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Dated: February 22, 2002.

John R. Bolton,

Under Secretary, Arms Control and International Security, Department of State.
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DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 658

[FHWA Docket No. 1997-2234 (formerly 87-5 and 89-12)]

RIN 2125-AC30

Truck Length and Width Exclusive Devices

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the regulations that concern the exclusion of devices from the measurement of vehicle length and width. All previous interpretations related to exclusions from measurements of vehicle length and width are superseded to the extent they are inconsistent with these regulations. Also, a technical correction is being made to the information on length limitations for multiple cargo carrying units in appendix C for the State of Michigan. The primary goal of this proceeding is to consolidate the basic information from all previous policy notices on the topic, and to provide regulatory standards for making future judgments on the length and/or width exclusion status of specific devices.

EFFECTIVE DATE: This final rule is effective April 29, 2002.

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SUPPLEMENTARY INFORMATION:

Electronic Access

Internet users may access all comments received by the U.S. DOT Dockets, Room PL-401 by using the universal resource locator (URL): <http://dmses.dot.gov>. It is available 24 hours each day, 365 days each year. Electronic submission and retrieval help and guidelines are available under the help section of the web site.

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Background

The first Federal legislation to cover maximum vehicle dimensions, involved establishing a maximum width of 96 inches for vehicles using the Interstate System. This occurred in 1956 as part of the landmark legislation that accelerated construction of the Interstate System. The 1956 law included a "grandfather" clause that enabled States to retain regulations in effect on July 1, 1956, if they allowed a vehicle width greater than 96 inches. The grandfather clause also covered any items a State may have excluded from width measurement.

The practice of excluding certain devices from width measurement, however, did not develop as an issue until States were required to begin certifying enforcement of size and weight laws annually to the FHWA in 1975. Certification was the result of the enactment of what is now 23 U.S.C. 141, as part of the Federal-aid Highway Amendments of 1974.

As a result of the expansion of size and weight enforcement brought on by the certification requirement, it came to the attention of the FHWA that only half of the States had a grandfather right to exclude certain devices from width measurement. The remaining States were allowing the exclusions based largely on a definition of vehicle width originally developed by the American Association of State Highway Officials (AASHO)¹ in 1963, and included in

¹ Now the American Association of State Highway and Transportation Officials (AASHTO).

AASHO's 1963 "Policy on Maximum Dimensions and Weights of Motor Vehicles to be Operated Over the Highways of the United States."² The definition read, "Width: The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding approved safety devices and tire bulge due to load."

The differences between the AASHO policy and the FHWA's interpretation of the applicability of grandfather rights, resulted in significant confusion not only for the States, but also for the trucking industry. Since the AASHO policy from 1946 provided the basis for the original 96-inch width legislation, the FHWA determined that the subsequently issued AASHO definition was an acceptable basis on which to revise agency policy. Accordingly, the FHWA adopted the AASHTO definition of vehicle width on June 28, 1979 (44 FR 37710). In taking this action, the FHWA also determined that the only "approved safety devices" permitted to exceed 96 inches would be rear-view mirrors, turn signal lamps, and hand-holds for cab entry/egress.

The next significant legislative action on vehicle size was the Surface Transportation Assistance Act of 1982 (STAA) (Pub. L. 97-424, 96 Stat. 2097). In order to avoid a repeat of the interpretation problems regarding vehicle width, section 411(h) of the STAA gave the Secretary of Transportation the authority to exclude from the measurement of vehicle length any safety and energy conservation devices found necessary for the safe and efficient operation of commercial motor vehicles (CMVs). That authority is now codified at 49 U.S.C. 31111(d). Section 416(b) of the STAA, now 49 U.S.C. 31113(b), authorized similar exclusions when measuring vehicle width. Section 411(h) also provided that no device excluded from length measurement by the Secretary could have, by design or use, the capability to carry cargo.

Since enactment of the STAA, the FHWA has issued three policy notices in the **Federal Register** that identified some 55 devices as length or width exclusive. Copies of the notices are available on-line under the FHWA docket number cited at the beginning of this document. (See 49 FR 23302, June 5, 1984; 51 FR 1367, January 13, 1986; and 52 FR 7834, March 13, 1987.) The

² The current version of this policy titled "Guide For Maximum Vehicle Weight and Dimensions" is available from AASHTO by telephone (800) 231-3475, facsimile (800) 525-3362, mail at AASHTO, P.O. Box 96716, Washington, DC 20090-6716, or online at <http://www.transportation.org/publications/bookstore.nsf>.

FHWA has also handled a number of questions concerning specific pieces of equipment over the years.

This action completes a rulemaking process originally initiated through an advance notice of proposed rulemaking (ANPRM) issued on December 26, 1989 (54 FR 52951). The primary goal of this proceeding is to consolidate the basic information from all previous policy notices on the topic, and to provide regulatory standards for making future judgments on the length and/or width exclusion status of specific devices.

A notice of proposed rulemaking (NPRM) to amend the appropriate sections of 23 CFR part 658 was published on August 18, 2000 (65 FR 50471). In response to the NPRM, 57 additional entries were made to the docket. These entries represent 49 sets of comments, as some of the entries were duplicates, or multiple submissions from the same entity. Comments were provided by 12 companies involved in the manufacture or shipping of vehicles and/or related equipment, 11 commercial-vehicle-related industry associations, 10 different State transportation or police agencies, 10 motor carriers, two organizations of State officials, two individuals, one safety advocacy group, and one congressional committee.

Scope and Applicability

The final rule published today applies to vehicles authorized by the provisions of the STAA while operating on the National Network (NN)³ and routes giving reasonable access to and from the NN. Nothing in this rule, however, would prohibit States from applying the rule to other vehicles and/or highway systems.

The primary goal of this rulemaking is to establish a simplified manner of determining what devices attached to a commercial vehicle are included or excluded when measuring vehicle dimensions for compliance with applicable length and width laws. As noted earlier, this rulemaking began in 1989. As the NPRM explained, however, the FHWA has been issuing interpretations on this subject since the 1970's. The equipment and enforcement practices in use today have evolved over the last quarter century in response to

these directives. The intent of this proceeding is to continue to allow virtually all of the equipment and devices the FHWA has previously indicated are, or should be, excludable from the measurement of vehicle length or width. Included are the devices listed in previous **Federal Register** notices, provided they meet the detailed requirements of the rules promulgated today, specifically:

(1) Notice of interpretation (NOI) at 51 FR 1367 (January 13, 1986).

- A device up to 8 inches long at the front of a trailer chassis the purpose of which is to secure containers and prevent movement in transit.

