

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 interstate commerce,” e.g., do not delay, interfere with, or increase that cost or the administrative burden for a motor carrier transporting property or passengers in interstate commerce; and

c. Are otherwise compatible with Federal safety requirements.

3. A State must adopt and enforce in a consistent 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 operations. 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 FMCSA would specify the deadline when promulgating future Federal safety requirements. The requirements are considered of equal importance.

[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

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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 part 356 appear at 66 FR 49870, Oct. 1, 2001.

### § 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 forwarder authorized to serve a municipality may serve all points within that municipality’s commercial zone not beyond the territorial limits, if any, fixed in such authority.

(b) *Service at unincorporated community.* 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 community 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 population 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 Regular route motor passenger service.

(a) A motor common carrier authorized to transport passengers over regular routes may serve:

(1) All points on its authorized route;

(2) All municipalities wholly within one airline mile of its authorized route;

(3) All unincorporated areas within one airline mile of its authorized route; and

(4) All military posts, airports, schools, and similar establishments that may be entered within one airline mile of its authorized route, but operations within any part of such establishment more than one airline mile

from such authorized route may not be over a public road.

(b) This section does not apply to those motor passenger common carriers authorized to operate within:

- (1) New York, NY;
- (2) Rockland, Westchester, Orange, or Nassau Counties, NY;
- (3) Fairfield County, CT; and
- (4) Passaic, Bergen, Essex, Hudson, Union, Morris, Somerset, Middlesex, or Monmouth Counties, NJ.

**§ 356.5 Traversal authority.**

(a) *Scope.* An irregular route motor carrier may operate between authorized 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 operating 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 common service points may join, or *tack*, those authorities at the common point, or *gateway*, for the purpose of performing 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 authorities were granted pursuant to application 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
- (d) Irregular route authorities may be tacked with one another if the authorities involved contain a specific provision granting the right to tack.

**§ 356.9 Elimination of routing restrictions—regular route carriers.**

(a) *Regular route authorities—construction.* All certificates that, either singly or in combination, authorize the trans-

portation by a motor common carrier of property over:

- (1) A single regular route or;
- (2) Over two or more regular routes that can lawfully be tacked at a common service point, shall be construed as authorizing transportation between authorized service points over any available route.

(b) *Service at authorized points.* A common carrier departing from its authorized service routes under paragraph (a) of this section shall continue to serve points authorized to be served on or in connection with its authorized service routes.

(c) *Intermediate point service.* A common carrier conducting operations under paragraph (a) of this section may serve points on, and within one airline mile of, an alternative route it elects to use if all the following conditions are met:

- (1) The carrier is authorized to serve all intermediate points (without regard to nominal restrictions) on the underlying service route;
- (2) The alternative route involves the use of a superhighway (i.e., a limited access highway with split-level crossings);
- (3) The alternative superhighway route, including highways connecting the superhighway portion of the route with the carrier's authorized service route,
  - (i) Extends in the same general direction as the carrier's authorized service route and
  - (ii) Is wholly within 25 airline miles of the carrier's authorized service route; and
- (4) Service is provided in the same manner as, and subject to any restrictions that apply to, service over the authorized service route.

**§ 356.11 Elimination of gateways—regular and irregular route carriers.**

A motor common carrier of property holding separate grants of authority (including regular route authority), one or more of which authorizes transportation over irregular routes, where the authorities have a common service point at which they can lawfully be tacked to perform through service, may perform such through service over any available route.