Rule Notice of Proposed Rule Making. 69 FR 23701, 23704 (April 30, 2004).

As for compliance requirements, small and large entities subject to the revised fee rule will pay the same rates to obtain access to the National Do Not Call Registry in order to reconcile their calling lists with the phone numbers maintained in the National Registry. As noted earlier, however, compliance costs for small entities are not anticipated to have a significant impact on small entities, to the extent the Commission believes that compliance costs for those entities will be largely minimized by their ability to obtain data for up to five area codes at no charge.

E. Duplication With Other Federal Rules

None.

F. Discussion of Significant Alternatives

The Commission recognizes that alternatives to the proposed revised fee are possible. For example, instead of a fee based on the number of area codes that a telemarketer accesses from the National Registry, access could be provided on the basis of a flat fee regardless of the number of area codes accessed. The Commission believes, however, that these alternatives would likely impose greater costs on small businesses, to the extent they are more likely to access fewer area codes than larger entities.

Another alternative the Commission has considered entails providing small businesses with free access to the National Registry.[40] This alternative would require entities seeking an exemption from the fees to submit information regarding their annual revenues, to determine whether they meet the statutory threshold to be classified a small business and exempt from the fees. The Commission continues to believe, however, ''an alternative approach that would provide small business with exemptive relief more directly tied to size status would not balance the private and public interests at stake any more equitably or reasonably than the approach currently proposed by the Commission.''[41] The Commission also continues to believe that ''such a system would present greater administrative, technical, and legal costs and complexities than the Commission's current proposal which does not require any proof or verification of that status.''[42]

Accordingly, the Commission believes its current proposal is likely to be the least burdensome for small businesses, while achieving the goal of covering the necessary costs to implement and enforce the Amended TSR.

Despite these conclusions, the Commission welcomes comment on any significant alternatives that would further minimize the impact on small entities, consistent with the objectives of the Telemarketing Act, the 2006 Appropriations Act, and the Implementation Act.

List of Subjects in 16 CFR Part 310

Telemarketing, Trade practices.

VII. Proposed Rule

Accordingly, for the reasons stated in the preamble, the Federal Trade Commission proposes to amend part 310 of title 16 of the Code of Federal Regulations as follows:

PART 310—TELEMARKETING SALES RULE

1. The authority citation for part 310 continues to read as follows:

Authority: 15 U.S.C. 6101–6108.

2. Revise § 310.8(c) and (d) to read as follows:

§ 310.8 Fee for access to the National Do Not Call Registry.

* * * * *

(c) The annual fee, which must be paid by any person prior to obtaining access to the National Do Not Call Registry, is $62 per area code of data accessed, up to a maximum of $17,050; *provided,* however, that there shall be no charge for the first five area codes of data accessed by any person, and *provided further,* that there shall be no charge to any person engaging in or causing others to engage in outbound telephone calls to consumers and who is accessing the National Do Not Call Registry without being required under this Rule, 47 CFR 64.1200, or any other federal law. Any person accessing the National Do Not Call Registry may not participate in any arrangement to share the cost of accessing the registry, including any arrangement with any telemarketer or service provider to divide the costs to access the registry among various clients of that telemarketer or service provider.

(d) After a person, either directly or through another person, pays the fees set forth in § 310.8(c), the person will be provided a unique account number which will allow that person to access the registry data for the selected area codes at any time for twelve months following the first day of the month in which the person paid the fee (''the annual period''). To obtain access to additional area codes of data during the first six months of the annual period, the person must first pay $62 for each additional area code of data not initially selected. To obtain access to additional area codes of data during the second six months of the annual period, the person must first pay $31 for each additional area code of data not initially selected. The payment of the additional fee will permit the person to access the additional area codes of data for the remainder of the annual period.

* * * * *

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E6–6507 Filed 4–28–06; 8:45 am]

BILLING CODE 6750–01–P

[40] See 69 FR at 45583; see also 68 FR 16238, 16243 n.53 (April 3, 2003).

[41] See 68 FR at 16243 n.53.

