

Additional Information

Regulatory Requirements for an HMSP

The Federal Motor Carrier Safety Regulations (FMCSR) 49 CFR Part 385, Subpart E – Hazardous Safety Permits (49 CFR Parts 40, 325, 350 & 355-399).

<https://www.fmcsa.dot.gov/regulations/hazardous-materials/hazardous-materialsdangerous-goods-regulations>

To Apply for the HMSP and Obtain a USDOT Number

<https://www.fmcsa.dot.gov/registration>

Current Crash Rate and Inspection Out of Service (OOS) Rates

<http://safer.fmcsa.dot.gov/HazMatRates.aspx>

PHMSA Online Registration and Information (49 CFR Part 107 Subpart G)

https://hazmatonline.phmsa.dot.gov/services/haz_reg_1.aspx

HM Security Awareness Training (49 CFR Part 172 Subpart H)

<http://phmsa.dot.gov/staticfiles/PHMSA/Hazmat/digipak/index.html>

To Check the Status of a Carrier's HMSP

http://mcmis.volpe.dot.gov/mcs150t/pkg_shipper.prc_shipper_request

Fixed HMSP Program Rates

(Effective 6/27/2012)

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|------------------|-------|
| Crash Rate | 0.136 |
| Driver OOS Rate | 9.68 |
| Vehicle OOS Rate | 33.33 |
| Hazmat OOS Rate | 6.82 |

The driver, vehicle, and hazmat out of service (OOS) rates, as well as the crash rate calculations, will no longer apply to carriers who submit renewal HMSP applications. Carriers who would have had OOS rates above the National averages would no longer have to “wait out” a period of time in order for OOS violations to drop off, or to get more good inspections in order to bring down a high OOS rate. Instead HMSP renewals and non-temporary HMSPs will now fall under Enhanced Oversight monitoring where a comprehensive investigation may be assigned.

Upon the issuance of a recommended rating of less-than-satisfactory, carriers are able to invoke their right to administrative review, including requesting an upgrade of the rating and the submission of a corrective action plan in order to retain their HMSP.

Revocation or Suspension of a HMSP:

Once the HMSP goes into a non-temporary status, it is then subject to the conditions pursuant to 49 CFR §385.421 for revocation or suspension by FMCSA for the following reasons:

- Failure to submit the MCS-150B;
- Filing false information;
- A safety rating of less than “satisfactory;”
- Failure to maintain a satisfactory security plan;
- Failure to show a fitness and ability to transport hazardous materials covered by the HMSP;
- Failure to comply with an Out-of-Service order;
- Failure to comply with other orders that show an inability to show fitness and ability to transport covered hazardous materials;
- Failure to maintain minimum levels of financial responsibility;
- Failure to maintain the carrier’s HM Registration with PHMSA; or
- Loss of operating rights or suspension of registration due to failure to pay a civil penalty or abide by a payment plan.

If an investigation is conducted on a carrier identified for enhanced oversight and the final safety rating is less than satisfactory, then the HMSP will be immediately suspended.

When and How to File an Administrative Review

The administrative review process also applies to enhanced oversight carriers that have been issued a safety rating resulting in suspension or revocation. The carrier may request administrative review if it believes FMCSA has committed an error, as stated in 49 CFR §385.15. Additionally, a motor carrier may request an administrative review based on the request for an upgrade of a proposed or final safety rating of conditional or unsatisfactory based on submission of corrective action as stated in 49 CFR §385.17.

Pursuant to 49 CFR §385.423, a motor carrier may appeal FMCSA’s decision to deny, suspend or revoke a HMSP by submitting a written request within 30 days after service of a written notice that FMCSA has denied, suspended or revoked a HMSP, or FMCSA has proposed to suspend or revoke a HMSP. The carrier must submit its request in writing to the Chief Safety Officer, Attention: Adjudications Counsel (MC-CC), FMCSA, 1200 New Jersey Ave., S.E. Washington, DC 20590-0001. A copy must also be sent to Chief Counsel (MC-CC) at the same address.

The HAZARDOUS MATERIALS SAFETY PERMIT PROGRAM

Since January 1, 2005, intrastate, interstate, and foreign motor carriers transporting certain types and amounts of hazardous materials (HM) are required to hold a Federal Hazardous Materials Safety Permit (HMSP) issued by the Federal Motor Carrier Safety Administration (FMCSA). Improvements to the HMSP Program were made to provide enhanced and continual oversight of HMSP carriers. Safety Measurement System (SMS) data is now being used to continually monitor HMSP carrier performance and identify HMSP carriers for intervention.



HM Types and Quantities That Require a HMSP

As stated in 49 CFR 385.403, the following HM transported in these quantities requires the motor carrier to have a HMSP:

Radioactive Materials – A highway route –controlled quantity (HRCQ) of Class 7 materials, as defined in 49 CFR 173.403.

Explosives – More than 25kg (55 pounds) net weight of a Division 1.1, 1.2 or 1.3 material, or an amount of a Division 1.5 material requiring a placard. (See 49 CFR Part 172 Subpart F).

Toxic by Inhalation Materials in Hazard Zone A – Materials in a packaging with a capacity greater than 1 liter (0.26 gallons).

Toxic by Inhalation Materials in Hazard Zone B – Materials in a bulk packaging having a capacity greater than 450 L (119 gallons) for liquids and a water capacity greater than 454 kg, (1,000 pounds) for gas receptacles. (49 CFR 171.8 defines bulk packaging for liquids, solids and gases.)

