U.S. Department of Transportation
Federal Motor Carrier Safety Administration

ATTACHMENT B

UNIFORM FINE ASSESSMENT (UFA) 4.0

CALCULATION EXPLANATION

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UFA 4.0 supersedes any prior methodology and is effective for any investigation initiated on or after August 12, 2013.

Attachments:

1. **UFA Report Example**
2. **UFA Fines Table (Identifies Nature of the Violation and Minimum and Maximum Penalties)**
3. **UFA Gravity Table (Identifies Severe Level I and II violations, Fundamental, and Essential Safety Management Violations)**
4. **Default 1 Charged Violation (Extent)**

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UFA METHODOLOGY OVERVIEW

The Uniform Fine Assessment (UFA) Software was developed by FMCSA to promote uniformity and consistency in the assessment of civil penalties for violations of the Federal Motor Carrier Safety Regulations (FMCSRs), Hazardous Materials Regulations (HMRs), as well as other statutes and regulations enforced by FMCSA. UFA assists FMCSA Staff and its State partners that perform any type of investigation in calculating civil penalties for violations of the federal statutes and regulations.

By statute, FMCSA is required to consider legislatively mandated factors when assessing a civil penalty for violations of the FMCSRs, and HMRs, as well as other statutes and regulations relating to household goods transportation. Consistent with the statutory language, certain statutory factors are considered for the entity or individual against whom the penalty is proposed and other statutory factors are considered for each violation. UFA also applies the factors applicable to FMCSRs and HMRs to violations for which no penalty factors are otherwise required by statute to be considered. In calculating a civil penalty, the UFA software takes into consideration all statutory factors, regulatory requirements, and administrative policies including any administrative minimum penalties.

UFA use is mandated for all civil penalties processed through FMCSA's adjudication system. Deviations from UFA must be approved by the Field Administrator. Any fine proposed outside of UFA must consider all applicable statutory penalty factors.

UFA prepares a report demonstrating the manner in which FMCSA considered the statutory penalty factors, regulatory requirements, and administrative policies. A sample UFA report is included as Attachment 1 and is used throughout this Explanation to illustrate the UFA calculations. The sample provided is not intended to represent the penalties assessed for the violations cited. The penalty assessed in any particular case will be based on consideration of the statutory factors, regulatory requirements, and administrative policies.

1. STATUTORY FACTORS CONSIDERED BY SUBJECT

A. Subject Factors

FMCSRs and HMRs (49 USC 521 (b)(2)(D) and 5123(c)) and all other statutes and regulations enforced by FMCSA where no other statutory penalty factors apply

UFA uses the word "SUBJECT" to refer to the entity or person against whom a penalty is proposed. For violations of the FMCSRs, and HMRs, UFA calculates a proposed penalty by considering four legislatively mandated Subject Factors: (1) history of prior violations (2) culpability (3) ability to continue in business[1] and (4) such other matters as justice and public safety may require.

HHG (49 USC 14901)

For HHG violations UFA calculates a proposed penalty by considering four Subject Factors: (1) history of prior conduct (2) culpability (3) effect on ability to do business and ability to pay and (4) such other matters as fairness may require.

MANDATORY INSURANCE VIOLATIONS (49 USC 31138(d)(1)—passenger carriers and 31139(g)(1)) –property carriers

For mandatory insurance violations, UFA calculates a proposed penalty by considering four Subject Factors: (1) history of prior violations (2) degree of culpability (3) effect on ability to continue doing business and ability to pay and (4) such other matters that justice requires.

B. Subject Criteria Points and Percentage

The initial calculated fine for each charged violation is determined based on the penalty range for the violation and the Violation Factors (See Section IV). Points assigned to each Subject Factor are then applied to reduce or increase the initial calculated fine for each charged violation. The cumulative points are summed for all Subject Factors and then expressed as a percentage, e.g. 30 = 30%. The initial calculated fine is then multiplied by the Subject Factor (expressed as a percentage + 1) to reduce or increase the penalty per violation within the penalty range for the violation.

[1] For HMRs violations, ability to pay is also a factor expressed in the statute. UFA considers ability to pay in the same way that the Agency treats ability to continue in business.

Subject Criteria Points Application Example

Example 1 (Subject Factors Increase Penalty): A carrier is assigned 20 points for history factor and 10 points for culpability. It receives zero points for Other Matters. The total Subject Factor points are 30 and are expressed as 30%. The initial calculated fine for each charged violation would be affected as follows:

Initial calculated fine per charged violation= $8,672
Subject Factor = $8,672 x (30% Subject Factor+ 1) = $8,030 x 130% = $11,273

Example 2 (Subject Factors Decrease Penalty): A carrier is assigned zero points for the history and culpability Factors. It is assigned -20 points in Other Matters for corrective action taken before the investigation. The total Subject Factor points = -20 and is expressed as -20%. The initial calculated fine for each charged violation would be decreased.

Initial Calculated fine per charged violation=$8,672
Subject Factor = $8,672 x (-20% Subject Factor + 1) =$8,672 x 80% = $6,937

Example 3 (Subject Factors Do Not Affect Penalty): A carrier is assigned zero points for all factors. The Subject Factor points would be zero expressed as zero percent. The initial calculated fine for each charged violation would not be impacted.

Initial Calculated fine per charged violation =$8,672
Initial penalty calculation: $8,672 x (0% Subject Factor +1) = $8,672 x 100% = $8,672

C. Zero Point Value.

A "zero" point assignment <u>does not</u> increase the penalty assessment.

2. SUBJECT FACTOR DESCRIPTIONS AND POINTS

A. History of Prior Violations and History of Prior Conduct

UFA considers history by evaluating the Violator's enforcement history with FMCSA. Enforcement history is a significant factor since it provides an indication of both the carrier's or individual's awareness of its safety obligations and its historical willingness to comply with the regulations. History of prior violations refers only to those prior closed cases processed under FMCSA's adjudication system with an admission of the violation within the six years preceding the close of the compliance review. Admission of the violation may occur as a result of an express admission by the motor carrier, e.g. admission of the violations as a condition of binding arbitration; by full payment in response to a notice of claim that contains language notifying the carrier that full payment will be an admission; by an adjudication of liability; by a default finding; by a Notice of Default and Final Agency Order; or by

the execution of a settlement agreement containing language that expressly admits the violation. UFA automatically maps point assignments based on the history selection as follows:

HISTORY CRITERIA	HISTORY POINTS
No enforcement history	0
Penalized for violation(s) in any other regulatory part(s)	20
Penalized for violation(s) in the same regulatory part(s)	35
Penalized for two or more prior closed cases OR prior case for violation of an order.	50

B. Degree of Culpability

UFA considers degree of culpability by evaluating the Violator's conduct or actions and knowledge of the conditions, or practices that resulted in the discovered violations. It is an assessment of the Violator, not the individual violation, and determines the knowledge level, accountability, and fault level of the Violator.

"Should have known of any discovered violation" refers to the knowledge attributed to entities and individuals subject to FMCSA's jurisdiction. These entities and individuals are required to be knowledgeable regarding the regulations applicable to them. They are also responsible for the acts of their agents and employees. An entity or individual should have known of any violation committed by its agents or employees. Should have known of the violation is the default selection for culpability. Any selection other than "should have known of any discovered violation" will be explained in the Memo section.

"Knew of any discovered violation" refers to actual knowledge that any of the charged violations occurred. Actual knowledge may be imputed to the Subject where the evidence of the violation is contained in the Subject's own files. For example, using a driver whose commercial license is suspended when the evidence of the driver's suspended license is contained in the Subject's files.

