

Intrastate Tolerance Guidelines

The new federal HOS rules that went into effect on January 4, 2004 do not alter the relationship between the states and federal government. States are still allowed to adopt their own HOS requirements to regulate intrastate commerce. In the Code of Federal Regulations (CFR) under 49 CFR Part 350.341 (e), it is stated that HOS limitations applied to intrastate transportation may vary to the following extent:

1. Drivers may not drive more than 12 hours within a 16-hour on-duty period.
2. Driving prohibitions for drivers who have been on-duty 70 hours in 7 consecutive days or 80 hours in 8 consecutive days.

Furthermore, under 49 CFR Part 350.341 (d), a state may extend the radius for the logging exception from 100 air-miles to 150 air-miles. The on-duty hours in the tolerance guidelines do **not** have to be consecutive, unlike the on-duty hours in the federal rule. If a state adopts intrastate HOS requirements in excess to these stated limits, it effectively forfeits at least a portion of its Federal Motor Carrier Safety Assistance Program (MCSAP) funding. The state of Alaska is one notable exception to these limits, as it has special federal HOS provisions stated in 49 CFR Part 395.1 (h) that allow more liberal HOS rules (see Alaska state summary for details).

States have been given three years from the effective date of January 4, 2004 to adopt the entire federal HOS rule, though most will adopt the new rule automatically. States also have **three years** to bring any regulations not expressly addressed in the tolerance guidelines above to minimum federal standards if they are to keep all of their MCSAP funding. Essentially, this means that states will have to adopt the provision that allows drivers to reset their weekly on-duty clock after 34 or more consecutive hours off-duty. This does not affect the construction industry as our drivers have a special construction-industry reset that allows them to reset their weekly on-duty clocks after 24 or more consecutive hours off-duty within a 50 air-mile radius. However, if a state has adopted intrastate tolerance guidelines allowing drivers to return to work after less than 10 consecutive hours off-duty (most currently require 8 hours off-duty) before a

driver may drive again, the state will have to increase the number of consecutive off-duty hours to 10 or risk losing a portion of its MCSAP funding. States have three years to implement this change.

Be aware of a DOT interpretation that makes a driver, who normally operates in intrastate commerce, subject to the federal HOS regulations for the following 7 or 8 days (depending on whether the driver is on a 7 or 8 day schedule) after the driver crosses state lines and operates in interstate commerce. For instance, even though North and South Carolina both have intrastate tolerance guidelines, a driver based in North Carolina making a delivery in South Carolina would have to operate under federal HOS guidelines for the next 7 or 8 days after crossing state lines because he or she would have participated in "interstate" rather than "intrastate" commerce. The same situation exists between any two states in the nation, regardless of whether one or both have adopted intrastate tolerance guidelines.

A state may adopt intrastate tolerance guidelines through the state's legislative or regulatory process, whichever is appropriate in each particular state. As long as the state's specific guidelines are not in excess of 49 CFR 350.341 (d) and (e), the state will not be in danger of losing any federal MCSAP money. NRMCA has developed specific materials and begun an initiative to help interested parties to facilitate adoption of tolerance guidelines in every state. As an example, please refer to the table of truck-related accident statistics on page 39. Please contact NRMCA's Kevin Voelte at 1-888-846-7622, ext.1152 or at kvoelte@nrmca.org for more information.

Included on the pages that follow is a state-by-state summary of state provisions that pertain to drivers' HOS. States may adopt tolerance guidelines to the limits specified in 350.341 (d) and (e) and be in compliance with the new rule.