

§ 385.119

(2) Completes measures to revoke the carrier's provisional operating authority or provisional Certificate of Registration under § 385.111(c) of this subpart.

§ 385.119 Applicability of safety fitness and enforcement procedures.

At all times during which a Mexico-domiciled motor carrier is subject to the safety monitoring system in this subpart, it is also subject to the general safety fitness procedures established in subpart A of this part and to compliance and enforcement procedures applicable to all carriers regulated by the FMCSA.

Subpart C—Certification of Safety Auditors, Safety Investigators, and Safety Inspectors

SOURCE: 67 FR 12779, Mar. 19, 2002, unless otherwise noted.

§ 385.201 Who is qualified to perform a review of a motor carrier?

(a) An FMCSA employee, or a State or local government employee funded through MCSAP, who was qualified to perform a compliance review before June 17, 2002, may perform a compliance review, safety audit or roadside inspection if he or she complies with § 385.203(b).

(b) A person who was not qualified to perform a compliance review before June 17, 2002, may perform a compliance review, safety audit or roadside inspection after complying with the requirements of § 385.203(a).

§ 385.203 What are the requirements to obtain and maintain certification?

(a) After June 17, 2002, a person who is not qualified under § 385.201(a) may not perform a compliance review, safety audit, or roadside inspection unless he or she has been certified by FMCSA or a State or local agency applying the FMCSA standards after successfully completing classroom training and examinations on the FMCSRs and HMRs as described in detail on the FMCSA website (www.fmcsa.dot.gov). These employees must also comply with the maintenance of certification/qualification requirements of paragraph (b) of this section.

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(b) *Maintenance of certification/qualification.* A person may not perform a compliance review, safety audit, or roadside inspection unless he or she meets the quality-control and periodic re-training requirements adopted by the FMCSA to ensure the maintenance of high standards and familiarity with amendments to the FMCSRs and HMRs. These maintenance of certification/qualification requirements are described in detail on the FMCSA website (www.fmcsa.dot.gov).

(c) The requirements of paragraphs (a) and (b) of this section for training, performance and maintenance of certification/qualification, which are described on the FMCSA website (www.fmcsa.dot.gov), are also available in hard copy from the Office of Professional Development and Training, FMCSA, 400 7th Street, SW., Washington, DC 20590.

§ 385.205 How can a person who has lost his or her certification be re-certified?

He or she must successfully complete the requirements of § 385.203(a) and (b).

Subpart D—New Entrant Safety Assurance Program

SOURCE: 67 FR 31983, May 13, 2002, unless otherwise noted.

§ 385.301 What is a motor carrier required to do before beginning interstate operations?

(a) Before a motor carrier of property or passengers begins interstate operations, it must register with the FMCSA and receive a USDOT number. In addition, for-hire motor carriers must obtain operating authority from FMCSA following the registration procedures described in 49 CFR part 365, unless providing transportation exempt from 49 CFR part 365 registration requirements.

(b) This subpart applies to motor carriers domiciled in the United States and Canada.

(c) A Mexico-domiciled motor carrier of property or passengers must register with the FMCSA by following the registration procedures described in 49 CFR part 365 or 368, as appropriate. The

regulations in this subpart do not apply to Mexico-domiciled carriers.

§ 385.303 How does a motor carrier register with the FMCSA?

A motor carrier may contact the FMCSA by internet (www.fmcsa.dot.gov); or Washington, DC headquarters by mail at, FMCSA, 400 7th Street SW., Washington, DC 20590; fax (703) 280-4003; or telephone 1-800-832-5660, and request the application materials for a new entrant motor carrier.

§ 385.305 What happens after the FMCSA receives a request for new entrant registration?

(a) The requester for new entrant registration will be directed to the FMCSA Internet website (www.fmcsa.dot.gov) to secure and/or complete the application package online.

(b) The application package will contain the following:

(1) Educational and technical assistance material regarding the requirements of the FMCSRs and HMRs, if applicable.

(2) The Form MCS-150, The Motor Carrier Identification Report.

(3) The Form MCS-150A, The Safety Certification for Applications for U.S. DOT Number.

(4) Application forms to obtain operating authority under 49 CFR 365, as appropriate.

(c) Upon completion of the application forms, the new entrant will be issued a USDOT number.

(d) For-hire motor carriers, unless providing transportation exempt from 49 CFR part 365 registration requirements, must also comply with the procedures established in 49 CFR part 365 to obtain operating authority before operating in interstate commerce.

§ 385.307 What happens after a motor carrier begins operations as a new entrant?

After a new entrant satisfies all applicable pre-operational requirements, it will be subject to the new entrant safety monitoring procedures for a period of 18 months. During this 18-month period:

(a) The new entrant's roadside safety performance will be closely monitored

to ensure the new entrant has basic safety management controls that are operating effectively. An accident rate or driver or vehicle violation rate that is higher than the industry average for similar motor carrier operations may cause the FMCSA to conduct an expedited safety audit or compliance review at any time.

(b) A safety audit will be conducted on the new entrant, once it has been in operation for enough time to have sufficient records to allow the agency to evaluate the adequacy of its basic safety management controls. This period will generally be at least 3 months.

(c) All records and documents required for the safety audit shall be made available for inspection upon request by an individual certified under FMCSA regulations to perform safety audits.

§ 385.309 What is the purpose of the safety audit?

The purpose of a safety audit is to:

(a) Provide educational and technical assistance to the new entrant; and

(b) Gather safety data needed to make an assessment of the new entrant's safety performance and adequacy of its basic safety management controls.

§ 385.311 What will the safety audit consist of?

The safety audit will consist of a review of the new entrant's safety management systems and a sample of required records to assess compliance with the FMCSRs, applicable HMRs and related record-keeping requirements as specified in Appendix A of this part. The areas for review include, but are not limited to, the following:

(a) Driver qualification;

(b) Driver duty status;

(c) Vehicle maintenance;

(d) Accident register; and

(e) Controlled substances and alcohol use and testing requirements.

§ 385.313 Who will conduct the safety audit?

An individual certified under the FMCSA regulations to perform safety audits will conduct the safety audit.