"Any violation discovered is intentional" refers to acts of the Subject or its agents expressly directing a violation or deliberately disregarding the regulations.

UFA automatically maps point assignments based on the culpability selection as follows:

CULPABILITY CRITERIA	CULPABILITY POINTS
Should have known of any discovered violation (s)	0
Knew of any discovered violation(s)	10
Any violation discovered is an intentional violation	25

C. Ability to Continue in Business and, if applicable Ability to Pay

FMCSA evaluates a Subject's ability to continue in business and, if applicable, ability to pay, based on the Subject's gross revenue or gross income (for individual subjects) after determining the initial calculated fine for the violation. The initial calculated fine considers the Subject Factors (other than ability to continue in business and ability to pay), SBREFA, and the Violation Factors.

UFA limits the total penalty for all violations to a percentage (currently 2%) of the Subject's gross revenue or income. This is referred to as the gross revenue cap. UFA then reduces the proposed penalty proportionally for each violation within any statutory and administrative minimum penalty limits. *See* UFA Fines Table, Attachment 2, for applicable statutory and administrative minimum penalties).

The total reduction amount, if any, is shown on under Subject Calculations in the UFA report and the individual per charged violation reductions are shown under the Violation calculations in the UFA report.

If the gross revenue is unknown UFA does not reduce the initial calculated penalty. The Subject is responsible for providing gross revenue information to determine eligibility for a reduced penalty based on ability to continue in business or ability to pay. If the Subject refuses to provide gross revenue information, there is no data from which UFA could consider to warrant a penalty reduction based on ability to continue in business or ability to pay.

D. Penalties Not Reduced by Gross Revenue Cap or SBREFA –Statutory Minimum Penalties, Section 22 Penalties, and Egregious Hours of Service Violations.

Statutory minimum penalties will not be reduced to conform to the gross revenue cap, but administrative minimum penalties per violation may be reduced to conform to gross revenue cap. Penalties assessed under Section 222 of the Motor Carrier Safety Improvement Act of 1999 (MCSIA) will not be reduced to conform to the gross revenue cap. Egregious hours of service violations will not be reduced to conform to gross revenue cap. The UFA report will note that the penalties for these

types of violations have not been reduced. UFA will calculate a penalty for the remaining violations within the gross revenue cap and then add any mandatory minimum or maximum penalties to the calculation.

E. Administrative Minimum Total Penalties

Based on FMCSA's experience in proposing civil penalties, insignificant civil penalties which may be viewed as a cost of doing business in violation of FMCSA's statutes and regulations, do not promote compliance or motor carrier safety. Therefore, to ensure prolonged, sustained, and meaningful compliance, UFA establishes a minimum gross revenue cap of $2,000 for entities and $150 for individuals.

F. Small Business Regulatory Fairness in Enforcement Act (SBREFA)

UFA also considers the provisions of SBREFA when calculating a proposed penalty. SBREFA applicability is determined by the number of employees (NOT drivers) for each Subject. Because the majority of the entities regulated by FMCSA are considered small businesses under SBREFA, UFA defaults to a selection that the entity is subject to SBREFA. If the entity is identified as a small business, then the penalty is reduced by 20% for each violation. (See Section VII. Violation Factor Calculations)

SBREFA also limits the total proposed penalty by reducing any total gross revenue cap initially determined by 20%. (See Section III. Subject Calculations)

G. Such Other Matters as Justice and Public Safety May Require

FMCSA considers matters that are not otherwise specified by statute but nevertheless have bearing on public safety under this factors. Under this factor, FMCSA evaluates action taken to correct the violations and the timing of corrective action.

Corrective action take before the investigation began is selected if the Violator significantly corrected any of the charged violations before any contact by the investigator. Partial corrective action may, but is not required to be credited, and a description of the corrective action credited will be provided in the Memo section.

Corrective action taken after the investigation but before the Notice of Claim issued is selected if the violator significantly corrected any of the charged violations after contact by the investigator but before the NOC is issued. Partial corrective action may, but is not required to be credited and a description of the corrective action credited will be provided in the Memo section.

UFA automatically maps point assignments based on the corrective action selection as follows:

CORRECTIVE ACTION CRITERIA	OTHER MATTERS POINTS
No Corrective Action	0
Corrective Action before Investigation Began	-20
Corrective Action after Investigation Began but Before Notice of Claim	-10

Any selection other than "no corrective action" will be explained in the Memo section of the UFA report.

3. SUBJECT CALCULATIONS: UFA REPORT

The "Subject Calculations" on the UFA report identifies the Subject Points, the gross revenue cap, total reducible amount, total reduction amount, Total Proposed Penalty and Total Rounded Proposed Penalty.

A. Subject Points.

The Subject Points for each Subject Criteria Factor are shown on the UFA Subject Calculations page. They are summed and then expressed as a percentage. The UFA Report (Attachment 1) shows the following points assigned:

Subject Criteria:

Factor	*Selection*	*Points*
History	*Penalized for violation(s) in same parts*	*35*
Culpability	*Should have known of any discovered violation(s)*	*0*
Other Matters	*No corrective action*	*0*
Total		*35*

Subject Factor = 35%

B. Gross Revenue Cap.

The gross revenue cap is calculated as gross revenue *2%. If the carrier also is a small business as defined in the Small Business Regulatory Fairness and Enforcement Act (SBREFA), the cap is further reduced by 20%. To ensure prompt and sustained compliance, the gross revenue cap may not be less than $2,000 unless the Subject is an individual, in which case the gross revenue cap will not be less than $150.

Report Example: Gross Revenue = $123,400

*Gross Revenue Cap ($123,400 * 2%)*	*= $2,468*
*SBREFA Cap = ($2,468 * 80%)*	*= $1,974*
Gross Revenue Cap	*= $2,000*

The gross revenue cap may not be less than the minimum administrative penalty for all violations and therefore, although SBREFA reduced the penalty, it would not be reduced below the minimum total penalty.

C. Total Reducible Amount.

This is the amount that the penalty could be reduced considering statutory or administrative minimums without reference to the gross revenue cap. Calculated as the sum of (the initial calculated fine minus statutory or administrative minimum penalties) times the number of charged violations.

Report Example:

Total reducible amount = $13,844

*Sum of (initial calculated fine – statutory or administrative minimum) * number charged for each violation*

Violation	*Penalty Statutory/Adm. Min*	*Counts*	*Sum*
382.115(a)	*($8,672 – 0)*	**1*	*$8,672*
391.11(b)(1)	*($4,395 – 0)*	**1*	*$4,395*
396.3(b)(2):	*($777 -0)*	**1*	*$777*
			$13,844

D. Total Reduction Amount.

This amount represents the sum that was actually reduced to conform to the gross revenue cap. It is the sum of (initial calculated fine * number charged) – gross revenue cap but not greater than Total Reducible Amount.

Report Example:

Total Reduction Amount= $13,844– 2,000 = $11,844

Tot *Sum of reduced individual violation calculations (See Violation Calculations in Report).*

E. Total Penalty Proposed Rounded.

Total penalty proposed is rounded down to the nearest tenth to eliminate the potential that any assessment would be less than a whole dollar figure. **This is the total penalty that is proposed in the Notice of Claim.**

4. STATUTORY FACTORS CONSIDERED FOR EACH VIOLATION

A. FMCSRs; HMRs (49 USC 521 (b)(2)(D) and 5123(c)); 49 USC 31138 (d)(1) and 31139 (g)(1) and all other statutes and regulations enforced by FMCSA where no other statutory penalty factors apply

For violations of the FMCSRs, HMRs, mandatory insurance violations, and other statutes and regulations enforced by FMCSA where no other statutory penalty factors apply, UFA considers four legislatively mandated Violation Factors: (1) nature of violation (2) circumstances of violation (3) extent of violations (4) gravity of violation.

