

(a) a safety permit will be subject to revocation if a motor carrier fails to submit a renewal application (Form MCS-150B) in accordance with the schedule set forth for filing Form MCS-150 in § 390.19(a)(2) and (3) of this subchapter; and

(b) a safety permit will remain in effect pending FMCSA's processing of an application for renewal if a motor carrier submits the required application (Form MS-150B) in accordance with the schedule set forth in § 390.19(a)(2) and (3) of this subchapter.

§ 385.421 Under what circumstances will a safety permit be subject to revocation or suspension by the FMCSA?

(a) *Grounds.* A safety permit will be subject to revocation or suspension by the FMCSA for the following reasons:

(1) A motor carrier fails to submit a renewal application (Form MCS-150B) in accordance with the schedule set forth in § 390.19(a)(2) and (3) of this subchapter;

(2) A motor carrier provides any false or misleading information on its application (Form MCS-150B), Form MCS-150A (when required), or an update of information on its Form MCS-150B (see § 385.405(e) of this subpart);

(3) A motor carrier is issued a final safety rating that is less than satisfactory;

(4) A motor carrier fails to maintain a satisfactory security plan as set forth in § 385.407(b) of this subpart;

(5) A motor carrier fails to comply with applicable requirements in the FMCSRs, the HMRs, or compatible State requirements governing the transportation of hazardous materials, in a manner that shows that the motor carrier is not fit to transport or offer for transportation the hazardous materials listed in § 385.403(a) of this subpart;

(6) A motor carrier fails to comply with an out-of-service order;

(7) A motor carrier fails to comply with any other order issued under the FMCSRs, the HMRs, or compatible State requirements governing the transportation of hazardous materials, in a manner that shows that the motor carrier is not fit to transport or offer for transportation the hazardous materials listed in § 385.403(a) of this subpart;

(8) A motor carrier fails to maintain the minimum financial responsibility required by § 387.9 or an applicable State requirement;

(9) A motor carrier fails to maintain current hazardous materials registration with the Research and Special Programs Administration; or

(10) A motor carrier loses its operating rights or has its registration suspended in accordance with § 386.83 or § 386.84

of this subchapter for failure to pay a civil penalty or abide by a payment plan.

(b) *Effective date of suspension or revocation.* A suspension or revocation of a safety permit is effective:

(1) immediately when FMCSA determines that an imminent hazard exists, when FMCSA issues a final safety rating that is less than satisfactory, or when a motor carrier loses its operating rights or has its registration suspended for failure to pay a civil penalty or abide by a payment plan;

(2) 30 days after service of a written notification that FMCSA proposes to suspend or revoke a safety permit, if the motor carrier does not submit a written request for administrative review within that time period; or

(3) as specified in § 385.423(c) of this subpart, when the motor carrier submits a written request for administrative review of FMCSA's proposal to suspend or revoke a safety permit.

§ 385.423 Does a motor carrier have a right to an administrative review of a denial, suspension, or revocation of a safety permit?

A motor carrier has a right to an administrative review pursuant to the following procedures and conditions:

(a) *Less than satisfactory safety rating.*

If a motor carrier is issued a proposed safety rating that is less than satisfactory, it has the right to request (1) an administrative review of a proposed safety rating, as set forth in § 385.15 of this part, and (2) a change to a proposed safety rating based on corrective action, as set forth in § 385.17 of this part. After a motor carrier has had an opportunity for administrative review of, or change to, a proposed safety rating, FMCSA's issuance of a final safety rating constitutes final agency action, and a motor carrier has no right to further administrative review of FMCSA's denial, suspension, or revocation of a safety permit when the motor carrier has been issued a final safety rating that is less than satisfactory.

(b) *Failure to pay civil penalty or abide by payment plan.* If a motor carrier is notified that failure to pay a civil penalty will result in suspension or termination of its operating rights, it has the right to an administrative review of that proposed action in a show cause proceeding, as set forth in § 386.83(b) or § 386.84(b) of this subchapter. The decision by FMCSA's Chief Safety Officer in the show cause proceeding constitutes final agency action, and a motor carrier has no right to further administrative review of FMCSA's

denial, suspension, or revocation of a safety permit when the motor carrier has lost its operating rights or had its registration suspended for failure to pay a civil penalty or abide by a payment plan.

(c) *Other grounds.* Under circumstances other than those set forth in paragraphs (a) and (b) of this section, a motor carrier may submit a written request for administrative review within 30 days after service of a written notification that FMCSA has denied a safety permit, that FMCSA has immediately suspended or revoked a safety permit or that FMCSA has proposed to suspend or revoke a safety permit. The rules for computing time limits for service and requests for extension of time in §§ 386.31 and 386.33 apply to the proceedings on a request for administrative review under this section.

(1) The motor carrier must send or deliver its written request for administrative review to FMCSA Chief Safety Officer, with a copy to FMCSA Chief Counsel, at the following addresses:

FMCSA Chief Safety Officer, Federal Motor Carrier Safety Administration, c/o Adjudications Counsel (Room 8302A), 400 Seventh Street, SW., Washington, DC 20590.

FMCSA Chief Counsel, Federal Motor Carrier Safety Administration, Office of the Chief Counsel, Room 8125, 400 Seventh Street, SW., Washington, DC 20590.

(2) A request for administrative review must state the specific grounds for review and include all information, evidence, and arguments upon which the motor carrier relies to support its request for administrative review.

(3) Within 30 days after service of a written request for administrative review, the Office of the Chief Counsel shall submit to the Chief Safety Officer a written response to the request for administrative review. The Office of the Chief Counsel must serve a copy of its written response on the motor carrier requesting administrative review.

(4) The Chief Safety Officer may decide a motor carrier's request for administrative review on the written submissions, hold a hearing personally, or refer the request to an administrative law judge for a hearing and recommended decision. The Chief Safety Officer or administrative law judge is authorized to specify, and must notify the parties of, specific procedural rules to be followed in the proceeding (which may include the procedural rules in Part 386 of this subchapter that are considered appropriate).