

**GUIDANCE NOTE 4**

**Issue:** Recording of driving time by digital tachographs when drivers are involved in frequent- or multi-stop drop operations

**Article:** 1 of Regulation(EEC) No 3821/85 referring to Regulation (EC) No 1360/2002 (Annex 1B)

**Approach to be followed:**

As digital tachographs record more accurately than analogue tachographs, drivers involved in frequent- or multi-stop drop operations may be faced with higher records of driving time when using a digital tachograph than it would be with an analogue tachograph. This situation is temporary and may affect mainly local delivery transport operations. It will last for the transitional period during which the analogue tachographs will coexist with digital tachographs. The situation has now been addressed by the Commission. The accuracy of the digital tachographs has been increased following the modifications introduced by Commission Regulation (EU) 1266/2009 of Annex IB of Regulation(EEC) No 3821/85 by a more exact registration of driver's activities (requirements 038, 041 and 042) and therefore by better taking into account the constraints related to frequent- or multi-stop drop journeys.

However, providing for equal treatment of drivers - regardless of the recording instrument used - a tolerance should be possible for national enforcement agencies when dealing with vehicles equipped with digital tachographs which were activated before October 2011 and which do not comply with Regulation 1266/2009. This transitional tolerance should apply to those vehicles that are involved in frequent-stop or multi-drop journeys and that are equipped with digital tachographs.

However, and at all times, enforcers will be expected to apply professional discretion. Furthermore, whenever a driver is behind the wheel of the vehicle and actively engaged in an in-scope transport operation, he/she will be considered as driving irrespective of his/her circumstances (for example, in cases when the driver is in a traffic jam or at traffic lights).

Therefore:

- Member States should inform their Control Officers that they have the possibility to allow, on checking digital tachograph data, up to a 15 minutes tolerance over a four and a half (4.5) hour block of driving time for vehicles involved in frequent- or multi-stop drop journeys, provided such claims can be supported by evidence. This tolerance may be applied, for example, as a deduction of one minute per driving time block, between stops, with a maximum of 15 minutes per four and a half (4.5) hour block of driving time;
- Control Officers should, when exercising their discretion, be guided by the circumstances and use the evidence made available to them at the time (such as verifiable proof that the driver was involved in frequent- or multi-drop stops), and must verify that their interpretation does not detract from the proper application of the Drivers' Hours Rules, and thereby undermine road safety.
- Member States may use analysis software which is configured to integrate a toleration period into the driving-time calculations but should be aware that this may lead to problems of evidence at a later stage. In all circumstances, the tolerance must not exceed the 15 minute toleration threshold for a four and a half hour (4.5) block of driving time.
- The tolerance should not discriminate or disadvantage either national or international drivers, and should only be considered for those operations where the journey clearly involves frequent- or multi-stop operations.