

(h) *Validity of previously issued CDLs.* A CDL issued by a State prior to the date the State is prohibited from issuing CDLs in accordance with provisions of paragraph (a) of this section, will remain valid until its stated expiration date.

[67 FR 49763, July 31, 2002]

#### § 384.407 Emergency CDL grants.

The FMCSA may provide grants of up to \$1,000,000 per State from funds made available under 49 U.S.C. 31107(a), to assist States whose CDL programs may fail to meet the compliance requirements of subpart B of this part, but which are determined by the FMCSA to be making a good faith effort to comply with these requirements.

[67 FR 49764, July 31, 2002]

## PART 385—SAFETY FITNESS PROCEDURES

### Subpart A—General

Sec.

- 385.1 Purpose and scope.
- 385.3 Definitions and acronyms.
- 385.4 Matter incorporated by reference.
- 385.5 Safety fitness standard.
- 385.7 Factors to be considered in determining a safety rating.
- 385.9 Determination of a safety rating.
- 385.11 Notification of safety fitness determination.
- 385.13 Unsatisfactory rated motor carriers; prohibition on transportation; ineligibility for Federal contracts.
- 385.14 Motor carriers, brokers, and freight forwarders delinquent in paying civil penalties; prohibition on transportation.
- 385.15 Administrative review.
- 385.17 Change to safety rating based upon corrective actions.
- 385.19 Safety fitness information.

### Subpart B—Safety Monitoring System for Mexico-Domiciled Carriers

- 385.101 Definitions.
- 385.103 Safety monitoring system.
- 385.105 Expedited action.
- 385.107 The safety audit.
- 385.109 The compliance review.
- 385.111 Suspension and revocation of Mexico-domiciled carrier registration.
- 385.113 Administrative review.
- 385.115 Reapplying for provisional registration.
- 385.117 Duration of safety monitoring system.

- 385.119 Applicability of safety fitness and enforcement procedures.

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

- 385.201 Who is qualified to perform a review of a motor carrier?
- 385.203 What are the requirements to obtain and maintain certification?
- 385.205 How can a person who has lost his or her certification be re-certified?

### Subpart D—New Entrant Safety Assurance Program

- 385.301 What is a motor carrier required to do before beginning interstate operations?
- 385.303 How does a motor carrier register with the FMCSA?
- 385.305 What happens after the FMCSA receives a request for new entrant registration?
- 385.307 What happens after a motor carrier begins operations as a new entrant?
- 385.309 What is the purpose of the safety audit?
- 385.311 What will the safety audit consist of?
- 385.313 Who will conduct the safety audit?
- 385.315 Where will the safety audit be conducted?
- 385.317 Will a safety audit result in a safety fitness determination by the FMCSA?
- 385.319 What happens after the completion of the safety audit?
- 385.321 What failures of safety management practices disclosed by the safety audit will result in a notice to a new entrant that its DOT new entrant registration will be revoked?
- 385.323 May the FMCSA extend the period under §385.319(c) for a new entrant to take corrective action to remedy its safety management practices?
- 385.325 What happens after a new entrant has been notified under 385.319(c) to take corrective action to remedy its safety management practices?
- 385.327 What happens when a new entrant receives a notice under §385.319(c) that its new entrant registration will be revoked and it believes the FMCSA made an error in its determination?
- 385.329 May a new entrant that has had its U.S. DOT registration revoked and its operations placed out of service (OOS) re-apply?
- 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)?
- 385.333 What happens at the end of the 18-month safety monitoring period?

## § 385.1

## 49 CFR Ch. III (10–1–07 Edition)

- 385.335 If the FMCSA conducts a compliance review on a new entrant, will the new entrant also be subject to a safety audit?
- 385.337 What happens if a new entrant refuses to permit a safety audit to be performed on its operations?

### Subpart E—Hazardous Materials Safety Permits

- 385.401 What is the purpose and scope of this subpart?
- 385.402 What definitions are used in this subpart?
- 385.403 Who must hold a safety permit?
- 385.405 How does a motor carrier apply for a safety permit?
- 385.407 What conditions must a motor carrier satisfy for FMCSA to issue a safety permit?
- 385.409 When may a temporary safety permit be issued to a motor carrier?
- 385.411 Must a motor carrier obtain a safety permit if it has a State permit?
- 385.413 What happens if a motor carrier receives a proposed safety rating that is less than Satisfactory?
- 385.415 What operational requirements apply to the transportation of a hazardous material for which a permit is required?
- 385.417 Is a motor carrier's safety permit number available to others?
- 385.419 How long is a safety permit effective?
- 385.421 Under what circumstances will a safety permit be subject to revocation or suspension by FMCSA?
- 385.423 Does a motor carrier have a right to an administrative review of a denial, suspension, or revocation of a safety permit?

APPENDIX A TO PART 385—EXPLANATION OF SAFETY AUDIT EVALUATION CRITERIA

APPENDIX B TO PART 385—EXPLANATION OF SAFETY RATING PROCESS

AUTHORITY: 49 U.S.C. 113, 504, 521(b), 5105(e), 5109, 5113, 13901–13905, 31136, 31144, 31148, and 31502; Sec. 350 of Pub. L. 107–87; and 49 CFR 1.73.

SOURCE: 53 FR 50968, Dec. 19, 1988, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 385 appear at 66 FR 49872, Oct. 1, 2001.

### Subpart A—General

#### § 385.1 Purpose and scope.

(a) This part establishes the FMCSA's procedures to determine the safety fitness of motor carriers, to assign safety ratings, to direct motor carriers to take remedial action when required, and to prohibit motor car-

riers receiving a safety rating of “unsatisfactory” from operating a CMV.

(b) This part establishes the safety assurance program for a new entrant motor carrier initially seeking to register with FMCSA to conduct interstate operations. It also describes the consequences that will occur if the new entrant fails to maintain adequate basic safety management controls.

(c) This part establishes the safety permit program for a motor carrier to transport the types and quantities of hazardous materials listed in § 385.403.

(d) The provisions of this part apply to all motor carriers subject to the requirements of this subchapter, except non-business private motor carriers of passengers.

[65 FR 50934, Aug. 22, 2000, as amended at 67 FR 31982, May 13, 2002; 69 FR 39366, June 30, 2004]

#### § 385.3 Definitions and acronyms.

*Applicable safety regulations or requirements* means 49 CFR chapter III, subchapter B—Federal Motor Carrier Safety Regulations or, if the carrier is an intrastate motor carrier subject to the hazardous materials safety permit requirements in subpart E of this part, the equivalent State standards; and 49 CFR chapter I, subchapter C—Hazardous Materials Regulations.

*CMV* means a commercial motor vehicle as defined in § 390.5 of this subchapter.

*Commercial motor vehicle* shall have the same meaning as described in § 390.5 of this subchapter, except that this definition will also apply to intrastate motor vehicles subject to the hazardous materials safety permit requirements of subpart E of this part.

*FMCSA* means the Federal Motor Carrier Safety Administration.

*FMCSRs* mean Federal Motor Carrier Safety Regulations (49 CFR parts 350–399).

*HMRs* means the Hazardous Materials Regulations (49 CFR parts 100–178).

*Motor carrier operations in commerce* means commercial motor vehicle transportation operations either—

- (1) In interstate commerce, or
- (2) Affecting interstate commerce.

*New entrant* is a motor carrier not domiciled in Mexico that applies for a