

## § 385.331

### **§ 385.331 What happens if a new entrant operates a CMV after having been issued an order placing its interstate operations out of service (OOS)?**

If a new entrant operates a CMV in violation of an out-of-service (OOS) order and § 385.325(b), it is subject to the penalty provisions in 49 U.S.C. 521(b)(2)(A), not to exceed \$10,000 for each offense.

### **§ 385.333 What happens at the end of the 18-month safety monitoring period?**

(a) If a safety audit has been performed within the 18-month period, and the new entrant is not currently subject to an order placing its operations out-of-service under § 385.325(b) or under a notice ordering it to take specified actions to remedy its safety management controls under § 385.319(c), the FMCSA will remove the new entrant designation and notify the new entrant in writing that its registration has become permanent. Thereafter, the FMCSA will evaluate the motor carrier on the same basis as any other carrier.

(b) If a new entrant is determined to be “unfit” after a compliance review its new entrant registration will be revoked. (See § 385.13)

(c) A new entrant that has reached the conclusion of the 18-month period but is under an order to correct its safety management practices under § 385.319(c) will have its new entrant registration removed following FMCSA’s determination that the specified actions have been taken to remedy its safety management practices. The motor carrier will be notified in writing that its new entrant designation is removed and that its registration has become permanent. Thereafter, the FMCSA will evaluate the motor carrier on the same basis as any other carrier.

(d) If a safety audit or compliance review has not been performed by the end of the 18-month monitoring period through no fault of the motor carrier, the carrier will be permitted to continue operating as a new entrant until a safety audit or compliance review is performed and a final determination is made regarding the adequacy of its safety management controls. Based on

## 49 CFR Ch. III (10–1–05 Edition)

the results of the safety audit or compliance review, the FMCSA will either:

(1) Remove the new entrant designation and notify the new entrant in writing that its registration has become permanent; or

(2) Revoke the new entrant registration in accordance with § 385.319(c).

### **§ 385.335 If the FMCSA conducts a compliance review on a new entrant, will the new entrant also be subject to a safety audit?**

If the FMCSA conducts a compliance review on a new entrant that has not previously been subject to a safety audit and issues a safety fitness determination, the new entrant will not have to undergo a safety audit under this subpart. However, the new entrant will continue to be subject to the 18-month safety-monitoring period prior to removal of the new entrant designation.

### **§ 385.337 What happens if a new entrant refuses to permit a safety audit to be performed on its operations?**

(a) If a new entrant refuses to permit a safety audit to be performed on its operations, the FMCSA will provide the carrier with written notice that its registration will be revoked and its operations placed out of service unless the new entrant agrees in writing, within 10 days from the service date of the notice, to permit the safety audit to be performed. The initial refusal to permit a safety audit to be performed may subject the new entrant to the penalty provisions in 49 U.S.C. 521(b)(2)(A).

(b) If the new entrant does not agree to undergo a safety audit as specified in paragraph (a) of this section, its registration will be revoked and its interstate operations placed out of service effective on the 11th day from the service date of the notice issued under paragraph (a) of this section.

## **Subpart E—Hazardous Materials Safety Permits**

SOURCE: 69 FR 39367, June 30, 2004, unless otherwise noted.