

### § 385.329

within one of the following time periods:

(1) If it does not submit evidence of corrective action under §385.319(c), within 90 days after the date it is notified that its basic safety management controls are inadequate.

(2) If it submits evidence of corrective action under §385.319(c), within 90 days after the date it is notified that its corrective action is insufficient and its basic safety management controls remain inadequate.

(d) If a new entrant wants to assure that FMCSA will be able to issue a final written decision before the prohibitions outlined in §385.325(c) take effect, the new entrant must submit its request no later than 15 days from the date of the notice that its basic safety management controls are inadequate. Failure to submit the request within this 15-day period may result in revocation of new entrant registration and issuance of an out-of-service order before completion of administrative review.

(e) FMCSA will complete its review and notify the new entrant in writing of its decision within:

(1) 45 days after receiving a request for review from a new entrant that is subject to §385.319(c)(1).

(2) 30 days after receiving a request for review from a new entrant that is subject to §385.319(c)(2).

(f) The Field Administrator's decision constitutes the final Agency action.

(g) Notwithstanding this subpart, a new entrant is subject to the suspension and revocation provisions of 49 U.S.C. 13905 for violations of DOT regulations governing motor carrier operations.

[73 FR 76490, Dec. 16, 2008]

### § 385.329 May a new entrant that has had its USDOT new entrant registration revoked and its operations placed out of service reapply?

(a) A new entrant whose USDOT new entrant registration has been revoked, and whose operations have been placed out of service by FMCSA, may reapply for new entrant registration no sooner than 30 days after the date of revocation.

### 49 CFR Ch. III (10–1–10 Edition)

(b) If the USDOT new entrant registration was revoked because of a failed safety audit, the new entrant must do all of the following:

(1) Submit an updated MCS-150.

(2) Submit evidence that it has corrected the deficiencies that resulted in revocation of its registration and will otherwise ensure that it will have basic safety management controls in effect.

(3) Begin the 18-month new entrant monitoring cycle again as of the date the re-filed application is approved.

(c) If the USDOT new entrant registration was revoked because FMCSA found that the new entrant had failed to submit to a safety audit, it must do all of the following:

(1) Submit an updated MCS-150.

(2) Begin the 18-month new entrant monitoring cycle again as of the date the re-filed application is approved.

(3) Submit to a safety audit.

(d) If the new entrant is a for-hire carrier subject to the registration provisions under 49 U.S.C. 13901 and also has had its operating authority revoked, it must re-apply for operating authority as set forth in part 365 of this chapter.

[73 FR 76490, Dec. 16, 2008]

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

A new entrant that operates a CMV in violation of an out-of-service order is subject to the penalty provisions in 49 U.S.C. 521(b)(2)(A) for each offense as adjusted for inflation by 49 CFR part 386, appendix B.

[73 FR 76491, Dec. 16, 2008]

### § 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