[42] Id.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 657 and 658

[FHWA Docket No. FHWA–2006–24134]

RIN 2125–AF17

Size and Weight Enforcement and Regulations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); request for comments.

SUMMARY: This action updates the regulations governing the enforcement of commercial vehicle size and weight to incorporate provisions enacted in the Safe, Accountable, Flexible, Efficient, Transportation Equity Act: a Legacy for Users (SAFETEA–LU); the Energy Policy Act of 2005; and, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act of 2006. This action would further add various definitions; correct obsolete references, definitions, and footnotes; eliminate redundant provisions; amend numerical route changes to the National Highway designations; and incorporate statutorily mandated weight and length limit provisions.

DATES: Comments must be received on or before June 30, 2006. Late-filed comments will be considered to the extent practicable.

ADDRESSES: Mail or hand deliver comments to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://*

dmses.dot.gov/submit, or fax comments to (202) 493–2251.

Alternatively, comments may be submitted to the Federal eRulemaking portal at *http://www.regulations.gov.* All comments should include the docket number that appears in the heading of this document. All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comment must include a self-addressed, stamped postcard or you may print the acknowledgment page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments in any one of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, or labor union). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70, Pages 19477–78) or you may visit *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Mr. William Mahorney, Office of Freight Management and Operations, (202) 366–6817, or Mr. Raymond Cuprill, Office of the Chief Counsel (202) 366–0791, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access and Filing

You may submit or retrieve comments online through the Document Management System (DMS) at: *http://dmses.dot.gov/submit.* Electronic submission and retrieval help and guidelines are available under the help section of the Web site. Alternatively, internet users may access all comments received by the U.S. DOT Docket Facility by using the universal resource locator (URL) *http://dms.dot.gov.* It is available 24 hours each day, 365 days each year. Please follow the instructions. An electronic copy of this document may also be downloaded by accessing the Office of the Federal Register's home page at: *http://www.archives.gov* or the Government Printing Office's Web page at *http://www.gpoaccess.gov/nara.*

Background

The Safe, Accountable, Flexible, Efficient, Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144), the Energy Policy Act of 2005 (Pub. L. 109–58, 119 Stat. 544), and the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act of 2006 (Pub. L. 109–115, 119 Stat. 2396) amended several areas of the size and weight regulations in the areas of auxiliary power units, custom harvesters, over-the-road buses, and drive-away saddlemount vehicle combinations.

Additionally, the transfer of motor carrier safety functions to the Federal Motor Carrier Safety Administration (FMCSA) established by the Motor Carrier Safety Improvement Act of 1999 (MCSIA) (Pub. L. 106–159, 113 Stat. 1748) affected the internal organizational structure of the FHWA. Although the responsibility for commercial motor vehicle size and weight limitation remained in the FHWA, the references in the regulations to the old FHWA's Office of Motor Carriers (OMC) and its officials are obsolete. This action will update these references to reflect the changes in the agency's organizational structure.

Section-by-Section Discussion of the Proposals

Section 657.1 Purpose

Section 657.1 indicates that the purpose of the regulations is to prescribe requirements for administering a program of vehicle size and weight enforcement on ''Federal-aid (FA) highways.'' This term refers to the Federal-aid primary (FAP), Federal-aid secondary (FAS), and Federal-aid urban (FAU) systems, as indicated in the current definition of ''Enforcing or Enforcement'' in 23 CFR 657.3 and as provided in 23 U.S.C. 141. The Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914) eliminated these old highway system categories and replaced them with the National Highway System (NHS) as the Federal-aid highway system for the purpose of apportioning Federal highway funds. It left unchanged the requirement in 23 U.S.C. 141 that States enforce their size and weight laws on the FAP, FAS, and FAU. Section 4006(c) of the ISTEA did preserve the Secretary's authority to designate FAP routes as part of the National Network but limited it to FAP routes in existence as of June 1, 1991. The requirements of 23 U.S.C. 141 were reflected in 23 CFR 657.15(c)(1) by requiring States to certify that their size and weight laws are being enforced on those highways which, prior to October 1, 1991, were designated as part of the FAP, FAS, and FAU. This date was selected because it is the start of the States' yearly enforcement period.