B. HHG (49 USC 14901)

For HHG violations UFA calculates a proposed penalty by considering two Violation Factors: (1) degree of harm to shipper or shippers and (2) whether the shipper has been adequately compensated before institution of the proceedings.

5. VIOLATION FACTORS DESCRIPTION AND POINTS

A. Nature of Violation

UFA considers the nature of each violation by the type of violation, e.g. recordkeeping, non-recordkeeping, commercial driver's license. Violations are assigned to a category (VCAT) based on the type of violation. A list of the nature of each type of violation is contained in the UFA Fines Table (Attachment 2). The UFA Fines Table also assigns a penalty range for the violation based on the statutory minimum and maximum penalties and any administrative minimum or maximum penalties. The UFA Fines Table demonstrates how each regulatory violation is mapped to its nature by type. The nature of the violation is automatically determined by UFA when the violation is entered into the UFA software.

Example:

Violation 49 CFR 382.114(a)

Nature of Violation = Non-Recordkeeping –FMCSR

Penalty Range: 1,100 (administrative minimum) - ***$11,000 (statutory maximum)***

The penalty range is available on the UFA Fines Table and also is referred to in the UFA report as the "range min" and "range max."

B. Gravity of Violation

The gravity of the violation is evaluated by the relative seriousness of the violation. It is mapped and automatically assigned at the time the violation is selected. The violation gravity descriptions are as follows if the violation did not contribute to a crash and/or HM incident: High, Medium, and Low:

1. *High Gravity*

High gravity violations are the most serious violations (not contributing to a crash or HM incident) and identified as acute (as defined in the FMCSRs, 49 CFR Part 385), Fundamental, Severe Level I, and Out-of-Service violations. A current list of the Fundamental, Severe Level I, and Out-of-Service violations are identified on the Gravity table (Attachment3). This list is periodically reviewed and updated.

Example:

49 CFR 177.33(a) – transporting HM in unauthorized cargo tank

Severe Level I violation

Gravity = High

2. *Medium Gravity*

Medium gravity violations are serious violations (not contributing to a crash or HM incident) and identified as critical (as defined in the FMCSRs, 49 CFR Part 385), Essential Safety Management, and Severe Level II violations. A current list of the Essential Safety Management and Severe Level II violations are identified on the Gravity Table (Attachment 3). This list is periodically reviewed and updated.

Example:

49 CFR 395.8(e) – false reports of records of duty status

Critical regulation

Gravity = medium

3. Low Gravity

All other violations are assigned a low gravity if they did not contribute to a crash or HM incident.

4. Contributed to Crash and/or HM incident

a. If the violation caused a crash or HM incident, the highest severity point level is assigned.

b. If the violation caused and HM incident which resulted in a fatality, serious injury, illness, or destruction of property, a maximum fine of $175,000 may be assessed, overriding all other factors otherwise considered by UFA.

UFA automatically maps point assignments based on the gravity selection as follows:

GRAVITY SELECTION	GRAVITY POINTS
Low	10
Medium	25
High	50
Contributed to Crash or HM incident	70

C. Extent of Violations

UFA considers extent by evaluating the magnitude, scope, and frequency of the violations. UFA evaluates whether the violation is isolated or widespread. UFA measures extent based on the number of violations discovered divided by the number of records checked for violations. This number is expressed as a percentage.

Example: 49 CFR 395.8(e) – false reports of records of duty status

Violations checked = 250

Violations discovered = 25

Violation percentage = 10%

Extent is expressed as either Low or High. High extent is defined as 10% or greater. Low extent is less than 10%.

Individual and single incident violations where 1 violation is discovered out of 1 record checked, is considered a Low violation rate. However, if the violation arises during the investigation of an entity, 1 violation discovered out of 1 checked is counted as High extent. For example, a company failing to implement a controlled substance and alcohol testing program is represented as 1 violation discovered out of 1 checked and would be considered a High extent of violations in UFA. In contrast, a driver failing to have 1 record of duty status out of 1 checked during a roadside inspection would be considered to have a Low extent of violations.

UFA defaults the number of violations charged to 10% if the extent is "High" unless the 10% is greater than the number discovered, in which case the default number charged is the number discovered. This also applies to penalties for Section 222 violations.

If extent is Low, UFA defaults the number of violations charged to 3 unless the number discovered is less than 3, in which case 3 violations are charged. This also applies to penalties for Section 222 violations.

Certain violations also default to one charged based on the nature of the violation. (See Attachment 4 –Extent Default Charged Violations Table). UFA automatically maps point assignments based on the extent selection as follows:

EXTENT SELECTION	EXTENT POINTS
Low	10
High	20

D. Circumstances of Violation

UFA considers the circumstances of a violation by evaluating the conditions, factors, and events accompanying the violation that, when present, may serve to increase or decrease the proposed penalty. Mitigating factors are those actions that reduce the safety risk posed by a particular violation. Aggravating factors are those actions

that increase the safety risk posed by a particular violation. Any mitigating or aggravating circumstance should be outside of any statutory penalty factors already considered by UFA and must be explained in the Memo section. For example, UFA already considers whether the violation contributed to a crash so the relationship of the violation to a crash should not be reported as an aggravating factor. UFA automatically maps point assignments based on the circumstances selection as follows:

CIRCUMSTANCES OF VIOLATION	CIRCUMSTANCES POINTS
None	0
Aggravating	10
Mitigating	-10

E. Harm to Shipper (Household Goods Only)

The degree of harm to a shipper is measured by whether there has been inconvenience, e.g. partial or late delivery and/or monetary impact to the shipper. UFA automatically maps point assignments based on the harm to shipper selection as follows:

HARM TO SHIPPER	HARM TO SHIPPER POINTS
None or Unknown	0
Inconvenience (e.g. late or partial delivery) but NO monetary impact	20
Monetary Impact	50

F. Whether Shipper has Been Adequately Compensated (Household Goods Only)

Whether the shipper has been adequately compensated is determined by reference to whether the carrier has provided compensation and, if so, when the compensation occurred. UFA automatically maps point assignments based on the harm to shipper selection as follows:

ADEQUATE COMPENSATION TO SHIPPER	ADEQUATE COMPENSATION TO SHIPPER
No compensation required/not applicable	0
Adequately compensated before institution of civil penalty proceedings	10
Not adequately compensated before institution of civil penalty proceedings	40

6. VIOLATION FACTOR CALCULATIONS: UFA REPORT

A. Initial Calculated Fine

UFA generates an initial calculated fine for each violation proposed for enforcement based on consideration of the Violation Factors and, if applicable, with a reduction for SBREFA.

Example of Initial Calculated Fine:

*Initial Calculated Fine = [Range Maximum – Range minimum * Violation Factor + Range Minimum] * (1 + Subject Factor) * 80% (SBREFA Reduction, if applicable)*

49 CFR 382.115(a)

Violation Criteria

Violation Factor	***Selection***	***Points***
Circumstances	*None*	*0*
Gravity	*High (did not contribute to crash or HM incident release)*	*50*
Extent	*High (1 discovered out of1 checked = 100%)*	*20*
		70

Range Maximum	*Range Minimum (From UFA Table)*
$11,000	*$1,100*

Subject Factor = (1 + 35%)

Step1: Determine Initial Penalty Based on Statutory/Administrative Minimum and Maximum Penalty amounts

Maximum $11,000 (statutory maximum) - $1,100 (administrative minimum) = $9,900

Step 2: Apply Violation Factor to amount determined in Step 1.