(2) NOI at 52 FR 7834 (March 13, 1987).

- Non-load carrying tie-down devices on automobile transporters;

- Non-load carrying devices falling within the swing radius of the trailer as measured from the kingpin to the front corner of the trailer;

- Any add-on equipment such as lift gates, winches, etc., at the rear of a trailer that do not extend more than 24 inches from the rear of a trailer in the up position;

- Non-rigid aerodynamic devices that do not extend more than 5 feet from the rear of a trailer in the operational position. Such devices shall not obscure tail lamps, turn signals, marker lamps, identification lamps, license plates, hazardous material placards, or any other required safety device;

- A front coupler device on a semitrailer or trailer used in road and rail intermodal operations.

Other devices at the front of a semitrailer or trailer including:

- Aerodynamic device, air deflector;
- Air compressor;
- Certificate holder (manifest box);
- Door vent hardware;
- Electrical connector;
- Gladhand;
- Handhold;
- Hazardous material placard;
- Heater;
- Ladder;
- Pickup plate lip;
- Pump offline on tank trailer;
- Refrigeration unit;
- Removable bulkhead;
- Removable stakes;
- Stabilizing jack (anti-nosedive device);

- Stake pockets;
- Step;
- Tarp basket;
- Tire carrier; and
- Uppercoupler.

Devices at the rear of a semitrailer or trailer including:

- Air compressor;
- Handhold;

- Hazardous material placard;
- Ladder;
- Lift gate;
- Pintle hook;
- Removable stakes;
- Resilient bumper block;
- Splash and spray suppression device;

- Stake pockets; and
- Step.

Devices excluded from width determination, not to exceed 3 inches from the side of the vehicle including:

- Corner caps;
- Hazardous materials placards;
- Lift pads for trailer on flatcar (piggyback) operation;
- Rain gutters;
- Rear and side door hinges and their protective hardware;
- Side marker lamps;
- Tarp and tarp hardware;
- Tie-down assembly on platform trailers;

- Wall variation from true flat; and
- Weevil pins and sockets on low-bed trailers.

Discussion of Comments

The National Truck Equipment Association (NTEA) requested that straight trucks be included in the final rule coverage. Because the STAA is silent with respect to straight trucks, the authority to regulate their operation remains with the States.

The Morgan Corporation, a manufacturer of truck bodies and related equipment, posed several questions:

1. Will changes in the length and width measurements in the Federal regulations supersede the States' rules for length and/or width exclusions, or will the States be empowered to change, add, or delete exclusions as they see fit?

State regulations for STAA vehicles operating on the NN, or routes providing reasonable access to and from the NN, must be in accord with this final rule. States, however, retain the authority to determine the rules that apply to other, non-STAA vehicles wherever they operate.

2. Where is the 3-inch exclusion located? If the vehicle is 96-inches wide, is the allowance 6-inches on each side and front of the vehicle? If the vehicle is 102-inches wide is the allowance 3-inches on each side and the front of the vehicle? Where will the 12-inch allowance for rearview mirrors be measured? If stake pockets, rub rails, and stake racks are present and the total width of the vehicle is 108-inches, will this be legal?

As mentioned earlier, the final rule published today applies to vehicles authorized by the provisions of the

³ As defined 23 CFR part 658, The National Network is the composite of the individual network of highways in each State on which vehicles authorized by the provisions of the STAA are allowed to operate. The network in each State includes the Interstate System, exclusive of those portions excepted under § 658.11(f) or deleted under § 658.11(d), and those portions of the Federal-aid Primary System in existence on June 1, 1991, set out by the FHWA in appendix A to this part.

STAA while operating on the National Network NN and routes giving reasonable access to and from the NN. A 96-inch wide vehicle is not a STAA vehicle at least with respect to its width. The decision as to width of an exclusion zone is a State determination.

As will be explained later in this document, the 12-inch maximum mirror extension proposed in the NPRM is not being adopted. The safe placement of mirrors will be a decision left to the vehicle manufacturers so that the most advantageous designs can be adopted for the various types of commercial vehicles.

If the stake pockets, sub-rails, and stake racks on a 102-inch wide vehicle are located within 3-inches of the side of the cargo-carrying platform, they are legal.

3. The proposed rule discussed a 24-inch lift gate and a 6-inch resilient bumper. Does this mean that a trailer may have a 24-inch wide lift gate that is exempt from length measurement plus a 6-inch resilient bumper attached to the lift gate? Will these extensions be legal?

No, under § 658.16(c) of the final rule, exclusions are specific and may not be added to other excludable devices. Therefore, a vehicle can have the lift gate or the bumper, but not both.

The Western Association of State Highway Transportation Officials (WASHTO) Committee on Highway Transport expressed several concerns. First is a need for clear regulatory language, so that the transportation industry and enforcement community will know which devices are excluded from the length and width determinations. Second, WASHTO believes the NPRM allowed too much room for interpretation which may result in longer and wider trailers. And third, specific items such as roof structures, sidewalls, taillight assemblies, and undercarriage devices should be included in all measurements.

The regulation issued today restates practices that have been widely, though not universally, accepted since the 1970's. It does not authorize incremental expansion of vehicle size. Most of the devices listed in previous **Federal Register** notices on this issue are included in this rule. Devices developed in the future will be covered, as long they meet the dimensional requirements of this final rule, and do not carry cargo.

The Illinois DOT requested publication of a list of "efficiency enhancing devices" as part of the final rule. Virtually all of the devices included in the previous **Federal**

Register notices on this issue (the NOI's from 1986 and 1987) are listed in this final rule, as well as any additional devices developed since then that the FHWA has indicated should also be excluded from vehicle measurement. Some of these are safety, rather than efficiency-enhancing devices but we see no need to list them separately.

The Oregon DOT expressed concern regarding specific devices, but chief among the State's issues was that the NPRM was too broad in its scope and could easily result in unintentional increases in vehicle width and length. The State's primary example involved use of the rolling tarp systems that have been developed in recent years. In the context of this discussion, a "tarp system" or "rolling tarp system" refers to the aftermarket system that encloses the cargo area of a flatbed semitrailer. Such systems are designed to be stowed accordion-style at either end of the trailer during loading, and then rolled out and locked in place. To accommodate this type of operation, a two- to three-inch rail is added to the side edge of the flatbed, extending the full length of the trailer. Ribs that provide internal support for the closed system slide or roll along the side rail, depending on the specific design of the system. A bulkhead at the front of the unit and doors at the rear are also generally a part of these systems, and are used to support the tarp in the operational position. Tarp systems will be more fully discussed later in this document. The Oregon position is that even though these systems may have some safety benefit for the operator, the resulting vehicle is in fact 108 inches wide. The State contends that the NOI of 1987 did not intend to allow 108-inch wide trailers under any circumstances.

