

§ 350.345 How does a State apply for additional variances from the FMCSRs?

Any State may apply to the Administrator for a variance from the FMCSRs for intrastate commerce. The variance will be granted only if the State satisfactorily demonstrates that the State law, regulation or enforcement practice:

- (a) Achieves substantially the same purpose as the similar Federal regulation.
- (b) Does not apply to interstate commerce.
- (c) Is not likely to have an adverse impact on safety.

PART 355—COMPATIBILITY OF STATE LAWS AND REGULATIONS AFFECTING INTERSTATE MOTOR CARRIER OPERATIONS**Subpart A—General Applicability and Definitions**

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APPENDIX A TO PART 355—GUIDELINES FOR THE REGULATORY REVIEW

AUTHORITY: 49 U.S.C. 504 and 31101 *et seq.*; 49 CFR 1.73.

SOURCE: 57 FR 40962, Sept. 8, 1992, unless otherwise noted.

EDITORIAL NOTE: Nomenclature changes to part 355 appear at 66 FR 49870, Oct. 1, 2001.

Subpart A—General Applicability and Definitions**§ 355.1 Purpose.**

- (a) To promote adoption and enforcement of State laws and regulations pertaining to commercial motor vehicle safety that are compatible with appropriate parts of the Federal Motor Carrier Safety Regulations.
- (b) To provide guidelines for a continuous regulatory review of State laws and regulations.

(c) To establish deadlines for States to achieve compatibility with appropriate parts of the Federal Motor Carrier Safety Regulations with respect to interstate commerce.

§ 355.3 Applicability.

These provisions apply to any State that adopts or enforces laws or regulations pertaining to commercial motor vehicle safety in interstate commerce.

§ 355.5 Definitions.

Unless specifically defined in this section, terms used in this part are subject to the definitions in 49 CFR 390.5.

Compatible or *Compatibility* means that State laws and regulations applicable to interstate commerce and to intrastate movement of hazardous materials are identical to the FMCSRs and the HMRs or have the same effect as the FMCSRs; and that State laws applicable to intrastate commerce are either identical to, or have the same effect as, the FMCSRs or fall within the established limited variances under §§ 350.341, 350.343, and 350.345 of this subchapter.

Federal Hazardous Materials Regulations (FMHRs) means those safety regulations which are contained in parts 107, 171–173, 177, 178 and 180, except part 107 and §§ 171.15 and 171.16.

Federal Motor Carrier Safety Regulations (FMCSRs) means those safety regulations which are contained in parts 390, 391, 392, 393, 395, 396, and 397 of this subchapter.

State means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam and the Virgin Islands.

[57 FR 40962, Sept. 8, 1992, as amended at 65 FR 15109, Mar. 21, 2000]

Subpart B—Requirements**§ 355.21 Regulatory review.**

- (a) *General.* Each State shall annually analyze its laws and regulations, including those of its political subdivisions, which pertain to commercial motor vehicle safety to determine whether its laws and regulations are