*$9,900 * 70% = 6,930 + $1,100 (range minimum) = $8,030*

Note that range minimum is added to the amount determined so that the penalty is within the penalty range.

Step 3. Apply Subject Factor to Amount Determined in Step 2.

*$8,030 * (35% +1) = $10,840*

Step 4. Apply SBREFA to Amount Determined in Step 3.

*$10,840 * 80% = $8,672 (initial calculated fine before any reductions based on consideration of the Subject's Ability to Continue in Business or Ability to Pay).*

B. Proportional Reductions based on Ability to Continue in Business or Ability to Pay

After UFA generates the Initial Calculated Fine, if the total initial calculated fine for all violations exceeds the gross revenue cap, then UFA proportionally reduces the fine per violation based on any applicable statutory or administrative minimum and maximums.

Example: The total initial calculated fine for all violations, $13,844, exceeds the gross revenue cap of $2,000. The initial calculated fine for the violation of 49 CFR 382.115(a) is $8,672. The amount this fine is reduced is determined by the following formula:

*Initial calculated fine – (initial calculated fine – statutory or administrative minimum) * total reduction amount divided by the total reducible amount.*

*$8,672 – ($8,672 – 0) * $11,844/$13,844 =*

*$8,672 * .85553 = $7,419.156 (rounded up to $7,420)*

$8,672 - $7,420 = ***$1,252***

$1,252 is the penalty proposed for each charged violation of 49 CFR 382.115(a) in the Notice of Claim.

This step is repeated for each charged violation in the Notice of Claim.

C. Rounding Conventions for Penalties

After reducing the penalty per violation based on consideration of the ability to continue in business and, if applicable, SBREFA, the total proposed penalty for all charged violations is rounded down to the nearest tenth and summed:

Example:

Violation	***Reduced Penalty***	***Counts***
49 CFR 382.115(a)	*$1,252*	*1*
49 CFR 391.11(b)(1)	*$634*	*1*
49 CFR 396.3(b)(2)	*$112*	*1*

Total for all charged Violations = $1,998 (before rounding)

Total for all charged Violations Rounded = $1,990. This is the total penalty proposed.

UNIFORM FINE ASSESSMENT

Subject Information

Name:	LIBERTY TRANSPORT
USDOT #:	123456
Case #:	UT-2013-0041-US0001
Gross Revenue:	$123,400
Review/Activity:	Investigation
Review/Inspection Date:	6/3/2013

Total Penalty Proposed: $1,990

For a detailed explanation of the calculations that appear on this report, visit our web site at www.fmcsa.dot.gov/penaltyassessments.

Violations Charged

Primary #: 382.115(a)

Nature of Violation: Non-Recordkeeping-FMCSR

Penalty per Charge: $1,252
Number Charged: 1
Total penalty for this violation: $1,252

Description: Failing to implement an alcohol and/or controlled substances testing program on the date the employer begins commercial motor vehicle operations.

Circumstances: None
Gravity: Did not contribute to crash and/or HM incident – High
Extent: High

Primary #: 391.11(b)(1)

Secondary #: 391.11(a)

Nature of Violation: Non-Recordkeeping-FMCSR

Penalty per Charge: $634
Number Charged: 1
Total penalty for this violation: $634

Description: Using a driver less than 21 years old.

Circumstances: None
Gravity: Did not contribute to crash and/or HM incident – Low
Extent: High

For Illustrative Purposes Only

Violations Charged

Primary #: 396.3(b)(2)
Nature of Violation: Recordkeeping-FMCSR

Penalty per Charge: $112
Number Charged: 1
Total penalty for this violation: $112

Description: Failing to have a means of indicating the nature and due date of the various inspection and maintenance operations to be performed.

Circumstances: None
Gravity: Did not contribute to crash and/or HM incident – Low
Extent: High

For Illustrative Purposes Only

SUBJECT CALCULATIONS

* Reference Subject Criteria section for all available selections and points associated.

Subject Criteria		Points
History	Penalized for violation(s) in the same part(s)	35
Culpability	Should have known of any discovered violation(s)	0
Other Matters	No corrective action	0
	Subject Factor =	35%

Gross Revenue Cap = $2,000

Total Reducible Amount = $13,844

Total Reduction Amount = $11,844

Total Penalty Proposed = $1,998

Total Penalty Proposed (Rounded) = $1,990

For Illustrative Purposes Only

VIOLATION CALCULATIONS

* Reference Violations Criteria section for all available selections and points associated.

382.115(a)

Violation Criteria		Points
Circumstances	None	0
Gravity	Did not contribute to crash and/or HM incident - High	50
Extent	High (1 Discovered out of 1 Checked = 100%)	20
	Violation factor =	70%

Range Max	Range Min	Violation Factor	Calculated Fine	Min Fine	Reduced Fine
11000	1100	70%	8672	0	$1,252

Calculated Fine = [(11000 - 1100) x 70% + 1100] x (1 + 35%) x 80% = 8672

Penalty Range = 11000 - 1100 = 9900

Violation factor = 9900 x 70% = 6930

Add range minimum = 6930 + 1100 = 8030

Subject factor = 8030 x (1 + 35%) = 10840

Small business factor = 10840 x 80% = 8672

Reduced Fine = 8672 - [(8672 - 0) x 11844 / 13844] = 1252

The proposed penalty has been reduced proportionately based on a consideration of your ability to continue to do business and the applicable statutory and/or administrative minimum and statutory maximum civil penalties.

391.11(b)(1)

Violation Criteria		Points
Circumstances	None	0
Gravity	Did not contribute to crash and/or HM incident - Low	10
Extent	High (1 Discovered out of 1 Checked = 100%)	20
	Violation factor =	30%

Range Max	Range Min	Violation Factor	Calculated Fine	Min Fine	Reduced Fine
11000	1100	30%	4395	0	$634

For Illustrative Purposes Only

VIOLATION CALCULATIONS

* Reference Violations Criteria section for all available selections and points associated.

Calculated Fine = [(11000 - 1100) x 30% + 1100] x (1 + 35%) x 80% = 4395

Penalty Range = 11000 - 1100 = 9900

Violation factor = 9900 x 30% = 2970

Add range minimum = 2970 + 1100 = 4070

Subject factor = 4070 x (1 + 35%) = 5494

Small business factor = 5494 x 80% = 4395

Reduced Fine = 4395 - [(4395 - 0) x 11844 / 13844] = 634

The proposed penalty has been reduced proportionately based on a consideration of your ability to continue to do business and the applicable statutory and/or administrative minimum and statutory maximum civil penalties.

396.3(b)(2)

Violation Criteria		Points
Circumstances	None	0
Gravity	Did not contribute to crash and/or HM incident - Low	10
Extent	High (1 Discovered out of 1 Checked = 100%)	20
	Violation factor =	30%

Range Max	Range Min	Violation Factor	Calculated Fine	Min Fine	Statutory Max	Reduced Fine
1000	600	30%	777	0	10000	$112

Calculated Fine = [(1000 - 600) x 30% + 600] x (1 + 35%) x 80% = 777

Penalty Range = 1000 - 600 = 400

Violation factor = 400 x 30% = 120

Add range minimum = 120 + 600 = 720

Subject factor = 720 x (1 + 35%) = 972

Small business factor = 972 x 80% = 777

Reduced Fine = 777 - [(777 - 0) x 11844 / 13844] = 112

The proposed penalty has been reduced proportionately based on a consideration of your ability to continue to do business and the applicable statutory and/or administrative minimum and statutory maximum civil penalties.

