

## § 355.5

## 49 CFR Ch. III (10–1–13 Edition)

### § 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 compatible with the Federal Motor Carrier Safety Regulations. Guidelines for the regulatory review are provided in the appendix to this part.

(b) *Responsibility.* The State agency designated as lead agency for the administration of grants made pursuant to part 350 of this subchapter is responsible for reviewing and analyzing State laws and regulations for compliance with this part. In the absence of an officially designated Motor Carrier Safe-

ty Assistance Program (MCSAP) lead agency or in its discretion, the State shall designate another agency responsible to review and determine compliance with these regulations.

(c) *State review.* (1) The State shall determine which of its laws and regulations pertaining to commercial motor vehicle safety are the same as the Federal Motor Carrier Safety or Federal Hazardous Materials Regulations. With respect to any State law or regulation which is not the same as the FMCSRs (FHMRs must be identical), the State shall identify such law or regulation and determine whether:

(i) It has the same effect as a corresponding section of the Federal Motor Carrier Safety Regulations;

(ii) It applies to interstate commerce;

(iii) It is more stringent than the FMCSRs in that it is more restrictive or places a greater burden on any entity subject to its provisions.

(2) If the inconsistent State law or regulation applies to interstate commerce and is more stringent than the FMCSRs, the State shall determine:

(i) The safety benefits associated with such State law or regulation; and

(ii) The effect of the enforcement of such State law or regulation on interstate commerce.

(3) If the inconsistent State law or regulation does not apply to interstate commerce or is less stringent than the FMCSRs, the guidelines for participation in the Motor Carrier Safety Assistance Program in §§ 350.341, 350.343, and 350.345 of this subchapter shall apply.

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

#### § 355.23 Submission of results.

Each State shall submit the results of its regulatory review annually with its certification of compliance under § 350.209 of this subchapter. It shall submit the results of the regulatory review with the certification no later than August 1 of each year with the Commercial Vehicle Safety Plan (CVSP). The State shall include copies of pertinent laws and regulations.

[65 FR 15109, Mar. 21, 2000]