Therefore, the FHWA proposes to amend 23 CFR 657.1 to replace the reference to ''Federal-aid (FA) highways'' with ''highways which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid primary, Federal-aid secondary, or Federal-aid urban systems.'' The October 1, 1991, date is the same as that adopted in connection with the certification in 23 CFR 657.15(c)(1).

Section 657.3 Definitions

The FHWA proposes to amend the definition of ''Enforcing or Enforcement'' to delete the old references to ''Federal-aid (FA) highways'' and to replace this reference with ''highways which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid primary, Federal-aid secondary, or Federal-aid urban systems'' for the reasons noted above.

Prior to a final rule published June 13, 1994 (59 FR 30392, 30416), section 657.15(b) required States to identify and analyze enforcement efforts in ''urban areas'' not subject to State size and weight enforcement. The FHWA recognized such areas as those with a population of 5,000 or more. Since the intent of section 658.15(b) was to ensure adequate enforcement in larger cities, the 1994 final rule changed the requirement to ''urbanized areas,'' meaning those with a population of 50,000 or more. However, the 1994 rule failed to define ''urbanized areas.'' In order to clarify the intent of the change, this notice proposes to adopt a definition of ''urbanized areas'' in 23 CFR 657.3 as areas with a population of 50,000 or more, as defined in 23 U.S.C. 101.

Section 657.11 Evaluation of Operations

Prior to creation of the FMCSA, the responsibility for the enforcement of vehicle size and weight laws and regulations was a function of the Office of Motor Carriers within the FHWA. Evaluation or operations reports were forwarded through the Regional Director of Motor Carriers. After the creation of the FMCSA, various driver and vehicle safety inspection functions were transferred from the FHWA's Office of Motor Carriers to the FMCSA in a final rule published on October 19, 1999 (64 FR 56270). Not transferred, but remaining within FHWA, was enforcement of commercial motor vehicle size and weight laws and regulations. The FHWA proposes to

remove outdated references to the Office of Motor Carriers and the Regional Director of Motor Carriers in paragraphs (a) and (b). The proposed changes reflect changes to the agency's organizational structure, but do not change the intent or requirements of the section.

Section 657.15 Certification Content

The FHWA proposes to add a period after the citation, ''* * * 49 U.S.C. 31112'' in 23 CFR 657.15(b) so that the word ''Urbanized'' is the start of a new sentence. It also proposes to delete the last sentence in 23 CFR 657.15(e) because it is out of date. The requirement that laws and regulations pertaining to special permits and penalties be specifically identified and analyzed in accordance with section 123 of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2689) has been eliminated by section 3003 of the Federal Elimination and Sunset Act of 1995 (Pub. L. 104–66, 109 Stat. 1914). Therefore, the FHWA proposes to eliminate the requirement to collect this data, since it not only serves no purpose, but also is duplicative of other requirements for this information. The States would still be required to report on penalties and permits because policies and practices in regard to each would still be included as part of the State enforcement plans required pursuant to 23 CFR 657.9(b)(1)(ii) and (iii).

The FHWA is further proposing to eliminate a burdensome regulatory requirement found in section 657.15(f)(3)(iii) related to the reporting of overwidth movements for divisible loads. The requirement for States to report the number of permits issued for overwidth movement of a divisible load is no longer necessary and therefore the FHWA proposes that it be eliminated. Section 3003 of the Federal Reports Elimination and Sunset Act of 1995 (Pub. L. 104–66, 109 Stat. 707) eliminated this reporting requirement. In addition, the number of divisible overwidth permits issued by States has never been considered in determining whether a State is adequately enforcing its size and weight laws. The States have retained the authority to allow overwidth vehicles on the National Network by requiring a permit, and may issue any number of such permits on any basis that is deemed appropriate. Consequently, eliminating the need to report on the number of divisible overwidth permits issued would relieve States of an unnecessary and burdensome reporting requirement. This requirement would be deleted from section 657.15(f)(3)(iii).