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CRITERIA TABLES

SUBJECT CRITERIA AND POINTS

History Points

0 No enforcement history

20 Penalized for violation(s) in any other part(s)

35 Penalized for violation(s) in the same part(s)

50 Penalized for two or more prior cases OR prior case for violation of an order

Culpability Points

0 Should have known of any discovered violation(s)

10 Knew of any discovered violation(s)

25 Intentional for any discovered violation(s)

Other Matters Points

0 No corrective action

-20 Corrective action before Investigation

-10 Corrective action after Investigation but before NOC

VIOLATION CRITERIA AND POINTS

Gravity Points

10 Did not contribute to crash and/or HM incident - Low

25 Did not contribute to crash and/or HM incident - Medium

50 Did not contribute to crash and/or HM incident - High

70 Contributed to crash and/or HM incident

Circumstances Points

0 None

-10 Mitigating

10 Aggravating

Extent Points

20 High (# violations discovered / # records checked >= 10%)

10 Low (# violations discovered / # records checked < 10% OR if Single Incident or Individual case and 1 of 1)

For Illustrative Purposes Only

ATTACHMENT 2

UFA Penalty Provisions
As of August 1, 2016

Nature of the Violation (Violation Category)	Violation Category Code	Per Count*	Contributed to crash and/or HM Incident**	Administrative Min/Max (per violation - all counts)	Statutory Min/Max (per violation - all counts)
CDL Part 383 (Individual)	E383	$250 - **$ 5,391**	N/A	$250 Adm Min	
Denial of access (Individual)	EDOA	$150 - **$ 1,194**	N/A	$150 Adm Min	$11,940 Max
Recordkeeping (Individual)	EDRK	$150 - **$1,194**	N/A	$150 Adm Min	$11,940 Max
Knowing Falsification of Records (False to Conceal) (Individual)	EFTC	$200 - **$ 11,940**	N/A	$200 Adm Min	
HM Violation (Individual)	EHMI	$250 - **$77,114**	Yes - HM	$250 Adm Min	
HM Training (Individual)	EHTR	**$ 463** - $2,500	Yes - HM	$2,500 Adm Max	
Egregious hours of service violation (Individual)	ENEG	$500 - **$3,626**	Yes - Egregious	$500 Adm Min	
Non - recordkeeping (Individual)	ENRA	$250 - **$ 3,626**	N/A	$250 Adm Min	
OOS CDL (1) (Individual)	EOCA	**$2,985 – $5,391**	N/A	N/A	
OOS CDL (2) (Individual)	EOCB	**$** 5,970- $7,000	N/A	N/A	
OOS Other than OOS CDL (1) & (2) (Individual)	EONC	$500 - **$1,782**	N/A	$500 Adm Min	
Arbitration (HHG)	GARB	**$** 1,547- $5,500	N/A	$5,500 Adm Max	
Brokering w/o carrier agreement (HHG)	GBCA	**$**11,940- $100,000	N/A	$100,000 Adm Max	
Denial of Access (HHG)	GDAH	$600 - **$ 1,194**	N/A	$600 Adm Min	$11,940 Max
Commercial Regulations Part 376	GEMC	$774	N/A	N/A	
110% Rule (HHG)	GHTN	**$**1,547- $5,500	N/A	$5,500 Adm Max	
Loss & Damage (HHG)	GLAD	**$1,547** - $5,500	N/A	$5,500 Adm Max	
Other Non - recordkeeping (HHG)	GNRO	**$1,547** - $5,500	N/A	$5,500 Adm Max	
Operating Authority (HHG Carrier/Broker)	GOAH	**$**29,849- $29,849	N/A	$100,000 Adm Max	

Nature of the Violation (Violation Category)	Violation Category Code	Per Count*	Contributed to crash and/or HM Incident**	Administrative Min/Max (per violation - all counts)	Statutory Min/Max (per violation - all counts)
Hostage Load (HHG)	GOLD	**$** 15,474-$100,000	N/A	$100,000 Adm Max	
Recordkeeping and reporting (HHG)	GRKA	**$**1,194-$5,500	N/A	$5,500 Adm Max	$11,940
Service Delay (HHG)	GSDL	**$**1,194-$5,500	N/A	$5,500 Adm Max	$11,940
Tariff (HHG)	GTRF	**$1,547** - $**7,500**	N/A	$7,500 Adm Max	
Weight (HHG) – 1st Offense	GWHT	**$3,095** - $5,500	N/A	$5,500 Adm Max	
Weight (HHG) – 2nd Offense	GWH2	**$7,737** - $10,000	N/A	$10,000 Adm Max	
Communication(HM)	HMCO	$3,000 - $10,000	Yes - HM	N/A	
Denial of Access (HM)	HMDA	$600 - **$1,194**	N/A	$600 Adm Min	$11,940 Max
Operations (HM)	HMOP	$25,000 - **$77,114**	Yes - HM	$25,000 Adm Min	$77,114 Stat. max all counts per violation
Packaging(HM)	HMPG	$5,000 - $77,114	Yes - HM	$5,000 Adm Min	$77,114 Stat. max all counts per violation
Recordkeeping (HM)	HMRK	$250 - $3,000	Yes - HM	$250 Adm Min $3,000 Adm Max	$77,114 Stat. max all counts per violation
Training (HM)	HMTR	**$463** - $25,000	Yes - HM	$25,000 Adm Max	$77,114 Stat. max all counts per violation
Egregious hours of service violation (Safety)	NHEG	$5,000 - **$14,502**	Yes - Egregious		
Commercial brokering without authority and/or financial security***	NRCC	$2,500 - **$10,282**		$2,500 Adm Min	
Denial of Access (Safety)	NRDA	$600 - **$1,194**	N/A	$600 Adm Min	$11,940 Max
Commercial Evasion of regulations related to operating authority (1st offense)	NRE1	**$2,056** - **$5,141**	N/A	$5,141 Adm Max	
Commercial Evasion of the regulations related to operating authority (2nd offense)	NRE2	**$**5,141-$25,000	N/A	$25,000 Adm Max	

Nature of the Violation (Violation Category)	Violation Category Code	Per Count*	Contributed to crash and/or HM Incident**	Administrative Min/Max (per violation - all counts)	Statutory Min/Max (per violation - all counts)
Evasion of the Regulations (Safety)	NRE3	**$2,056** - **$5,141**	N/A	$5,141 Adm Max	
Evasion of the Regulations (Safety)	NRE4	**$2,056** - **$7,500**	N/A	N/A	
Financial Responsibility (Safety)	NRFA	$1,454 - **$15,909**	N/A		
Nonrecordkeeping (Safety)	NRKA	$1,100 - **$14,502**	N/A		
CDL (Safety)	NRKC	$682 - **$5,391**	N/A		
Disobeying a subpoena	NRSU	**$1,028 - $10,282**	N/A	N/A	
Notices and Orders OOS 392.5 (Safety)	O392	$5,000 - **$17,816**	N/A	$5,000 Adm Min	
Commercial Operating Authority U.S. and Foreign Property Brokers and Carriers (other than MX beyond the CZ)	OAM1	**$**10,282- $10,282	N/A	$10,282 Adm Max	
Commercial Operating Authority Foreign motor carrier or foreign private motor carrier intentionally operating outside CZ without authority	OAM2	**$10,000** - **$14,140**	N/A	$10,000 Adm Min	
Commercial Operating Authority Foreign motor carrier or foreign private motor carrier intentionally operating outside CZ without authority - Pattern of violations	OAM3	**$10,282** - **$35.351**	N/A		
Commercial Operating Authority carrier or broker of Hazardous Waste**	OAM4	**$**20,564- **$**41,128	N/A	N/A	
Commercial Operating Authority U.S. and Foreign Passenger Carriers	OAPA	**$**25,705- $25,705	N/A	$25,705 Adm Max	
Operating Authority (Property Non - HHGs)	OAPR	**$10,282** - $10,282	N/A	$10,282 Adm Max	
Notices and Orders OOS CDL (Safety)	OCDL	$5,391 - **$29,849**	N/A	N/A	