Toxic by Inhalation Materials in Hazard Zone C or D – Materials in a bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons). Note: This category of material may include the transportation of Ammonia Anhydrous. Refer to the FMCSA website at <https://www.fmcsa.dot.gov/fag/anhydrous-ammonia-covered-under-hazardous-materials-safety-permit-program> for further information.

Methane – A shipment of methane (compressed or refrigerated liquid), natural gas (compressed or refrigerated liquid), or any other compressed or refrigerated liquefied gas with a methane content of at least 85%, in bulk packaging having a capacity equal to or greater than 13,248 L (3,500 gallons).

Requirements for Issuance of the HMSP

Initial or new HMSP applicants and holders of temporary HMSPs are subject to the standards in 49 CFR §385.407, including the fixed out-of-service rates and the crash rate thresholds. Once an HMSP becomes non-temporary, 49 CFR §385.407 no longer applies to the carrier's ability to renew its HMSP.

Pursuant to 49 CFR §385.407, FMCSA may only issue a HMSP to a motor carrier that has:

- A “satisfactory” safety rating;
- A crash rate below the threshold for the current registration cycle that FMCSA has determined represents the percentage above which the carrier falls into the top, or worst-performing 30 percent of the national average;

- Driver, vehicle, and hazardous material out-of-service rates below the respective threshold in each of these areas, FMCSA has determined represents the percentage above which the carrier falls into the top, or worst-performing 30 percent of the National average;
- A satisfactory security program (and associated training) according to 49 CFR §172.802;
- A current Certificate of Registration with PHMSA;
- A system of communication that enables the vehicle operator to contact the motor carrier during the course of transportation including maintenance of these communications records; and
- A written route plan that meets the requirements of 49 CFR §397.101 of this chapter for highway route-controlled Class 7 (radioactive) materials or 49 CFR §397.67 of this chapter for Division 1.1, 1.2, and 1.3 (explosive) materials.
- Proof of insurance on the MCS-90, stating the level of coverage required by 49 CFR §387.9 for the permitted materials being transported.

How to Apply for a HMSP

- Submit the required application. Currently, initial or first time HMSP applicants must file the new Unified Registration System (URS) MCSA-1 form with FMCSA before conducting operations in commerce that require a safety permit. The MCSA-1 may be filed online on the FMCSA website at www.fmcsa.dot.gov, under ‘Registration,’ then click ‘To Get Started Click Here,’ and follow the step-by-step instructions. Update and renewal applications must be filed with FMCSA using the form MCS-150B (Combined Motor Carrier Identification Report and HMSP Application) which is also available on the FMCSA website. As of September 15, 2016, all applications, (initial, updated and renewal) must be submitted on the MCSA-1 form.
- Submit proof of required insurance using the DOT MCS-90 form and submit a current Pipeline and Hazardous Materials Safety Administration's Registration. Submit the documents by e-mail or fax to the HM Division of FMCSA at FMCSA.HMSP@dot.gov or fax to (202) 366-3621. Upon receipt of all required information, FMCSA will issue or deny the HMSP on the following work day. Approved HMSPs are sent within 24 hours to companies who supply their e-mail addresses or fax numbers. Otherwise, allow for at least ten days for delivery by the postal service. Temporary HMSPs will be issued to carriers without safety ratings and will be valid for a period of 180 days. A Temporary HMSP may be extended for 60 days, if the motor carrier does not receive a safety rating within the initial 180 days.

Managing Enhanced Oversight Carriers

FMCSA will review the SMS scores of non-temporary HMSP holder's on a monthly basis to determine if the carrier has met any of the

3 conditions established to identify the carrier for “enhanced oversight” and designate them for interventions based upon any of the following enhanced oversight conditions:

- a. HMSP carrier with the Hazardous Materials (HM) BASIC equal to or greater than threshold for the past two months.
- b. HMSP carrier with any two or more BASICs, other than the HM BASIC, equal to or greater than their HM thresholds for the past two months.
- c. HMSP carrier with 48 months of insufficient data for the most current 48-month period. Insufficient data is defined as less than 3 roadside inspections with violations AND a Safety Rating that is 4 or more years old.

A carrier also may be designated for a comprehensive investigation, when data indicate that the carrier has failed to comply with applicable requirements in the FMCSRs, the HMRs or compatible State or local requirements, or the carrier does not meet safety fitness standards or have adequate safety management controls in place to transport the HM listed in §385.403.

The investigation must be performed within 6 months of the carrier being identified for enhanced oversight and if the carrier's safety status improves while awaiting the comprehensive investigation; the carrier may be removed from the list.

If the safety fitness of a carrier subject to a comprehensive investigation based on SMS scoring is determined to be satisfactory, but the carrier's SMS scores continue to exceed intervention thresholds for either the HM BASIC or any two BASICs besides the HM BASIC for the preceding two consecutive months, the carrier may stay on the enhanced oversight list with a note in the company record stating the date and outcome of the comprehensive review, and a note that the carrier will not undergo another comprehensive review for a period of 24 months due to an enhanced oversight condition, but may be re-selected for other, serious conditions. Also, the carrier could be subject to a focused review if their scores do not fall below the intervention thresholds during that time frame.

When and How to Renew a HMSP

- The HMSP must be renewed every two years, according to the carrier's DOT number as stated in 49 CFR §390.19. Your existing HMSP will remain in effect during the processing of your renewal application.
- The HMSP must be renewed within the 60-day period before its expiration date. (NOTE: If you attempt to renew before the 60-day period, a duplicate HMSP will be issued with the same expiration date as the original and will still require renewal.)
- To renew, submit the MCS-150B, HMSP renewal application, a current DOT Form MCS-90 and the PHMSA Certificate of Registration as explained above.