Trailers may, in fact, be up to 108 inches wide, measured from the outermost points of two 3-inch width exclusive devices. That is neither new nor illegal. It has been the policy of the FHWA since the 1970's to allow a 3-inch width exclusion on either side of a trailer. There is no difference in principle between exclusions for tarp systems and for stake pockets, which have been used on flatbeds for well over half a century. Congress clearly knew of the FHWA policy, and approved it in the STAA.

An ancillary argument of the Oregon DOT to the allowance of tarp systems is that such an action will cause the State to reconsider the availability of several routes from its list of approved reasonable access routes. Again, this final rule does not change existing practice. Any route currently included on the NN, or used for reasonable

access, can be reviewed for continuing use under procedures available in this part.

The Wisconsin DOT expressed a general concern similar to that from the Oregon DOT that the NPRM was too expansive about what could be excluded from measurement and that the ultimate result would be wider and longer vehicles. Specifically, Wisconsin is apprehensive that a motor carrier may try to carry additional equipment such as tools, or even decorations, outside of a vehicle to increase the cargo-carrying capability. The exclusion of lifts, bumpers, forklifts and loading dollies would create potential safety problems around the vehicle. The State also commented that the title of the definition "safety devices-width exclusive" is misleading as well as vague, and would allow the exclusion of any non-cargo carrying device, including advertising and decorations.

This final rule changes the title of the definition to "width exclusive devices" for consistency with length exclusive definition. Both definitions, however, have been changed to clarify that only devices that contribute to a vehicle's safe operation or energy conservation, can be excluded from the length or width of a vehicle. Fork lifts and loading dollies are not excluded from length measurement, as they do not directly contribute to the safe operation of a vehicle, or help to conserve energy. They are carried as needed and if not carried directly on the vehicle, would be considered cargo overhang, subject to State determinations on acceptability.

The Massachusetts State Police also would like to have a list of excludable items published as part of the rule, as the list would then automatically be incorporated into State statutes and make it easier for a magistrate to adjudicate any citations. They also believe that the State should have the basic authority to decide if an appurtenance should be excluded from width measurement.

As stated previously, the list of excludable items previously published as part of earlier NOI's is part of the final rule published today. Each State must have uniform rules with respect to measurement of STAA vehicles. The goal of this final rule is to provide that uniformity and minimize the opportunities for non-uniform treatment among States.

The Truck Trailer Manufacturers Association (TTMA) is an organization that develops and publishes position papers used by the industry to maintain uniform standards in trailer construction and repair. While generally supporting the NPRM, the TTMA

wanted two specific items included in the rule: (1) A one-inch exclusion for structural repairs and reinforcements on side doors, and (2) a reference to a TTMA "Recommended Practice" bulletin incorporating all length and width exclusive guidance.

As discussed in the Supplementary Information section of the NPRM, the one-inch exclusion for structural repairs, etc., will continue to be allowed, but within the 3-inch general exclusion. It is not additive, i.e., it does not allow a 3-inch plus a 1-inch width exclusion in the area of the reinforced sections. This exclusion is limited to van (box) semitrailers. Weld-on or bolt-on repairs may be necessary during the life of the unit to maintain the operational safety of the trailer. Vehicles needn't be discarded or completely rebuilt to original specifications when damaged on one side.

This final rule is clear on what is and is not to be excluded from width measurement. The TTMA is free to include the regulatory language as part of its bulletin service for members, but referring to a TTMA bulletin in a regulation could restrict availability of the regulatory information to organization members and/or bulletin subscribers.

Multinational discussions on harmonization of vehicle weights and dimensions have been under way between the United States, Canada, and Mexico since ratification of the North American Free Trade Agreement (NAFTA) in 1994. In recognition of this activity the FHWA is preparing an NPRM to consider an extension from three to four inches of the distance that non-property carrying devices may protrude from the side of a commercial vehicle.

Tarp Systems

As described earlier in this document, a "tarp system" or "rolling tarp system" refers to the aftermarket system that encloses the cargo area of a flatbed semitrailer. Such systems are designed to be stowed accordion-style at either end of the trailer during loading, and then rolled out and locked in place.

The Illinois, Maryland, and Oregon DOT's oppose rolling tarp systems as they believe these systems result in wider vehicles, i.e., up to 108-inches wide. They claim that the 108-inch bulkheads at the front of the trailer and 108-inch metal doors at the rear, necessary components of certain designs, further support their argument regarding width. Illinois and Maryland also oppose the tarp systems because they provide increased efficiency for only one portion of an industry, an

action that these States consider potentially discriminatory in a business sense.

On the other hand, eight motor carriers, seven manufacturers, two national associations, one leasing company, and one individual driver, provided support for the continued exclusion of these systems from width enforcement measurement. They argued that (1) national uniformity on treatment of these systems is needed; (2) the tarp systems improve accessibility and safe and efficient loading/unloading; (3) the systems drastically reduce the risk of injury since drivers do not have to climb onto the load to spread and secure heavy tarps; and (4) the systems protect cargo from weather and road debris, as well as protecting surrounding traffic from small bits of the cargo that may work loose. The importance of the driver safety factor has quickly grown to the point where some carriers now use the availability of these systems as a driver recruitment tool.

Rolling tarp systems eliminate the injuries that occur when drivers fall while climbing atop a load to spread and tie down a conventional tarp. This is a very worthwhile improvement in safety. At the same time the agency is cognizant of the potential for misuse of these systems, as the typical design does provide an extra area of flat space, between the support ribs, that could be used to carry cargo. There are several obstacles to loading a flatbed in a manner that would use the extra area provided by the internal rib support rails for cargo. Such a practice would be very time consuming, could damage the tarp fabric and would very likely interfere with the proper operation of the cargo tie down assemblies required for load securement. In addition, once loaded in such a fashion, the support ribs would not slide, thus defeating the efficiency of the system. While we cannot rule out the occasional deliberate misuse of the system, even though that would defeat the purpose of investing in it, the potential for occasional misuse should not disqualify these systems from width-exclusive status, especially in light of the safety advantages accruing daily to the driver/operators using these systems.