Nature of the Violation (Violation Category)	Violation Category Code	Per Count*	Contributed to crash and/or HM Incident**	Administrative Min/Max (per violation - all counts)	Statutory Min/Max (per violation - all counts)
Notices and Orders Imminent Hazard OOS Order (Safety)	OIMM	$5,000 - **$25,705**	N/A	$5,000 Adm Min	
Notices and Orders OOS Non - CDL (Safety)	ONCD	$5,000 - **$17,816**	N/A	$5,000 Adm Min	
Notices and Orders OOS New Entrant Failure (Safety)	ONEF	$1,194 - **$11,940**	N/A	$1,000 Adm Min	
Notices and Orders OOS New Entrant No Show/Refusal (Safety)	ONEN	$1,194 - **$11,940**	N/A	$1,000 Adm Min	
Notices and Orders OOS No Pay (Safety)	ONOP	$5,000 - **$14,502**	N/A	$5,000 Adm Min	
Notices and Orders OOS Unfit (Property/Passenger) (Safety)	OUNF	$5,000 - **$25,705**	N/A	$5,000 Adm Min	
Recordkeeping (Safety)	RKCL	$600 - **$1,194**	N/A		
Knowing Falsification of Records Recordkeeping (False to Conceal - Can prove hiding other violation) (Safety)	RKDL	$1,194 - **$11,940**	N/A		
Recordkeeping related to operating authority registration	RKOP	**$1,028** - $7,739	N/A		

**Penalty amounts that are bolded and underlined are statutory minimums and/or maximums.*

*** If the column has "Yes - HM": If the user selects the Gravity="Contributed to crash and/or HM Incident" AND the violation has this violation category specified in the Fines table, a pop-up box will appear to ask the user "Did this violation contribute to death, severe injury, serious illness, or property destruction?" Yes/No. If the user answers No, then the box closes. If the user answers Yes, then they will receive another message that "You must contact your Service Center to determine the appropriate penalty assessment for this violation."*
If the column has "Yes – Egregious": If the user selects the Gravity="Contributed to crash and/or HM Incident" AND the violation has this violation category specified in the Fines table, then UFA will apply the maximum fine for that violation category.

****This is a violation of 49 CFR 387.307.*

ATTACHMENT 3

UFA METHODOLOGY EXPLANATION
GRAVITY TABLE

FUNDAMENTAL AND ESSENTIAL SAFETY MANAGEMENT VIOLATIONS

Type	Violation	Description
Essential safety management	172.200(a)	Transporting a hazardous material (HM) without preparing a shipping paper (no shipping paper at all)
Essential safety management	172.704(a)	Failing to train hazardous material employees as required
Essential safety management	173.24b(d)(2)	Loading a cargo tank with an HM which exceeds the maximum weight of lading marked on the specification plate
Essential safety management	173.3	Loading HM not in accordance with the segregation table
Essential safety management	173.33(a)(1)	Transporting HM in an unauthorized cargo tank
Essential safety management	173.33(a)(2)	Transporting or loading two or more materials in a cargo tank motor vehicle which resulted in an unsafe condition
Essential safety management	173.33(b)(1)	Transporting a hazardous material in a cargo tank motor vehicle which has a dangerous reaction when in contact with the tank
Essential safety management	177.834(i)	Failing to attend a cargo tank during loading/unloading
Essential safety management	177.848(d)	Loading HM not in accordance with the segregation table
Essential safety management	180.407(b)(2)	Failing to test and inspect a cargo tank which has been in an accident and has been damaged
Essential safety management	180.407(b)(3)	Failing to conduct a pressure test on a cargo tank which has been out of HM service for 1 year or more
Essential safety management	180.407(b)(4)	Failing to test and inspect a cargo tank which has been modified
Essential safety management	180.407(b)(5)	Failing to conduct a test or inspection on a cargo tank when required by DOT

Type	Violation	Description
Essential safety management	391.23(a)	Failing to investigate a driver's background
Fundamental	391.11(b)(5)	Using a driver without a currently valid motor vehicle operator's license or permit
Fundamental	395.13(c)(1)	Knowingly requiring or permitting a driver declared out of service to operate a commercial motor vehicle before that driver may lawfully do so under the rules of Part 395

Severe Level I and II Violations

Severity Level	Violation	Description
I	107.504(c)	Failing to properly renew registration for cargo tanks and/or cargo tank motor vehicles.
I	172.200(a)	Offering a hazardous material for transportation without proper description of material on shipping paper.
I	172.203(m)	Failing to properly describe poisonous materials on hazardous material shipping paper.
I	172.203(o)	Failing to properly describe organic peroxide or self-reactive materials on hazardous material shipping paper.
I	172.205(a)	Offering, transporting, transferring or delivering hazardous waste without a manifest.
I	172.313(a)	Failing to mark a package of hazardous material defined as poisonous by inhalation per 49 CFR 171.8 with "Inhalation Hazard" as required.
I	173.21(a)	Offering a forbidden hazardous material for transportation.
I	173.21(e)	Offering for transportation or transporting hazardous materials, which if combined, would likely cause a dangerous evolution of heat, flammable or poisonous gas or vapor, or a corrosive material.
I	173.22(a)(2)	Offering a hazardous material in an unauthorized package or container.
I	173.24(b)(2)	Offering for transportation a hazardous material in a package that conditions normal to transportation resulted in the effectiveness of the package being substantially reduced.
I	173.24b(d)(2)	Loading a cargo tank with a hazardous material which exceeds the maximum weight of lading marked on the specification plate.
I	173.3	Loading hazardous materials not in accordance with the segregation table contained in 49 CFR Part 177.
I	173.33(a)	Transporting hazardous materials in an unauthorized cargo tank.
I	173.33(a)	Offering or accepting for transportation a hazardous material in an unauthorized cargo tank motor vehicle.
I	173.33(a)(2)	Loading or transporting two or more materials in a cargo tank motor vehicle which resulted in an unsafe condition (fire, explosion, excessive increase in pressure or heat/or release of toxic vapors).
I	173.33(b)(1)	Transporting hazardous material in a cargo tank motor vehicle which caused a dangerous reaction when the hazardous material that came in contact with the cargo tank wall.
I	173.33(c)(5)	Loading or transporting a 6.1 PG I or PG II material in a cargo tank having a maximum allowable working pressure (MAWP) of less than 25 psig
I	173.33(e)	Transporting (Division 6.1 material, oxidizer liquid, liquid organic peroxide, or corrosive liquid) in cargo tank piping without bottom damage protection devices meeting the requirements of Part 178.337-10 or 178.345-8.
I	173.33(e)	Transporting (Division 6.1 material, oxidizer liquid, liquid organic peroxide, or corrosive liquid) in cargo tank piping while using a sacrificial device to satisfy accident damage protection requirements.

