

Federal Motor Carrier Safety Administration, DOT

§ 350.335

or HMRs, but no later than three years after that date, the State must amend its laws or regulations to make them compatible with the FMCSRs and/or HMRs, as amended.

[65 FR 15102, Mar. 21, 2000, as amended at 77 FR 59823, Oct. 1, 2012]

§ 350.333 What are the guidelines for the compatibility review?

(a) The State law or regulation must apply to all segments of the motor carrier industry (*i.e.*, for-hire and private

motor carriers of property and passengers).

(b) Laws and regulations reviewed for the CDL compliance report are excluded from the compatibility review.

(c) Definitions of words or terms must be consistent with those in the FMCSRs and HMRs.

(d) A State must identify any law or regulation that is not the same as the corresponding Federal regulation and evaluate it in accordance with the table to this section as follows:

TABLE TO § 350.333—GUIDELINES FOR THE STATE LAW AND REGULATION COMPATIBILITY REVIEW

Law or regulation has same effect as corresponding Federal regulation	Applies to interstate or intrastate commerce	Less stringent or more stringent	Action authorized
(1) Yes	Compatible—Interstate and intrastate commerce enforcement authorized.
(2) No	Intrastate	Refer to § 350.341
(3) No	Interstate	Less stringent	Enforcement prohibited.
(4) No	Interstate	More stringent	Enforcement authorized if the State can demonstrate the law or regulation has a safety benefit or does not create an undue burden upon interstate commerce (See 49 CFR Part 355).

§ 350.335 What are the consequences if my State has laws or regulations incompatible with the Federal regulations?

(a) A State that currently has compatible CMV safety laws and regulations pertaining to interstate commerce (*i.e.*, rules identical to the FMCSRs and HMRs) and intrastate commerce (*i.e.*, rules identical to or within the tolerance guidelines for the FMCSRs and identical to the HMRs) but enacts a law or regulation which results in an incompatible rule will not be eligible for Basic Program Funds nor Incentive Funds.

(b) A State that fails to adopt any new regulation or amendment to the FMCSRs or HMRs within three years of its effective date will be deemed to have incompatible regulations and will not be eligible for Basic Program nor Incentive Funds.

(c) Those States with incompatible laws or regulations pertaining to intrastate commerce and receiving 50 percent of their basic formula allocation on April 20, 2000 will continue at that level of funding until those incompati-

bilities are removed, provided no further incompatibilities are created.

(d) Upon a finding by the FMCSA, based upon its own initiative or upon a petition of any person, including any State, that your State law, regulation or enforcement practice pertaining to CMV safety, in either interstate or intrastate commerce, is incompatible with the FMCSRs or HMRs, the FMCSA may initiate a proceeding under § 350.215 for withdrawal of eligibility for all Basic Program and Incentive Funds.

(e) Any decision regarding the compatibility of your State law or regulation with the HMRs that requires an interpretation will be referred to the Pipeline and Hazardous Materials Safety Administration of the DOT for such interpretation before proceeding under § 350.215.

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