These tarp systems qualify as width exclusive if: (1) When the vehicle is in operation, no component of the tarp system extends more than 3-inches laterally beyond the cargo carrying portion of the vehicle, and (2) the only function of the headerboard, a necessary component of these systems, is to provide structural support for the system, and not to comply with the "front end structure" cargo support

requirements of 49 CFR 393.106. If a tarp system includes rear doors as part of the design, their exclusion from width measurement is based on the same principles as for the headerboard. If the only function of the doors is to complete a seal of the cargo area and anchor the sliding walls, then they would be excluded from width measurement. If however, they are also used to support cargo at the rear, i.e., restrain otherwise unsecured cargo, then they are limited to 102-inches in width. Any wider, and the excludability of the entire system would be nullified. Any cargo being carried on a flatbed equipped with a tarping system must be secured in compliance with the requirements of 49 CFR part 393, subpart I. Any use of these tarping systems for purposes of cargo securement would disqualify the system as width exclusive.

Recreational Vehicles

When recreational vehicles (RV's) are being moved to the point of customer delivery, e.g., from a manufacturing location to a dealer, or between a dealer and a tradeshow, they are commercial vehicles under the definition of Part 658 (the vehicle itself is the merchandise being transported), with the most pertinent issue being the 102-inch vehicle width limitation. When a customer takes possession, however, their status changes. Unless they are clearly being used in a commercial enterprise, they become private, personal property and are no longer subject to Part 658. Items such as allowable vehicle width become State determinations. RV's often include items that are attached to the sides of the unit for use when it is parked. When the RV's are moving, these devices either fold up or roll up against the body. As long as they remain within the 3-inch zone, States have generally moved to exclude the devices from vehicle width (as long as they do not carry cargo), while the unit is in a commercial status.

Recently, however, more RV's are coming equipped with roll up awnings for use when parked. For stability and strength, more of these awnings are being built into the structure of the RV's. However, when rolled up in the traveling position the awning extends up to 6-inches from the side of the unit. Under current regulation when an RV so equipped is moving as a commercial vehicle, it must be covered by an overwidth special permit, as it has an appurtenance that extends more than 3-inches from the side of the unit. Once a customer takes possession, again assuming private personal use, there is

no Federal requirement that States issue permits, and, in fact, in recent years many States have enacted legislation specifically exempting roll-up awnings from any width requirements for personal use vehicles.

The Wisconsin DOT, Recreational Vehicle Industry Association (RVIA) and Representative Bud Shuster, then chairman of the House Committee on Transportation and Infrastructure, all commented that this "one-time" requirement is not in the public interest. All three commented that for the short time and distance (relative to its eventual use) these units are commercial, they should be exempted from any permit requirements. These requirements simply add to the transportation (and eventually buyer) cost, and create unnecessary administrative burdens on State permitting offices already stretched thin with increased commercial needs. What the commenters are proposing would require an amendment of the definition of commercial vehicle used in this part. Such an action is beyond the scope of this rulemaking. However, in deference to these comments, as well as language contained in the Senate Committee on Appropriations report on S. 1178 (a bill making appropriations for DOT for FY 2002 and other purposes), the FHWA will proceed with a separate NPRM to consider appropriate regulatory changes in this area. (See S. Rep. No. 107-38, at 66 (2001)).

Comments on Specific Features of the NPRM

Turn Signals

The Utah DOT, American Trucking Associations (ATA), Commercial Vehicle Safety Alliance (CVSA), the Truck Manufacturer's Association (TMA), Specialized Carriers and Rigging Association (SC&RA), the National Automobile Dealers Association (NADA), and Grote Industries Inc. (a manufacturer of safety equipment), all opposed the 6-inch maximum extension for turn signals. The basis for their opposition was essentially the same: Given the variation in design of tractors, a 6-inch limit is too restrictive and may well make them invisible to other traffic, thus defeating the purpose of turn signals. These commenters also raised the issue of uniform enforcement, questioning where the 6-inches would be measured from, given the designs of truck tractors in use today.

The 6-inch limit was included in the NPRM in response to earlier comments in this rulemaking that some limit was needed to prevent equipment from extending so far that it would interfere

with adjacent or oncoming traffic. However, based on the comments received to the NPRM, the final rule simply exempts turn signals from width and length measurement regardless of their dimensions. A no-limit position on signals has been implied in the AASHTO policy⁴ since at least 1963, and has been part of the Federal policy since 1979. As no support was provided for a limit, and several good arguments were presented in opposition, the current regulatory language remains in place and turn signals may be located wherever necessary to fulfill their purpose.

Rearview Mirrors

Seven commenters—the ATA, NADA, SC&RA, NATA, TMA, Grote Industries, Inc., and the Colorado State Patrol—opposed the 12-inch maximum extension limit on rearview mirrors. The main theme of this opposition was similar to that expressed against a limit on turn signals. Twelve inches would be too restrictive. Many truck tractors are 96-inches wide while trailers are up to 102-inches wide with a 3-inch allowance for non cargo-carrying devices. A 12-inch limit could make it impossible to comply with Federal Motor Vehicle Safety Standard (FMVSS) number 111,⁵ which requires that "mirrors shall be located so as to provide the driver a view to the rear along both sides of the vehicle * * *" [49 CFR 571.111 (S8.1)]. Enforcement would be a problem due to the varying designs of truck tractors. As with turn signals, the 12-inch limit was included in the NPRM in response to earlier comments in this proceeding that some limit was needed to prevent equipment from extending so far that it would interfere with adjacent or opposing traffic. However, based on the comments received to the NPRM, the final rule simply exempts rearview mirrors from width and length measurement regardless of their dimensions. The no-limit position on mirrors has been implied in the AASHTO policy since at least 1963, and has been part of Federal regulation since 1984. As no support was provided for a limit, and several good arguments were presented in opposition, as with turn signals the current regulatory wording

remains in effect. Rearview mirrors may extend as far as necessary to fulfill their function.

Swing Radius Concept

The ATA commented that the swing radius language in the NPRM for exclusions at the front of a semitrailer or trailer, along with the additional definition, was not necessary, because the mechanics of articulated vehicle operation make any regulatory intervention in this area unnecessary. Swing radius language goes back to the language in the 1987 NOI, wherein any non-load carrying item within the swing radius of a trailer (or semitrailer) was excluded from length or width measurement. Swing radius is the radius from the kingpin to both front corners of the unit, and the area within that radius at the front end of the trailer. The ATA indicated that any devices included on the front of a trailing unit would have to remain within this "swing radius" area or run the risk of not clearing the corner of the cab on a turn. Such a situation would obviously cause damage not only to the device, but the cab as well.

A swing radius rule appears to be unnecessary. Accordingly, the language of this final rule simply exempts any non-load carrying device at the front of a trailer or semitrailer from length measurement. No limit is placed on the length of the item as the swing radius of the combination will generally control its size. The FHWA is prepared, however, to re-visit this issue if application of this rule results in vehicle designs or operational conditions that create potential safety problems for adjacent or oncoming traffic.

