APPENDIX A TO PART 355—GUIDELINES FOR THE REGULATORY REVIEW

Each State shall review its laws and regulations to achieve compatibility with the Federal Motor Carrier Safety Regulations (FMCSRs). Each State shall consider all related requirements on enforcement of the State’s motor carrier safety regulations. The documentation shall be simple and brief.

SCOPE

The State review required by §355.21 may be limited to those laws and regulations previously determined to be incompatible in the report of the Commercial Motor Vehicle Safety Regulatory Review Panel issued in August 1990, or by subsequent determination by the Administrator under this part, and any State laws or regulations enacted or issued after August 1990.

APPLICABILITY

The requirements must apply to all segments of the motor carrier industry common, contract, and private carriers of property and for-hire carriers of passengers.

DEFINITIONS

Definitions of terms must be consistent with those in the FMCSRs.

DRIVER QUALIFICATIONS

Require a driver to be properly licensed to drive a commercial motor vehicle; require a driver to be in good physical health, at least 21 years of age, able to operate a vehicle safely, and maintain a good driving record; prohibit drug and alcohol abuse; require a motor carrier to maintain a driver qualification file for each driver; and require a motor carrier to ensure that a driver is medically qualified.

NOTE: The requirements for testing apply only to drivers of commercial motor vehicles as defined in 49 CFR part 383.

DRIVING OF MOTOR VEHICLES

Prohibit possession, use, or driving under the influence of alcohol or other controlled substances (while on duty); and establish 0.04 percent as the level of alcohol in the blood at which a driver is considered under the influence of alcohol.

PARTS AND ACCESSORIES NECESSARY FOR SAFE OPERATION

Require operational lights and reflectors; require systematically arranged and installed wiring; and require brakes working at the required performance level, and other key components included in 49 CFR part 393.

HOURS OF SERVICE OF DRIVERS

Prohibit a motor carrier from allowing or requiring any driver to drive: More than 10 hours following 8 consecutive hours off duty; after being on duty 15 hours, after being on duty more than 60 hours in any 7 consecutive days; or after being on duty more than 70 hours in any 8 consecutive days.

Require a driver to prepare a record-of-duty status for each 24-hour period. The driver and motor carrier must retain the records.

INSPECTION AND MAINTENANCE

Prohibit a commercial motor vehicle from being operated when it is likely to cause an accident or a breakdown; require the driver to conduct a walk-around inspection of the vehicle before driving it to ensure that it can be safely operated; require the driver to prepare a driver vehicle inspection report; and require commercial motor vehicles to be inspected at least annually.

HAZARDOUS MATERIALS

Require a motor carrier or a person operating a commercial motor vehicle transporting hazardous materials to follow the safety and hazardous materials requirements.

STATE DETERMINATIONS

1. Each State must determine whether its requirements affecting interstate motor carriers are “less stringent” than the Federal requirements. “Less stringent” requirements represent either gaps in the State requirements in relation to the Federal requirements as summarized under item number one in this appendix or State requirements which are less restrictive than the Federal requirements.
   a. An example of a gap is when a State does not have the authority to regulate the safety of for-hire carriers of passengers or has the authority but chooses to exempt the carrier.
   b. An example of a less restrictive State requirement is when a State allows a person under 21 years of age to operate a commercial motor vehicle in interstate commerce.

2. Each State must determine whether its requirements affecting interstate motor carriers are “more stringent” than the Federal requirements: “More stringent” requirements are more restrictive or inclusive in relation to the Federal requirements as summarized under item number one in this appendix. For example, a requirement that a driver must have 2 days off after working 5 consecutive days. The State would demonstrate that its more stringent requirements:
   a. Have a “safety benefit;” for example, result in fewer accidents or reduce the risk of accidents;
b. do not create “an undue burden on inter-
state commerce,” e.g., do not delay, inter-
fere with, or increase that cost or the admin-
istrative burden for a motor carrier trans-
porting property or passengers in interstate
commerce; and

c. Are otherwise compatible with Federal
safety requirements.

3. A State must adopt and enforce in a con-
sistent manner the requirements referenced
in the above guidelines in order for the
FMCSA to accept the State’s determination
that it has compatible safety requirements
affecting interstate motor carrier oper-
ations. Generally, the States would have up
to 3 years from the effective date of the new
Federal requirement to adopt and enforce
compatible requirements. The re-
quirements are considered of equal impor-
tance.

[57 FR 40962, Sept. 8, 1992, as amended by 58
FR 33776, June 21, 1993; 62 FR 37151, July 11,
1997; 65 FR 15110, Mar. 21, 2000]

PART 356—MOTOR CARRIER
ROUTING REGULATIONS

Sec.

356.1 Authority to serve a particular area—
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356.13 Redesignated highways.

AUTHORITY: 5 U.S.C. 553; 49 U.S.C. 13301 and
13902; and 49 CFR 1.73.

SOURCE: 62 FR 32041, June 12, 1997, unless
otherwise noted.

EDITORIAL NOTE: Nomenclature changes to

§ 356.1 Authority to serve a particular
area—construction.

(a) Service at municipality. A motor
carrier of property, motor passenger
carrier of express, and freight for-
warder authorized to serve a munici-
pality may serve all points within that
municipality’s commercial zone not be-
yond the territorial limits, if any, fixed
in such authority.

(b) Service at unincorporated commu-
nity. A motor carrier of property,
motor passenger carrier of express, and
freight forwarder, authorized to serve an
unincorporated community having a
post office of the same name, may
serve all points in the United States
not beyond the territorial limits, if
any, fixed in such authority, as follows:

(1) All points within 3 miles of the
post office in such unincorporated com-

munity if it has a population of less
than 2,500; within 4 miles if it has a
population of 2,500 but less than 25,000;
and within 6 miles if it has a popu-
lation of 25,000 or more;

(2) At all points in any municipality
any part of which is within the limits
described in paragraph (b)(1) of this
section; and

(3) At all points in any municipality
wholly surrounded, or so surrounded
except for a water boundary, by any
municipality included under the terms
of paragraph (b)(2) of this section.

§ 356.3 [Reserved]

§ 356.5 Traversal authority.

(a) Scope. An irregular route motor
carrier may operate between author-
ized service points over any reasonably
direct or logical route unless expressly
prohibited.

(b) Requirements. Before commencing
operations, the carrier must, regarding
each State traversed:

(1) Notify the State regulatory body
in writing, attaching a copy of its oper-
ating rights;

(2) Designate a process agent; and

(3) Comply with 49 CFR 387.315.

§ 356.7 Tacking.

Unless expressly prohibited, a motor
common carrier of property holding
separate authorities which have com-

mon service points may join, or "tack," those authorities at the common point,
or "gateway," for the purpose of per-
forming through service as follows:

(a) Regular route authorities may be
tacked with one another;

(b) Regular route authority may be
tacked with irregular route authority;

(c) Irregular route authorities may be
tacked with one another if the au-
thorities were granted pursuant to ap-
lication filed on or before November
23, 1973, and the distance between the
points at which service is provided,
when measured through the gateway
point, is 300 miles or less; and