



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

SP-96-003-RC

Subject Clarification of Tolerance Guidelines
Appendix C, Paragraph 3 (i)

From Director, Office of Motor Carriers
Safety and Technology

To Regional Director, Office of Motor Carriers
Regions 1-10
THRU: Mr. Clinton O. Magby, II
Director, Office of Motor Carriers
Field Operations

Date February 28, 1996
(stamped)

Reply to
Attn of HSA-30

The attached clarification regards, whether a States' MCSAP funds would be jeopardized if a State accepted a medical grandfathered driver, as allowed in the Tolerance Guidelines, Part 350, Appendix C, Paragraph 3 (i), when transferring residence from one State to another.

This clarification becomes part of the reference guidelines, and therefore policy number SP-96-003-RC is being assigned to this memorandum and the attachment.

A handwritten signature in black ink that reads "James E. Scapellato".

James E. Scapellato

Attachment



U.S. Department
of Transportation

**Federal Highway
Administration**

Memorandum

Subject Request for Clarification, 49 CFR 350,
Appendix C, Paragraph 3 (i)

From Director, Office of Motor Carriers
Research and Standards

To Mr. William D. Herster
Regional Director, Office of Motor Carriers
THRU: Mr. Clinton O. Magby, II
Director, Office of Motor Carriers
Field Operations

Date January 20, 1996
(stamped)

Reply to
Attn of HCS-20

This is in response to your January 11, 1996 memorandum transmitting an inquiry from the State of Nebraska on whether proposed State legislation would put their MCSAP funding in jeopardy. Specifically, you ask whether a State may issue a CDL restricted to intrastate only use to a driver after July 26, 1996 who was previously grandfathered in another State under paragraph 3(i) of the Tolerance Guidelines (49 CFR 350, Appendix C), and still be eligible for 100 percent MCSAP funding?

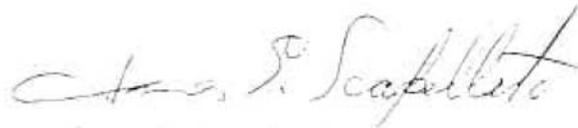
The intent of the MCSAP is to provide Federal assistance to States to adopt and enforce uniform Federal Motor Carrier Safety Regulations and Hazardous Materials Regulations or compatible State regulations for commercial motor vehicles and drivers engaged in interstate and intrastate commerce. The MCSAP is also intended to assist States to develop uniform, effective commercial motor vehicle safety enforcement programs. Currently, a driver transferring residence from one State to another must meet the State driver medical qualification requirements of the new State in order to operate in intrastate commerce. As part of the CDL issuance process, the driver would have to certify that he/she is subject to these driver qualification requirements. If the driver previously qualified to operate in intrastate commerce in the State he/she is transferring from because it has less stringent medical qualifications than the new State, the driver would be prevented from operating in intrastate commerce in the new State.

After July 29, 1996, given the same situation of a driver being previously grandfathered to operate in intrastate commerce in the State he/she is transferring from which has less stringent medical qualifications than the new State, Nebraska's proposed legislation would now allow this same driver to operate in intrastate commerce in the new State. This would allow drivers transferring from another State to meet different and probably lower driver medical qualification requirements than drivers who were grandfathered under Nebraska's requirements.

In regard to consistency with the grandfather provisions of 49 CRF 391.2(d), Limited exceptions for exempt intracity zone drivers, there is no strong parallel when comparing them. The intercity zone driver exemption is based on Federal interstate requirements. The driver must meet the same requirements regardless of which State the driver resides in or transfers to in the future. The July 29, 1996 grandfathering of intrastate drivers is based on individual State requirements that vary from State to State.

The only reason that Nebraska is proposing this legislation is because they believe that drivers transferring from other States will not be able to meet the Nebraska medical qualification requirements. Based on the above discussion, the proposed Nebraska legislation to recognize grandfathered intrastate drivers transferring from another State without regard to the previous State's driver medical qualification requirements for the grandfathering has the potential to set a lower medical standard in the State for these transferred drivers than already exists. As stated, this is not the intent of MCSAP and would therefore jeopardize Nebraska's MCSAP funding.

An alternative available to the State of Nebraska is to establish a medical qualification waiver program under paragraph 3(j) of the Tolerance Guidelines (49 CFR 350, Appendix C) for intrastate drivers that is based on sound medical judgment and appropriate performance standards. This alternative would treat both new drivers residing in the State of those transferring from another State on an equal basis.

A handwritten signature in cursive script, reading "James E. Scapellato".

James E. Scapellato