Three Inch Exclusion at the Front of a Vehicle

The Oregon DOT opposes application of the 3-inch allowance for non-load carrying devices to the front of a vehicle, i.e., the power unit. It indicates that implementation of this provision will simply allow vehicles to be 3 inches longer, by no longer including any type of bumper in the overall measurement of a vehicle until it would extend more than 3 inches.

As we have stated throughout this discussion, the purpose of this rulemaking is to consolidate in a single location the regulatory language for length and width exclusive determinations. Our goal in issuing this final rule is essentially to maintain the status quo with respect to length and width exclusive devices. Insofar as the front of a vehicle is concerned, the NPRM obviously violated the stated intent of maintaining the status quo.

⁴ See Footnote #1.

⁵ Federal Motor Vehicle Safety Standard (FMVSS) number 111 (49 CFR 571.111) can be obtained through the National Highway Traffic Safety Administration, Publication Orders and Distribution, Suite 6123, 400 Seventh Street, SW., Washington, DC 20590. The standard may also be located through the Government Printing Office's website. The URL is <http://www.access.gpo.gov/nara/cfr/cfr-retrieve.html>. Simply type 49 CFR part 571 Section 111 in the appropriate boxes.

Except for front overhang allowed on automobile transporters, the existing regulatory language in part 658, and other guidance issued by the FHWA over time, does not allow the exclusion from length measurement of any devices at the front of a vehicle. Clearly the NPRM language for proposed § 658.16(b) should not have included the phrase "the front or" in referring to the 3-inch exclusion zone. That has been corrected in this final rule; the 3-inch general exclusion for non-load carrying devices does not apply to the front of a commercial vehicle. The only item at the front of a commercial vehicle that is excluded from measurement of the vehicle length is a resilient bumper that may extend up to 6-inches from the front.

The 24-Inch Rear Exclusion

The Oregon DOT commented that the 24-inch exclusion zone at the rear of a vehicle should be explicitly limited to those devices that are needed for loading and unloading the unit, and that any other non-cargo carrying devices should be limited to no more than a 3-inch exclusion. They are concerned that a general 24-inch exclusion zone will be used by industry to extend or locate equipment that is required on a vehicle (such as mud flaps, bumpers, and tail light assemblies) but that is non-load bearing, essentially resulting in a 24-inch longer trailer.

The State's concern is accommodated by this rule. The regulatory language regarding exclusions from length measurement of items at the rear of a vehicle includes the following: "that do not extend more than 24-inches beyond the rear of the vehicle and are needed for loading or unloading." Such devices (and the additional items listed in new appendix D to part 658), aerodynamic devices and resilient bumpers are the only items that are excluded from length measurement at the rear of a semitrailer or trailer. Except for the loading/unloading and aerodynamic devices, and the resilient bumpers, all other excluded devices at the rear of the semitrailer or trailer are limited to a maximum extension of 3-inches from the rear of the unit.

Aerodynamic Devices

The Oregon DOT opposes the allowance of rigid aerodynamic devices at the rear of a vehicle, because its experience has been that carriers often use the interior space to conceal cargo that extends beyond the limit of the vehicle.

Aerodynamic devices on the rear of a vehicle pose a vexing problem. Maximizing fuel economy during

vehicle operation is once again becoming an increasingly important factor in the trucking industry, not to mention its importance in managing of the nation's fuel supply. On the other hand, through the development of standardized rear impact guards, the National Highway Traffic Safety Administration (NHTSA) and the Federal Motor Carrier Safety Administration (FMCSA) have provided a significantly improved degree of rear underride protection to reduce the often violent results of crashes where an automobile impacts the rear of a truck or semitrailer. In addition, there is, as Oregon points out, the potential for deliberate misuse in order to gain a competitive edge with respect to cargo hauling.

The NPRM included language that would allow flexible aerodynamic devices to extend up to 8 feet. This language was based on a request the FHWA received in 1993 from the developer of such a device. At that time we could not make a determination on the implications for highway safety of allowing this device and indicated that further consideration would be part of this rulemaking. Comments on this aspect of the NPRM were received from two State DOTs (Utah and Maryland) and the Commercial Vehicle Safety Alliance (CVSA). All three comments asked why the FHWA was considering the device, and the State DOTs had concerns over the safety implications for following vehicles of an 8-foot flexible device that might sway or oscillate due to cross winds. Since the original correspondence was received by the FHWA, no additional information has been provided by the developer of the device to indicate any operational experience, or that it has even been allowed to operate in any State. As with tarping systems discussed earlier, the potential for deliberate misuse of these devices should not rule out their use unless widespread deliberate violation becomes endemic with certain types of aerodynamic devices.

The final rule issued today allows certain aerodynamic devices to extend up to 5 feet beyond the rear of a commercial vehicle. A 5-foot device was included in the 1987 NOI. However, because of the need to make such devices compatible with the rear-underride provisions of the NHTSA and FMCSA safety regulations, the rule requires that aerodynamic devices "have neither the strength, rigidity nor mass to damage a vehicle, or injure a passenger in a vehicle, that strikes a trailer so equipped from the rear." The NPRM mentioned aerodynamic devices "made of flexible material which are

inflated by air pressure and lack a rigid structure." Such devices would most likely meet the requirements of § 658.16(b)(iv), but other aerodynamic designs may also be consistent with the rule. To repeat, developers of aerodynamic devices should keep in mind that this rule does not exempt motor carriers from complying with the FMCSA's rule (49 CFR 393.86).

The Agency is not in any way minimizing the critical importance of achieving the maximum possible fuel economy in the Nation's transportation system. But we cannot allow a device with the potential of negating the safety gains achieved by the rear underride protection rules.

Inadvertent Restrictions Imposed by a General 3-Inch Exclusion Zone

The TMA comments highlighted two areas where the general 3-inch exclusion zone created by the language of the NPRM would be too restrictive: Steps and handholds for cab entry/egress, and equipment such as winches that are often included at the front of a vehicle for certain vocational applications. As discussed above, the AASHTO has had a "no limit" policy on steps and hand holds for cab entry/egress since at least 1963. That policy has been included in part 658 since its initial publication on June 5, 1984 (49 FR 23302). Given that the intention of this rulemaking is essentially to maintain the status quo with respect to length and width exclusive devices, this final rule continues to allow these items, without dimensional limit. The TMA comment concerning the front of the vehicles was the only mention of winches and related equipment. The power units of the STAA vehicles, to which this final rule applies, typically are only used to transport trailers and semitrailers, and for no other function. The TMA comment would appear to be directed to special use single unit vehicles such as tow trucks. Single unit vehicles are not STAA vehicles, and are not covered by these rules. States have complete discretion whether to include or exclude such devices from the length of straight trucks.

