



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

SP-94-009-RC

Subject Response for Request for
Interpretation of FHWA Docket MC 94-4

From Acting Director
Office of Motor Carrier
Field Operations

To Regional Director
Office of Motor Carriers
Fort Worth, Texas

Date March 25, 1994

Reply to
Attn of HFO-30

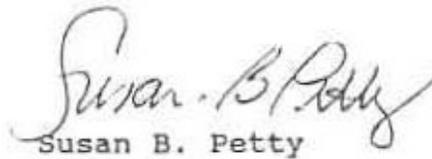
This is in response to your memo dated February 3, 1994. You noted that the preamble of Part 350 Interim Final Rule states that the purpose of this rule change is to provide continued funding to those States who are currently participating in the MCSAP, but have yet to achieve full adoption of compatible intrastate regulations. You asked if States that currently meet the Tolerance Guidelines will be allowed to use this modified funding provision should they implement an rule in the future which is outside the Tolerance Guidelines?

Part 350.11(e) remains unchanged by the Interim Final Rule. It directs that "No State shall implement any changes to a State law or regulation which makes that or any other law or regulation incompatible under this section." **The rule provides States to be compatible for funding purposes if they have regulations which are either identical to the FMCSR or which fall within the Tolerance Guidelines. Therefore a state which currently has rules identical to the FMCSR for intrastate commerce may allow a variance which falls within the Tolerance Guidelines .and still be eligible for full funding.**

However, a State that is currently compatible for both interstate and intrastate transportation and enacts a regulation which results in incompatible intrastate rules (i.e., neither identical to the FMCSR or within that tolerance guidelines), would not be eligible for funding under the provisions of 350.11(e). To permit "backsliding" into incompatibility would undermine the significant program the States have achieved in adopting and enforcing uniform minimum safety regulations nationwide.

The new Interim Final Rule conveys a strong message to all participating States that adoption of compatible regulations is paramount to achieving national uniformity, and failure to do so could result in significant reduction in their basic MCSAP funding.

The unused funds from the incompatible States will be reallocated as rewards and incentives to States which have a comprehensive commercial vehicle safety program to carry out high priority projects.



Susan B. Petty