Section 657.17 Certification Submittal

References to the Office of Motor Carriers in 657.17(a) and (b) would be replaced in this proposed rule by references to the FHWA. In addition, the references in 657.17(b) to the ''Office of Motor Carriers'' and ''Associate Administrator for Motor Carriers'' would be eliminated, because those positions no longer exist.

Section 657.19 Effect of Failure To Certify or To Enforce State Laws Adequately

The FHWA proposes to amend this section to replace the outdated reference to ''Federal-aid highways.'' The requirements in this section apply not to current Federal-aid highways (which comprise the National Highway System (NHS)), but to highways which, prior to October 1, 1991, were designated as part of the Federal-aid primary (FAP), Federal-aid secondary, (FAS) and Federal-aid urban (FAU) systems.

The second Federal-aid reference is correct because it refers to Federal-aid funds for the NHS that would be withheld if a State failed to adequately enforce its size and weight limits on highways that, prior to October 1, 1991, were designated as the FAP, FAS, and FAU systems.

Part 658

Section 658.5 Definitions

The current definition for ''Commercial motor vehicle'' was issued in a final rule published March 12, 2004 (69 FR 11994) and excluded RVs during the relatively small amounts of time when they are operated for a commercial purpose, such as being driven from a manufacturer to a dealer. However, the definition as currently written is flawed because it would exclude them only when ''operated'' as RVs, i.e., when used for a private recreational purpose. As a result, RVs operated for a commercial purpose remained CMVs subject to Federal width limits. The FHWA is proposing to amend the definition to clarify those movements that include transportation to/from the manufacturer for customer delivery, sale, or display purposes are not subject to the provisions of this part. The FHWA believes that the rare occasions and limited periods of time in which a recreational vehicle is operated to/from the manufacturer does not change the characteristic of a vehicle enough to merit inclusion in the regulation. The FHWA invites comments on the possible safety effects of this proposed change.

The definition of ''nondivisible'' load or vehicle'' provides criteria to determine whether or not a load is nondivisible. This definition is important, because with few exceptions, a State may not issue an overweight permit for a divisible load. This notice proposes to expand these criteria to include vehicles loaded with salt, sand, chemicals or a combination of these materials, to be used in spreading the materials on any winter roads, and when operating as emergency response vehicles. These vehicles may be equipped with, or without, a plow or blade in front. These vehicles would necessarily use the Interstate System while performing its duties in order to access other roads. Although these vehicles transport divisible loads and could be loaded to less than capacity in order to comply with Federal Interstate weight limits, it would be counterproductive to their mission to require them to return to their depots for reloading more often. This would render them less effective in responding to emergency road conditions. In addition, the vehicles would be overweight for only a portion of their movement, since the load would be reduced as the material was deployed.

The FHWA has recognized the importance of treating snow or ice-covered highways quickly and efficiently. The proposed revision to the definition of ''non-divisible load or vehicle'' will facilitate the ability of States to meet emergency snow and ice conditions through the issuance of special overweight permits for emergency response vehicles. This proposed change would not extend to vehicles transporting sand, salt, and/or chemicals for other purposes than those specified above. The FHWA believes that this proposed change would be a reasonable action, balancing the safety of the motoring public during harsh winter weather against the effects of a temporarily overweight snow and ice removal vehicle. FHWA invites public comment on this proposed change to the regulations.

Section 4141 of SAFETEA–LU amended section 31111(a) of title 49, United States Code, to include a definition of ''Drive-away Saddlemount with Fullmount Vehicle Transporter Combination'' and to impose a vehicle length limitation of not less than or more than 97 feet on a drive-away saddlemount with fullmount vehicle transporter combinations. The SAFETEA–LU section 4141 defines the term ''Drive-away Saddlemount with Fullmount Vehicle Transporter Combination'' to mean ''a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to

the frame or fifth-wheel of the forward vehicle of the truck or truck tractor in front of it.'' House committee staff that drafted the amendment alerted the FHWA that the lack of reference in the definition to the fullmount vehicle was intended to expand the term to include saddlemount combinations with or without fullmount. The FHWA believes that this is a reasonable interpretation of the SAFETEA–LU provision. As a result, the FHWA proposes to add the definition of ''Drive-away Saddlemount Vehicle Transporter Combination'' to its regulations, omitting the term fullmount, and amend its regulations at 23 CFR part 658 to extend the 97 foot length limitation to all drive-away saddlemount vehicle combinations that are specifically designed to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the forward vehicle of the truck or truck tractor in front of it.