Automobile Transporter Support Ramps or "Flippers"

The Maryland DOT expressed opposition to treating as length exclusive devices the extendable ramps or "flippers" on automobile transporters. The State argued that this proposal was inconsistent with the principle that length exclusive devices not be cargo carrying.

"Flippers" are used for supporting vehicles that overhang the front or rear

of an automobile transporter. The vehicle overhang provisions of 23 CFR 658.13(e)(1)(ii) are based on the STAA's specialized equipment authority [49 U.S.C. 31111(g)], not its length-exclusive provision [49 U.S.C. 31111(d)]. Congress explicitly designated automobile transporters as specialized equipment, and the FHWA adopted rules that conform to industry practice. For the last decade, the agency has consistently interpreted § 658.13(e)(1)(ii) as allowing the use of retractable platforms to position and secure vehicles. When auto transporters are empty, however, we concluded that these platforms should be included in any length measurement if not retracted. This enables vehicle transporters to maximize the capacity of their equipment, while requiring them to minimize vehicle length when the flippers are not needed. This rule codifies that policy.

Support for the NPRM

Several commenters offered general support for the concept of the NPRM but had additional comments.

The National Automobile Transporters Association (NATA) supported the proposed language regarding retractable platforms or "flippers" on automobile transporters. As discussed above, this rule codifies what had previously been FHWA policy on this issue.

The American Bus Association (ABA) supported the overall concept of the NPRM, but would also like to see a separate commercial vehicle designation for motor coaches with its own size and weight rules. Such an action is beyond the scope of this rulemaking.

The National Automobile Dealers Association (NADA) also generally supported the NPRM, but asked that the dimensions of mirrors and turn signals not be limited. As discussed earlier, the final rule adopts that position.

Other Requests

Auto Transporter Bumper Step

The Supplementary Information section of the NPRM discussed the issue of allowing a step across the full width of the front bumper of an automobile transporter, extending outward from the front bumper. The operator would use the step in the loading/unloading process to secure the vehicle being transported at the front of the head rack. A commenter to the ANPRM asked for a 4-inch wide step, while the NPRM indicated that the 3-inch exclusion provided enough room, and if an additional inch was needed, that the step could be recessed in some manner

into the front of the unit. The ATA and the NATA provided similar comments on this issue. They contend that in order to avoid regulatory conflict with 49 CFR 399.207(b)(4),⁶ the step should be 5-inches deep, extending across the width of the front bumper. As an alternative to the step, the NATA proposed the FHWA consider excluding the front bumper of an auto transporter from length measurement and allow the step to be incorporated, *i.e.*, allow a 5-inch wide bumper to be length excluded.

Neither the specialized equipment rules in § 658.13(e)(1) nor the general length provisions in § 658.13(a)–(d) authorize steps that extend beyond the front bumper of automobile transporters, nor have FHWA interpretations allowed any such devices. The FMCSA's step regulations apply only to "high profile COE [cab-over-engine] trucks or truck tractors," which are rarely used for auto transporters, and they require steps "on each side of the vehicle where a seat is located * * *" [49 CFR 399.207(b) (emphasis added)], not at the front of the vehicle. All previous Federal statements on length exclusive devices have referred to the trailer or semitrailer.

Allowance of a 5-inch straight edge across the width of a power unit may at times help an operator with vehicle securement on the headrack, although a shorter operator may not be able to reach the equipment. However, that edge could at all times pose a safety threat to any person or object that may come in contact with it, depending on the speed of the vehicle. In addition, the existence of such a step may also be in conflict with 49 CFR 393.203(e), which reads "The front bumper must not be missing, loosely attached, or protruding beyond the confines of the vehicle so as to create a hazard."

Earlier in this section, a 3-inch exclusion zone at the front of the vehicle was discussed and rejected. For the same basic reasons, this final rule does not allow any type of step at the front of a vehicle (which for STAA vehicles means the power unit) to be length exclusive. There are alternatives available, if auto transporters must contain a capability for the operator to reach the bottom of the headrack with something other than a ladder.

The only item at the front of a commercial vehicle that is excluded from length measurement by this final rule is a resilient bumper up to 6 inches

deep. In order to avoid undue hardship for operators of auto transporters that already include a step, the FHWA will allow a period of 3 years from the effective date of this rule for existing vehicles to comply with this rule. It will be the responsibility of the operator of the unit to show proof of the existence of the step prior to the effective date of this rule. Such proof can be in the form of a work order for equipment modification, a receipt for purchase and installation of the piece, or any similar type of documentation. However, three years after the effective date of this rule, anything other than a resilient bumper will be included in the vehicle's length.

Dromedary Boxes

The ATA suggested that the agency use this rulemaking as an opportunity to designate truck tractors with dromedary equipment used by the munitions hauling industry as specialized equipment. That is beyond the scope of this rulemaking.

Equipment Grandfathers

The TTMA raised the issue of grandfathering equipment that has been in use since publication of the 1987 NOI, if this final rule were to change application of the length and width exclusive concepts. As we have noted several times throughout this section, the intent of this proceeding is to continue to allow virtually all of the equipment and devices that up to now the FHWA has indicated are, or should be, excludable from the measurement of vehicle length or width. The only equipment grandfathering included in this final rule involves automobile transporters with a step on the front bumper to assist the operator in reaching the headrack, which also causes the unit to exceed the 65- or 75-foot length limits that apply to these transporters.

Multi-Cargo Carrying Limitation Information—Michigan

Information provided by the State of Michigan has shown that the operation of a truck-trailer combination with an overall length of 70 feet used to haul saw logs, pulpwood, and tree length poles, has been legal under State law since May 1990. In bringing this fact to our attention, the State has also provided information in the form of affidavits to show that truck-trailer combinations at the 70-foot length were in operation in the State prior to June 1, 1991. These affidavits are from both State officials and private operators. Appendix C is being revised today to correct this oversight.

⁶ 49 CFR part 399, Employee Safety and Health Standards, Subpart L, Step, Handhold, and Deck Requirements for Commercial Motor Vehicles, is available online from the URL: <http://www.access.gpo.gov/nara>.

