cancellation with no further investigation or audit of the carrier's operations.
  - As required under MVA 118.97, the carrier will be given the opportunity, if they choose, to show cause why the cancellation should not occur.
- The suspension will, in general, remain in effect, during the preparation of the evidence package and cancellation order, and any show cause or reconsideration process allowed under MVA 118.97.
- The anticipated timeline from suspension to cancellation is likely to be 2-3 months depending on whether the carrier chooses to show cause.
  - A [list of carriers who are cancelled for cause](#) is maintained on the CVSE website and any application for a new safety certificate that is associated with a carrier that was cancelled for cause within the previous three years will be refused under MVAR 37.08 (2)(a), (b) or (c).

If a carrier is recommended for cancellation as a result of this framework were to be successful in showing cause why the cancellation should not occur, the carrier would still, in general, be required to address any areas of non-compliance, including addressing the specific cause of the infrastructure crash. The carrier would also be scheduled for a full audit to ensure the carrier is compliant with MVAR Division 37.

Carriers who have been involved in an infrastructure crash but have remained incident free for at least five years will generally be considered to have reset the escalation process outlined above. However, as with all aspects of this framework, the Director has discretion to continue the escalation process depending on the circumstances of the specific incident.

### **Carriers holding a safety certificate in another jurisdiction**

While B.C. does not have the authority to suspend a safety certificate issued in another jurisdiction, B.C. maintains close relationships with all other jurisdictions that may have CMVs operating in the province.

CVSE will ensure that the carrier's home jurisdiction is immediately notified of all incident details with a request for the home jurisdiction to address the issue with their carrier to ensure a similar incident will not occur in the future.

**Additional information**

Should you require further information regarding this progressive enforcement framework, please contact National Safety Code program staff at 250-952-0576, or by email at NSC@gov.bc.ca.

Thank you,

A handwritten signature in black ink, appearing to read 'S. Eburne', followed by a long horizontal line extending to the right.

Samantha Eburne  
Director  
Commercial Vehicle Safety and Enforcement