Section 347 of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7, 117 Stat. 419) included ''over-the-road bus(es)'' in the temporary exemption already provided for transit vehicles that allows them to exceed established Federal Interstate axle weights during Interstate operations. Section 658.5, however, does not contain a definition of ''over-the-road bus.'' The FHWA therefore proposes incorporating the previously established definition of ''over-the-road bus'' found in section 12181(5) of title 42, United States Code into § 658.5.

Section 658.13 Length

Section 4112 of SAFETEA–LU explicitly adds special rules for certain property-carrying units operating in Nebraska. Specifically, truck-tractors pulling trailers or semitrailers, used to transport custom harvester equipment during harvest months, may be allowed to operate on Nebraska highways at a length of up to 81 feet, 6 inches. The FHWA therefore proposes to amend § 658.13 to reflect this statutory change.

Section 4141 of SAFETEA–LU amended 49 U.S.C. 31111(a) and (b) by inserting a definition of ''Drive-away Saddlemount with Fullmount Vehicle Transporter Combination'' and preempted the States from prescribing or enforcing a regulation that ''imposes a vehicle length limitation of not less than or more than 97 feet'' on these vehicle combinations. As discussed above, the FHWA is proposing to amend the specialized equipment provision § 658.13(e)(1)(iii) to incorporate this statutory length limit that is now applicable to drive-away saddlemount vehicle transporter combinations.

Section 658.15 Width

Section 658.15(c)(2) currently exempts recreational vehicles from width limitations. Because, as discussed above, the FHWA is proposing to amend 23 CFR 658.5 to eliminate any Federal role in regulating the width of RVs as commercial motor vehicles, the agency is also proposing to eliminate this paragraph.

Section 658.17 Weight

Section 347 of the Consolidated Appropriations Resolution, 2003 (Pub. L. 108–7, 117 Stat. 419) included over-the-road buses in the temporary exemption for transit vehicles. The definition of over-the-road bus used is that found in section 12181(5) of title 42, United States Code. Section 1309 of SAFETEA–LU extended the temporary exemption until October 1, 2009. Subsequently, the Transportation, Treasury, Housing and Urban Development, the Judiciary, the District of Columbia, and Independent Agencies Appropriations Act of 2006 (Pub. L. 109–115, 199 Stat. 2396) provided that a covered State, or any political subdivision in such State, may not enforce a single axle weight limitation of less than 24,000 pounds, including enforcement tolerances, on any transit or over-the-road bus. A ''covered state'' means a State that has enforced, in the period beginning October 6, 1992, and ending on November 30, 2005, a single axle weight limitation of 20,000 pounds or greater but less than 24,000 pounds. As a result, the FHWA proposes to amend the regulations in order to reflect the new, 24,000-pound axle weight provision mandated by Congress.

The Energy Policy Act of 2005 (Pub. L. 109–58, 119 Stat. 594) amended 23 U.S.C. 127(a) to allow an increase in the Federal weight limits by up to 400 pounds to account for idle reduction systems or auxiliary power units installed in any heavy-duty vehicle. The intent of this provision is to promote the use of technologies that reduce fuel consumption and emissions that result from engine idling. To qualify for this exception, drivers must present proof by demonstration and/or certification from the manufacturer, that the idle reduction technology is functional at all times, does not exceed 400 pounds gross weight (including fuel), and that the unit cannot be used for any other purpose. The FHWA is therefore proposing regulations to implement the standards for certification and weight tolerances of this new statutory provision. The FHWA encourages public comment on how the certification and demonstration required by this provision might best be carried out by State enforcement authorities or other sources.