Rulemaking Analyses and Notices**Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures**

We have determined that this action is not a significant regulatory action within the meaning of Executive Order 12866 or significant within the meaning of Department of Transportation regulatory policies and procedures. This final rule will not adversely affect, in a material way, any sector of the economy. There will not be any additional costs incurred by any affected group as a result of this rule. In addition, this final rule will not interfere with any action taken or planned by another agency and will not materially alter the budgetary impact of any entitlements, grants, user fees or loan programs. Therefore a regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), we have evaluated the effects of this rule on small entities. The FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities. This action merely replaces previous policy guidance on specific devices that may extend beyond the structural members of a vehicle with a general rule covering how far devices may extend beyond the structural members of vehicles.

Executive Order 13132 (Federalism)

This action has been analyzed in accordance with the principles and criteria contained in Executive order 13132, dated August 4, 1999, and it has been determined that this action does not have a substantial direct effect or significant federalism implications on States that would limit the policymaking discretion of the States.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act of 1995

This action does not contain a collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

Unfunded Mandates Reform Act of 1995

This rule does not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, March 22, 1995, 109 Stat. 48). This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year.

Executive Order 12988 (Civil Justice Reform)

This action meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Executive Order 13045 (Protection of Children)

We have analyzed this action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not concern an environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

This rule will not effect a taking of private property of otherwise have taking implications under Executive Order 125630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

National Environmental Policy Act

The Agency has analyzed this section for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*) and has determined that this action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this final rule under Executive Order 13175, dated November 6, 2000, and believes that the rule will not have substantial direct effects on one or more Indian tribes; will not impose substantial direct compliance costs on Indian tribal governments; and will not preempt tribal law. Therefore, a tribal summary impact statement is not required.

Executive Order 13211 (Energy Effects)

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use. We have

determined that it is not a significant energy action under that order because it is not a significant regulatory action under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution or use of energy. Therefore, a Statement of Energy Effects under Executive Order 13211 is not required.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory section listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN contained in the heading of this document can be used to cross reference this section with the Unified Agenda.

List of Subjects in 23 CFR Part 658

Grants Program—transportation, Highways and roads, Motor carriers.

Issued on: March 21, 2002.

Mary E. Peters,

Federal Highway Administrator.

In consideration of the foregoing, the FHWA amends 23 CFR part 658 as follows:

PART 658—TRUCK SIZE AND WEIGHT, ROUTE DESIGNATIONS—LENGTH, WIDTH AND WEIGHT LIMITATIONS

1. Revise the authority citation for part 658 to read as follows:

Authority: 23 U.S.C. 127 and 315; 49 U.S.C. 31111, 31112, and 31114; 49 CFR 1.48(b)(19) and (c)(19).

2. Amend § 658.5 by revising the definition of “Length Exclusive Devices”, removing the definition of “Safety Devices-Width Exclusion” and adding the definition of “Width Exclusive Devices” in alphabetical order, to read as follows:

§ 658.5 Definitions.

* * * * *

Length Exclusive Devices. Devices excluded from the measurement of vehicle length. Such devices shall not be designed or used to carry cargo.

* * * * *

Width Exclusive Devices. Devices excluded from the measurement of vehicle width. Such devices shall not be designed or used to carry cargo.

3. In § 658.13, revise paragraph (e)(1)(ii), remove paragraph (f), and redesignate paragraphs (g) and (h) as paragraphs (f) and (g), respectively, to read as follows:

§ 658.13 Length.

* * * * *

(e) * * * (1) * * *

(ii) All length provisions regarding automobile transporters are exclusive of front and rear cargo overhang. No State shall impose a front overhang limitation of less than 3 feet or a rear overhang limitation of less than 4 feet. Extendable ramps or "flippers" on automobile transporters that are used to achieve the allowable 3-foot front and 4-foot rear cargo overhangs are excluded from the measurement of vehicle length, but must be retracted when not supporting vehicles.

* * * * *

§ 658.15 [Amended]

4. Amend § 658.15 by removing paragraph (c) and redesignating paragraph (d) as paragraph (c).

5. Add § 658.16 to read as follows:

§ 658.16 Exclusions from length and width determinations.

(a) Vehicle components not excluded by law or regulation shall be included in the measurement of the length and width of commercial motor vehicles.

(b) The following shall be excluded from either the measured length or width of commercial motor vehicles, as applicable:

(1) Rear view mirrors, turn signal lamps, handholds for cab entry/egress,

splash and spray suppressant devices, load induced tire bulge;

(2) All non-property-carrying devices, or components thereof—

(i) At the front of a semitrailer or trailer, or

(ii) That do not extend more than 3 inches beyond each side or the rear of the vehicle, or

(iii) That do not extend more than 24 inches beyond the rear of the vehicle and are needed for loading or unloading, or

(vi) Listed in appendix D to this part;

(3) Resilient bumpers that do not extend more than 6 inches beyond the front or rear of the vehicle;

(4) Aerodynamic devices that extend a maximum of 5 feet beyond the rear of the vehicle, provided such devices have neither the strength, rigidity nor mass to damage a vehicle, or injure a passenger in a vehicle, that strikes a trailer so equipped from the rear, and provided also that they do not obscure tail lamps, turn signals, marker lamps, identification lamps, or any other required safety devices, such as hazardous materials placards or conspicuity markings; and

(5) A fixed step up to 3 inches deep at the front of an existing automobile transporter until April 29, 2005. It will be the responsibility of the operator of

the unit to prove that the step existed prior to April 29, 2002. Such proof can be in the form of a work order for equipment modification, a receipt for purchase and installation of the piece, or any similar type of documentation. However, after April 29, 2005, the step shall no longer be excluded from a vehicle's length.

(c) Each exclusion allowance is specific and may not be combined with other excluded devices.

(d) Measurements are to be made from a point on one side or end of a commercial motor vehicle to the same point on the opposite side or end of the vehicle.

6. Amend appendix C to part 658 by revising the entry for the State of Michigan in the table entitled "Vehicle Combinations Subject to Pub. L. 102-240", and by adding a listing for the State of Michigan for a truck-trailer combination vehicle after the existing listing for truck tractor. The amended and added portions of appendix C read as follows:

Appendix C to Part 658—Trucks Over 80,000 Pounds on the Interstate System and Trucks Over STAA Lengths on the National Network

* * * * *

VEHICLE COMBINATIONS SUBJECT TO PUB. L. 102-240

State	1		2		3
	Truck tractor and 2 trailing units		Truck tractor and 3 trailing units		Other
Michigan	*	*	*	*	*
.....	58' 164K		No		63'
	*	*	*	*	*

* * * * *

State: Michigan

Combination: Truck-trailer

Length of Cargo-Carrying Units: 63 feet

Operational Conditions:

Weight: This combination must operate in compliance with State laws and regulations. Because it is not an LCV, it is not subject to the ISTEA freeze as it applies to maximum weight.