Severity Level	Violation	Description
I	173.40(d)	Offering a cylinder or cylinder overpack combination charged or filled with a Division 2.3 or 6.1 Hazard Zone A or B without conforming to cylinder performance requirements (toxic materials).
I	173.301(h)	Offering or transporting a charged/filled UN or DOT cylinder without a prescribed valve protection device.
I	173.301(j)	Offering or transporting a cylinder filled with hazardous material that was not manufactured in accordance with prescribed DOT/UN specifications, DOT exemptions or a special permit.
I	173.315(j)(2)	Offering or transporting a non-specification consumer storage tank charged with liquefied petroleum gas (hazardous material) to more than 5% of their water capacity without conforming to conditions listed in 173.315(j)(2).
I	173.413	Using Type B(U) or B(M) packaging not properly designed or constructed (radioactive materials).
I	173.447(a)	Storing in one area packages of radioactive material bearing FISSILE labels that exceed a total Transportation Index of 50.
I	177.834(i)	Failing to attend a cargo tank during loading or unloading.
I	177.834(j)	Transporting a hazardous material in a cargo tank while failing to have all manhole closures closed and secured and/or all valves and other closures in the liquid discharge system closed and free of leaks.
I	177.848(d)	Transporting, loading or storing hazardous materials not in accordance with the segregation table.
I	177.848(f)	Transporting, loading or storing Class 1 (explosive) materials not in accordance with the compatibility table.
I	180.405(a)	Using an unauthorized cargo tank in that the tank fails to meet the specification in effect at the time of the date of initial construction and subsequent mandated retrofitting.
I	180.405(c)	Marking or certifying a cargo tank to an unauthorized specification.
I	180.405(g)	Failing to equip a cargo tank with manhole assemblies conforming with 178.345-5.
I	180.407(a)(2)	Subjecting a cargo tank to a pressure greater than its design pressure or maximum allowable working pressure (MAWP).
I	180.407(a)(3)	Performing or witnessing a test or inspection on a cargo tank without meeting the minimum qualifications prescribed in 180.409.
I	180.407(b)(1)	Failing to test and inspect a cargo tank which shows evidence of bad dents, corroded or abraded areas, leakage, or any other condition that might render it unsafe for transportation.
I	180.407(b)(2)	Failing to pressure test a cargo tank which has sustained damage to the extent that its lading retention capability may be adversely affected.
I	180.407(b)(3)	Failing to conduct a pressure test in accordance with section 180.407(g) on a cargo tank which has been out of hazardous materials transportation service for a period of one year or more.
I	180.407(b)(4)	Failing to test and inspect a cargo tank that has been modified from its original design specification.

Severity Level	Violation	Description
I	180.407(b)(5)	Failing to conduct a test or inspection on a cargo tank when the Department so requires, based on the existence of probable cause, that the cargo tank is in an unsafe operating condition.
I	180.407(d)	Failing to perform an external visual inspection as prescribed.
I	180.407(e)	Failing to perform an internal visual inspection as prescribed.
I	180.407(f)	Failing to perform a lining inspection as prescribed.
I	180.407(g)	Failing to perform a pressure retest as prescribed.
I	180.407(g)(3)	Failing to perform a wet fluorescent magnetic particle test on an MC330/331 cargo tank.
I	180.407(h)	Failing to perform leakage test as prescribed.
I	180.407(i)	Failing to perform a thickness test as prescribed.
I	180.413(a)(1)	Performing a repair, modification, stretching or rebarrelling of an ASME U Stamped cargo tank without holding a valid National Board R Stamp.
I	180.413(a)(1)(i)	Performing a repair, modification, stretching or rebarrelling of a non-ASME cargo tank without holding a valid ASME U Stamp or National Board R Stamp.
I	180.413(b)	Failing to verify the suitability of a repair affecting the structural integrity of the cargo tank by testing as prescribed in the applicable specifications or in 180.407(g)(1)(iv).
I	180.413(d)(3)(iv)	Failing to verify the suitability of a modification affecting the structural integrity of the cargo tank with respect to pressure by testing as prescribed in the applicable specification or in Section 180.407(g)(1)(iv).
I	180.413(f)	Owner fails to retain records of repair, modification, stretching, or rebarrelling made to each tank, as required.
I	180.416(f)	Failing to properly test a new or repaired delivery hose assembly at a minimum of 120 percent of the hose maximum working pressure.
I	180.416(f)(2)	Failing to permanently mark a new or repaired delivery hose assembly with the month and year of the pressure test.
I	180.417(b)	Failing to include the information required by 180.417(b)(1) or 180.417(b)(2) of this section on the test and inspection reports as required.
I	180.417(b)(3)	Failing to retain a copy of test and inspection reports as required.
I	180.417(c)(2)	Failing to properly prepare and maintain the report on an MC330 or MC331 cargo tank that has been used in anhydrous ammonia, liquefied petroleum gas or any other service that may cause stress corrosion cracking.
I	375.211(a)	Failing to participate in an arbitration program.
I	375.213(b)(1)	Failing to furnish shippers with DOT publication entitled, "Your Rights and Responsibilities When You Move".
I	375.215	Failing to charge applicable tariff rate.
I	375.403(a)(6)	Failing to reaffirm or negotiate the written binding estimate listing the additional household goods or services.

Severity Level	Violation	Description
I	375.403(a)(7)	Collecting more than the original amount of the binding estimate.
I	375.403(a)(9)	Failing to relinquish possession of a household goods shipment if the shipper offers to pay the original binding estimated price.
I	375.405(b)(8)	Collecting more than 110 percent of the original non-binding estimate at destination.
I	375.407(a)	Failing to relinquish possession of a household goods shipment if the shipper pays at least 110 percent of the approximate costs of a non-binding estimate.
I	375.407(b)	Failing to relinquish possession of a household goods shipment after the shipper offers to pay or pays at least 110 percent of a non-binding estimate (Hostage Load).
I	375.507(a)	Failing to weigh a shipment for each move transported on a non-binding estimate.
I	375.507(b)	Failing to weigh shipments on certified scale.
I	375.513	Refusing to allow shippers to view the re-weigh of their shipment.
I	375.519(a)	Failing to prepare a weight ticket in the form and manner prescribed.
I	375.519(b)	Failing to obtain a separate weight ticket for each weighing, if not in accordance with Part 375.519(b).
I	375.519(c)	Failing to retain the original copy of the weight tickets for each shipment weighed as part of the file.
I	375.519(d)	Making, or causing to make fraudulent or intentionally false weight tickets and/or reproducing fraudulent weight tickets.
I	385.403	Transporting a type and quantity of hazardous material requiring a hazardous materials safety permit in commerce when the motor carrier does not hold a safety permit, as required.
I	385.419	Transporting a hazardous material requiring a safety permit with an expired safety permit.
II	107.502(b)	Failing to properly register before engaging in the manufacture, assembly, certification, inspection or repair of a specification cargo tank or cargo tank motor vehicle.
II	107.608(b)	Offering a hazardous material for transportation without having registered with the Department of Transportation, under Subpart G of Part 107.
II	107.608(b)	Transporting a hazardous material without having registered with the Department, under Subpart G of Part 107.
II	13702(a)(2)	Failing to have a tariff in effect or charging or receiving a different rate that specified in the tariff (HHG)
II	13702(c)(1)	Failing to properly maintain and/or make available a published tariff (HHG)
II	172.201(e)	Failure to properly retain and/or make available hazardous material shipping paper in proper form.
II	172.203(a)	Failing to properly notate special permit or exemption number on hazardous material shipping paper.
II	172.203(c)(1)	Failing to properly enter hazardous substance by name on hazardous material shipping paper.
II	172.203(n)	Failing to properly describe elevated temperature materials on hazardous material shipping paper.