Section 658.23 LCV Freeze; Cargo-Carrying Unit Freeze

As previously noted, prior to creation of the FMCSA, the responsibility for the enforcement of vehicle size and weight laws and regulations was a function delegated to the Office of Motor Carriers within the FHWA. After the creation of the FMCSA, various driver and vehicle safety inspection functions were transferred from the FHWA and the Office of Motor Carriers was eliminated. Consequently, the FHWA proposes to replace obsolete references to the Office of Motor Carriers with references to the FHWA.

Appendix A to 23 CFR 658—National Network—Federally-Designated Routes

Section 411(e)(1) of the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424, 96 Stat. 2100) authorized the Secretary to designate Federal-Aid Primary (FAP) routes (including the Interstate System) where States must allow vehicles subject to Federal length and width requirements to operate. The resulting ''National Network'' is shown in appendix A to 23 CFR part 658. However, the explanatory column headings in appendix A currently contain an improper reference to the Federal-aid Primary highways.

This heading is not only incorrect but also unnecessary. It is incorrect because the final rule implementing the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA) (Pub. L. 102–240, 105 Stat. 1914) published June 13, 1991 (59 FR 30392) noted that, ''The ISTEA [in section 4006(c)] effectively replaced what had been known as the FAP system with the NHS (National Highway System).'' Thus, it is inappropriate to refer to the Federal-aid Primary Highway as it no longer exists. Further, the explanation is unnecessary because there is no need to indicate how the routes were derived since they are specifically listed. Therefore, the FHWA proposes to revise the explanatory heading of the columns in appendix A to read as follows:

[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional highways.]

Similarly, the listing for 16 States (AR, CO, IN, KS, LA, MS, MT, NE, NV, OH, OK, SD, TX, UT, WA, and WY) in appendix A are followed by an explanatory statement that reads as follows:

No additional routes have been federally designated; STAA dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law.

This statement is incorrect because there are no longer any highways designated as FAP, however highways on the National Network have not been specifically listed for these States so a general description is necessary. As noted earlier, the ISTEA preserved the Secretary's authority to designate National Network routes from FAP routes in existence as of June 1, 1991. Therefore, the FHWA proposes to revise the explanatory statement to read as follows:

No additional routes have been federally designated; STAA dimensioned commercial vehicles may legally operate on all highways which, prior to June 1, 1991, were designated as Federal-aid Primary highways.

The State of New Mexico has notified the FHWA of route number changes for routes on its portion of the National Network. These changes are numerical only and will not change the original network. The FHWA is therefore proposing to amend appendix A to reflect these route number changes. A portion of NM 550 has been re-designated NM 516, U.S. 80 has been re-designated NM 80, U.S. 64 now terminates at NM 516 Farmington, and U.S. 666 has been re-designated as NM 491.

Appendix B to Part 658—Grandfathered Semitrailer Lengths

Footnotes 1, 2, and 3 in appendix B to 23 CFR 658 refer to 23 CFR 658.13(h). However, section 658.13 was reorganized in a previous rulemaking action, at 67 FR 15110, March 29, 2002, and the provisions that formerly appeared in paragraph (h) are now found in paragraph (g). The footnotes will be corrected accordingly.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable. In addition to late comments, the FHWA will also continue to file relevant information in the docket as it becomes available after the comment period closing date, and interested persons should continue to examine the docket for new material. A final rule may be published at any time after close of the comment period.

Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

The FHWA has determined preliminarily that this action is not a significant regulatory action within the meaning of Executive Order 12866 and would not be significant within the meaning of the U.S. Department of Transportation's regulatory policies and procedures. This proposed rule will not adversely affect, in a material way, any sector of the economy. This proposed action changes out-dated references to offices within the FHWA and updates the current regulations to reflect changes made by the Congress in SAFETEA–LU and other recent legislation. Additionally, this proposed action would add various definitions; correct obsolete references, definitions, and footnotes; eliminate redundant provisions; amend numerical route changes to the National Highway designations; and incorporate a statutorily mandated weight limit provision. There will not be any additional costs incurred by any affected group as a result of this rule. In addition, these proposed changes 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. Consequently, a regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601–612), we have evaluated the effects of this proposed action on small entities and have determined that the proposed action would not have a significant economic impact on a substantial number of small entities. The FHWA certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 13132 (Federalism)

This proposed action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132, and the FHWA has preliminarily determined that this proposed action would not warrant the preparation of a Federalism assessment. Any federalism implications arising from this proposed rule are attributable to SAFETEA–LU sections 4112 and 4141. The FHWA has determined that this proposed action would not affect the States' ability to discharge traditional State government functions.

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. Accordingly, the FHWA solicits comments on this issue.

Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct, sponsor, or require through regulations. The FHWA has determined that this proposal does not contain collection of information requirements for the purposes of the PRA.

Unfunded Mandates Reform Act of 1995

This proposed rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 109 Stat. 48). This proposed rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $120.7 million or more in any one year. (2 U.S.C. 1532) Further, in compliance with the Unfunded Mandates Reform Act of 1995, the FHWA will evaluate any regulatory action that might be proposed in subsequent stages of the proceeding to assess the effects on State, local, and tribal governments and the private sector.

Executive Order 12988 (Civil Justice Reform)

This proposed 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)

The FHWA has analyzed this proposed action under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. The FHWA certifies that this proposed action would not cause any environmental risk to health or safety that may disproportionately affect children.

Executive Order 12630 (Taking of Private Property)

The FHWA has analyzed this proposed rule under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. The FHWA does not anticipate that this proposed action would affect a taking of private property or otherwise have taking implications under Executive Order 12630.

National Environmental Policy Act

The FHWA has analyzed this proposed action for the purposes of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321–4347) and has determined that this proposed action will not have any effect on the quality of the environment.

Executive Order 13175 (Tribal Consultation)

The FHWA has analyzed this action under Executive Order 13175, dated November 6, 2000, and believes that the proposed action would not have substantial direct effects on one or more Indian tribes; would not impose substantial 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 proposed 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 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 Parts 657 and 658

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

Issued on: April 21, 2006.

Frederick G. Wright,

Federal Highway Administration Executive Director.

In consideration of the foregoing, the FHWA proposes to amend Chapter I of title 23, Code of Federal Regulations, by revising Parts 657 and 658, respectively, as set forth below.

PART 657—CERTIFICATION OF SIZE AND WEIGHT ENFORCEMENT

1. Revise the authority citation for part 657 to read as follows:

Authority: Sec. 123, Pub. L. 95–599, 92 Stat. 2689, 23 U.S.C. 127, 141 and 315; 49 U.S.C. 31111, 31113 and 31114; sec. 1023, Pub. L. 102–240, 105 Stat. 1914; and 49 CFR 1.48(b)(19), (b)(23), (c)(1) and (c)(19).

2. Revise § 657.1 to read as follows:

§ 657.1 Purpose.

To prescribe requirements for administering a program of vehicle size and weight enforcement on highways which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid Primary, Federal-aid Secondary, or Federal-aid Urban Systems, including the required annual certification by the State.

3. Revise § 657.3 to read as follows:

§ 657.3 Definitions.

Unless otherwise specified in this part, the definitions in 23 U.S.C. 101(a) are applicable to this part. As used in this part:

Enforcing or *Enforcement* means all actions by the State to obtain compliance with size and weight requirements by all vehicles operating on highways which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid Primary, Federal-aid Secondary, or Federal-aid Urban Systems.

Urbanized area means an area with a population of 50,000 or more.

4. Revise the first sentence of paragraph (a) and revise paragraph (b) of § 657.11 to read as follows:

§ 657.11 Evaluation of operations.

(a) The State shall submit its enforcement plan or annual update to the FHWA Division Office by July 1 of each year. * * *

(b) The FHWA shall review the State's operation under the accepted plan on a continuing basis and shall prepare an evaluation report annually. The State will be advised of the results of the evaluation and of any needed changes in the plan itself or in its implementation. Copies of the evaluation reports and subsequent modifications resulting from the evaluation shall be forwarded to the FHWA's Office of Operations.