Driver: The driver must have a commercial driver's license with appropriate endorsement.

Vehicle: The overall length of this combination is limited to 70 feet. The only cargo that may be carried is saw logs, pulpwood, and tree length poles.

Permit: None required.

Access: All NN routes.

Routes: All NN routes.

Legal Citations: Michigan Public Act 300, section 257.719.

* * * * *

7. Part 658 is amended by adding appendix D to read as follows:

Appendix D to Part 658—Devices That Are Excluded From Measurement of the Length or Width of a Commercial Motor Vehicle

The following devices are excluded from measurement of the length or width of a commercial motor vehicle, as long as they do not carry property and do not exceed the dimensional limitations included in § 658.16. This list is not exhaustive.

1. All devices at the front of a semitrailer or trailer including, but not limited to, the following:

(a) A device at the front of a trailer chassis to secure containers and prevent movement in transit;

(b) A front coupler device on a semitrailer or trailer used in road and rail intermodal operations;

(c) Aerodynamic devices, air deflector;

(d) Air compressor;

(e) Certificate holder (manifest box);

(f) Door vent hardware;

(g) Electrical connector;

(h) Gladhand;

(i) Handhold;

(j) Hazardous materials placards and holders;

(k) Heater;

(l) Ladder;

(m) Non-load carrying tie-down devices on automobile transporters;

(n) Pickup plate lip;

(o) Pump offline on tank trailer;

(p) Refrigeration unit;

(q) Removable bulkhead;

(r) Removable stakes;

(s) Stabilizing jack (anti-nosedive device);

(t) Stake pockets;

(u) Step;

(v) Tarp basket;

(w) Tire carrier; and

(x) Uppercoupler.

2. Devices excluded from length measurement at the rear of a semitrailer or trailer including, but not limited to, the following:

- (a) Handhold;
- (b) Hazardous materials placards and holders;
- (c) Ladder;
- (d) Pintle hook;
- (e) Removable stakes;
- (f) Splash and spray suppression device;
- (g) Stake pockets; and
- (h) Step.

3. Devices excluded from width determination, not to exceed 3 inches from the side of the vehicle including, but not limited to, the following:

- (a) Corner caps;
- (b) Hazardous materials placards and holders;
- (c) Lift pads for trailer on flatcar (piggyback) operation;
- (d) Rain gutters;
- (e) Rear and side door hinges and their protective hardware;
- (f) Side marker lamps;
- (g) Structural reinforcement for side doors or intermodal operation (limited to 1 inch from the side within the 3 inch maximum extension);
- (h) Tarping systems for open-top trailers;
- (i) Movable devices to enclose the cargo area of flatbed semitrailers or trailers, usually called tarping systems, where no component part of the system extends more than 3 inches from the sides or back of the vehicle when the vehicle is in operation. This exclusion applies to all component parts of tarping systems, including the transverse structure at the front of the vehicle to which the sliding walls and roof of the tarp mechanism are attached, provided the structure is not also intended or designed to comply with 49 CFR 393.106, which requires a headerboard strong enough to prevent cargo from penetrating or crushing the cab; the transverse structure may be up to 108 inches wide if properly centered so that neither side extends more than 3 inches beyond the structural edge of the vehicle. Also excluded from measurement are side rails running the length of the vehicle and rear doors, provided the only function of the latter, like that of the transverse structure at the front of the vehicle, is to seal the cargo area and anchor the sliding walls and roof. On the other hand, a headerboard designed to comply with 49 CFR 393.106 is load bearing and thus limited to 102 inches in width. However, the "wings" designed to close the gap between such a headerboard and the movable walls and roof of a tarping system are width exclusive, provided they are add-on pieces designed to bear only the load of the tarping system itself and are not integral parts of the load-bearing headerboard structure;
- (j) Tie-down assembly on platform trailers;
- (k) Wall variation from true flat; and
- (l) Weevil pins and sockets on low-bed trailers.

[FR Doc. 02-7359 Filed 3-28-02; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 20, 570, 954, and 1003

[Docket No. FR-4747-C-01]

Technical Corrections to Certain HUD Regulations

AGENCY: Office of the Secretary, HUD.

ACTION: Final rule; technical corrections.

SUMMARY: This final rule amends several Department regulations to remove obsolete or incorrect references and to advise of a new office location.

DATES: *Effective Date:* April 29, 2002.

FOR FURTHER INFORMATION CONTACT:

Aaron Santa Anna, Office of the General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-3055 (this is not a toll-free number). Hearing or speech-impaired persons may access this number by calling the Federal Information Relay Service at 1-800-877-8339 (this is a toll-free number).

SUPPLEMENTARY INFORMATION: This final rule makes technical corrections to several regulations, to remove obsolete references or incorrect citations. This rule also informs interested parties of a new mailing address for the HUD Board of Contract Appeals.

In 24 CFR part 20, § 20.3 is revised to show the new address, telephone number, and FAX number of the HUD Board of Contract Appeals (HUDBCA). The HUDBCA is now located at 1707 H Street, NW., Eleventh Floor, Washington, DC 20006. The new telephone and FAX numbers are (202) 254-0000 and (202) 254-0011, respectively.

This rule also amends the regulations at 24 CFR 570.489(l), 954.4(i), and 1003.608 to remove the reference to "appendix B to part 24." As discussed earlier in this section, there is no appendix B to part 24.

Findings and Certifications

Environmental Review

This final rule removes obsolete and incorrect references and provides information on a new office location and website. The rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate, real property acquisition, disposition, leasing, rehabilitation, alteration, demolition, or new construction, or establish, revise, or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, in accordance with 24 CFR 50.19(c)(1), this

final rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*).

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. This rule does not impose a Federal mandate that will result in expenditure by State, local, or tribal governments, within the meaning of the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. There are no anti-competitive discriminatory aspects of the rule with regard to small entities and there are not any unusual procedures that would need to be complied with by small entities.

Executive Order 13132, Federalism

Executive Order 13132 (entitled "Federalism") prohibits an agency from publishing any rule that has federalism implications if the rule either (1) imposes substantial direct compliance costs on State and local governments and is not required by statute, or (2) the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rule does not have federalism implications and does not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive Order.

List of Subjects

24 CFR Part 20

Administrative practice and procedure, Government contracts, Organization and functions (Government agencies).

24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants, Grant programs—education, Grant programs—housing and community development, Guam, Indians, Loan programs—housing and community development, Low and moderate income housing, Northern Mariana Islands, Pacific Islands Trust Territory,