Severity Level	Violation	Description
II	172.205(a)	Offering or transporting a hazardous waste without a properly prepared hazardous waste manifest.
II	172.205(b)	Failure of a shipper (generator) to properly prepare hazardous waste manifest.
II	172.301(a)(1)	Failure to properly mark shipping name and identification number on non-bulk hazardous material package.
II	172.320(a)	Failure to properly mark EX-number on package of Class 1 (Explosive) hazardous materials.
II	172.326(a)	Offering for transport or transporting a portable tank without properly marking shipping name.
II	172.326(c)(2)	Failing to provide motor carrier proper identification number markings and signage when offering portable tanks containing hazardous material for shipment (shipper violation).
II	172.328(a)(1)	Failing to provide to a motor carrier the required identification numbers for a cargo tank.
II	172.328(a)(2)	Offering a cargo tank containing hazardous material that has not been marked with the required identification number.
II	172.400(a)	Failing to properly label a container or package of hazardous material.
II	172.403	Failing to properly label to a package of Class 7 (radioactive) material.
II	172.506(a)	Offering hazardous materials without proper placarding.
II	172.600(c)(1)	Failing to have proper emergency response information immediately available for use at all times with hazardous materials.
II	172.600(c)(1)	Failing to provide emergency response information.
II	172.604(a)	Failing to properly provide an emergency response telephone number when offering a hazardous material for transportation.
II	172.604(a)(1)	Failing to provide an emergency response telephone number which is monitored at all times that a hazardous material is in transit or in storage incidental to transportation.
II	172.604(a)(2)	Failing to provide the 24-hour emergency response telephone number of a person who is knowledgeable of the hazards and characteristics of the hazardous materials being shipped, and has comprehensive emergency response and incident mitigation information o
II	172.704(a)	Failing to train hazardous materials employees as required.
II	173.25(a)(2)	Failing to properly mark an overpack with the proper shipping name and identification number for hazardous materials.
II	173.25(a)(2)	Failing to properly label an overpack with the proper labels for the materials contained within.
II	173.25(a)(3)	Failing to properly orient packages subject to the marking requirements of 172.312 in an overpack.
II	173.3	Failing to brace containers of hazardous materials to prevent relative motion between containers.
II	173.3	Loading into or on, or unloading a Class 1 (explosive) material from a motor vehicle with the engine running.

Severity Level	Violation	Description
II	173.301(a)(8)	Offering or transporting a charged/filled cylinder that has a container pressure at 55 degrees C (131degrees F) which exceeds 5/4 times its marked or designated service pressure.
II	173.301(e)	Offering a charged/filled cylinder that has been filled by someone other than the owner or without the owner's consent.
II	173.301(f)	Offering a charged/filled cylinder that is not equipped with the appropriate pressure relief devices.
II	173.301(g)	Offering manifolded (interconnected) cylinders except as authorized.
II	173.421	Offering a radioactive material for transportation not in proper condition for shipment.
II	173.442(b)(2)	Offering a package of radioactive material exceeding 185 degrees Fahrenheit on the external surface of the package. (Exclusive Use).
II	173.443(b)	Offering a package of radioactive material with removable contamination in excess of 220 dpm/square cm. (exclusive use).
II	177.817(f)	Failing to maintain a copy of the hazardous material shipping paper as prescribed for 365 days after the date accepted by the motor carrier. (Three years for a Hazardous Waste)
II	177.834(a)	Failing to brace containers of hazardous materials to prevent relative motion between containers.
II	180.405(h)	Failing to replace a reclosing pressure relief device with a valve meeting the requirements of 178.345-10(b)(3).
II	366.2	Failing to have on file Designation of Agent for Service of Process (Form BOC-3) with the Federal Motor Carrier Safety Administration.
II	370.7(a)	Failing to promptly and thoroughly investigate each claim.
II	371.105	Failing to arrange transportation for a HHG motor carrier that has a valid USDOT number and valid HHG motor carrier authority.
II	371.107	Failing to prominently display the required information on all advertisements including the homepage of its Internet website.
II	371.109	Failing to provide required information on motor carriers used to potential individual shippers.
II	371.113	Failing to provide an estimate as required.
II	371.115	Providing estimates on behalf of a HHG motor carrier without a written agreement.
II	371.117(a)	Failure to display cancellation, deposit, and refund policies on its internet website or agreements with individual shippers.
II	371.117(b)	Failure to maintain records of canceled shipments and refunds to individual shippers.
II	375.211(a)	Using an arbitration program that does not meet the requirements of Section 375.211.
II	375.221(a)	Refusing to accept a particular form of credit for payment if this form of payment was identified as an acceptable form of payment in tariff.

Severity Level	Violation	Description
II	375.221(d)	If the carrier accepts charge or credit plans, failing to identify in the tariff the charge or credit card plans you participate in.
II	375.303(c)	Failing to furnish proof of insurance coverage.
II	375.401(a)(2)	Failing to prepare a written non-binding estimate for each move performed.
II	375.401(b)	Failing to specify on the binding and/or non-binding estimate, the form of payment you and your agent will honor at delivery.
II	375.403(a)(5)	Failing to reaffirm or negotiate the written binding estimate listing the additional household goods or services.
II	375.403(c)	Failing to retain a copy of the binding estimate for each move performed for one year as an integral part of the bill of lading.
II	375.405(b)(7)	Failing to reaffirm or negotiate the written non-binding estimate listing the additional household goods or services.
II	375.405(d)	Failing to retain a copy of the non-binding estimate for each move performed for one year as an integral part of the bill of lading.
II	375.501(a)	Failing to prepare a written order for service for each move performed
II	375.501(g)	Failing to retain a copy of the order for service for each move performed for one year as an integral part of the bill of lading.
II	375.503(a)	Failing to prepare a written inventory for each shipment of household goods transported.
II	375.503(e)	Failing to retain a copy of an inventory for each move performed for one year as an integral part of the bill of lading.
II	375.505(d)	Failing to retain a copy of a bill of lading for each move performed for one year from the date it is created.
II	375.515(b)	Failing to obtain a written waiver from shippers who waive their right to observe the re-weighing of their shipment.
II	385.415(c)(1)	Transporting a hazardous material requiring a safety permit and failing to follow the communications plan as required.
II	385.415(c)(1)	Transporting a permitted material without maintaining a record of communication for six months as required.
II	387.301(a)	Failing to file evidence of public liability insurance with the Federal Motor Carrier Safety Administration.
II	387.301(b)	Failing to file evidence of cargo insurance with the Federal Motor Carrier Safety Administration.

ATTACHMENT 4

Violation Categories that Default to "1" for the Number Charged

Violation Category	Violation Type
EHMI	HM Violation (Individual)
EHTR	HM Training (Individual)
GARB	Arbitration - Household Goods
GBCA	Brokering w/o carrier agreement - Household Goods
GEMC	376 Commercial Violations
GHTN	110% Rule - Household Goods
GLAD	Loss and Damages - Household Goods
GNRO	Other Non-Record Keeping - Household Goods
GOAH	Operating Authority (Property HHGs)
GOLD	Hostage Load - Household Goods
GRKA	Recordkeeping - Household Goods
GSDL	Service Delay - Household Goods
GTRF	Tariff – Household Goods
GWHT	Weight - Household Goods
HMCO	Communication (HM)
HMOP	Operations (HM)
HMPG	Packaging (HM)
HMRK	Recordkeeping (HM)
HMTR	Training (HM)
NRCC	Commercial brokering without authority and/or financial security
NRE1	Evasion of the Regulations (1)- Commercial
NRE2	Evasion of the Regulations (2)- Commercial
OAM1	Operating Authority (MX MC & Broker)
OAM2	Operating Authority (MX MC beyond CZ)
OAM3	Operating Authority (MX MC beyond CZ Pattern of Violation)
OAM4	Operating Authority (MX MC & Broker of Hazardous Waste)
OAPA	Operating Authority (Passenger)
OAPR	Operating Authority (Property Non-HHGs)