



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

SP-94-017-RC

Subject Motor Carrier Safety Assistance Program
From Director, Office of Motor Carrier
Field Operations
To Regional Directors, Office of Motor Carriers

Date July 5, 1994

Reply to
Attn of HFO-30

This memorandum is to clarify confusion which exists in regards to the Tolerance Guidelines, Appendix C to 49 CFR Part 350, paragraph 3 (ft). The question and answer follows:

Question: May a state allow drivers operating commercial motor vehicles wholly in intrastate commerce to drive up to 12 hours when applying the provisions of the 100 air-mile radius exemption found at 49 CFR 395.1(e) and still be considered compatible with the Federal Motor Carrier Safety Regulations' (FMCSRs) hours-of-service requirements under the tolerance guidelines?

Answer: The tolerance guidelines (Appendix C to 49 CFR Part 350), at paragraph 3(f), address the issue of how a State may expand the hours-of-service requirements and still be considered compatible with the FMCSRs. In addition to other provisions, that paragraph allows a State to extend the 10-hour driving limit to 12 hours. Paragraph 3(f) does not refer to a specific section of the FMCSRs, rather to the hours-of-service rules in general. Paragraph 3(f) of the tolerance guidelines was written to address all applicable sections where hours-of-service are addressed. Section 395.1(e) contains an exemption to the hours-of-service rule limiting driving time to 10 hours following 8 consecutive hours off duty §395.3a(1). Applying the tolerance guidelines to this section, a State may extend driving time to 12 hours. It should be noted, however, that §395.1(e) also contains a provision that requires a driver return to the work reporting location and be released from work within 12 consecutive hours in order to be exempt from the provisions of §395.8.

Please direct any questions you may have to Barbara Kenefake at 202-366-2962.

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