5. Revise paragraphs (b), (e), and (f)(3)(iii) of § 657.15 to read as follows:

§ 657.15 Certification content.

* * * * *

(b) A statement by the Governor of the State, or an official designated by the Governor, that all State size and weight limits are being enforced on the Interstate System and those routes which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid Primary, Urban, and Secondary Systems, and that the State is enforcing and complying with the provisions of 23 U.S.C. 127(d) and 49 U.S.C. 31112. Urbanized areas not subject to State jurisdiction shall be identified. The statement shall include an analysis of enforcement efforts in such areas.

* * * * *

(e) A copy of any State law or regulation pertaining to vehicle size and weights adopted since the State's last certification and an analysis of the changes made.

(f) * * *

(3) * * *

(iii) *Permits.* The number of permits issued for overweight loads shall be reported. The reported numbers shall specify permits for divisible and nondivisible loads and whether issued on a trip or annual basis.

6. Revise § 657.17 to read as follows:

§ 657.17 Certification submittal.

(a) The Governor, or an official designated by the Governor, shall submit the certification to the FHWA division office prior to January 1 of each year.

(b) The FHWA division office shall forward the original certification to the FHWA's Office of Operations and one copy to the Office of Chief Counsel. Copies of appropriate evaluations and/or comments shall accompany any transmittal.

7. Revise § 657.19 to read as follows:

§ 657.19 Effect of failure to certify or to enforce State laws adequately.

If a State fails to certify as required by this regulation or if the Secretary determines that a State is not adequately enforcing all State laws respecting maximum vehicle sizes and weights on highways which, prior to October 1, 1991, were designated as part of the Federal-aid Interstate, Federal-aid primary, Federal-aid secondary or Federal-aid urban systems, notwithstanding the State's certification, the Federal-aid funds for the National Highway System apportioned to the

State for the next fiscal year shall be reduced by an amount equal to 10 percent of the amount which would otherwise be apportioned to the State under 23 U.S.C. 104, and/or by the amount required pursuant to 23 U.S.C. 127.

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

8. The authority citation for part 658 continues 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).

9. Amend § 658.5 by revising the definition of ''commercial motor vehicle'' and paragraph (2) of the definition of ''nondivisible load or vehicle''; and adding definitions of ''drive-away saddlemount vehicle transporter combinations'' and ''over-the-road bus'' to read as follows:

§ 658.5 Definitions.

* * * * *

Commercial motor vehicle. For purposes of this regulation, a motor vehicle designed or regularly used to carry freight, merchandise, or more than ten passengers, whether loaded or empty, including buses, but not including vehicles used for vanpools, or recreational vehicles.

Drive-away saddlemount vehicle transporter combination. The term drive-away saddlemount vehicle transporter combination means a vehicle combination designed and specifically used to tow up to 3 trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the forward vehicle of the truck tractor in front of it. Such combinations may include up to one fullmount.

* * * * *

Nondivisible load or vehicle.

(1) * * *

(2) A State may treat as nondivisible loads or vehicles: Emergency response vehicles, including those loaded with salt, sand, chemicals or a combination thereof, with or without a plow or blade attached in front, and being used for the purpose of spreading the material on highways that are or may become slick or icy; casks designed for the transport of spent nuclear materials; and military vehicles transporting marked military equipment or materiel.

Over-the-road bus. The term over-the-road bus means a bus characterized by an elevated passenger deck located over a baggage compartment, and typically operating on the Interstate System or roads previously designated as making up the Federal-aid Primary System.

* * * * *

10. Amend § 658.13 by revising paragraph (e)(1)(iii) and by adding paragraph (h) to read as follows:

§ 658.13 Length.

* * * * *

(e) * * *

(1) * * *

(iii) Drive-away Saddlemount vehicle transporter combinations are considered to be specialized equipment. No State shall impose an overall length limit of less or more than 97 feet on such combinations. This provision applies to drive-away saddlemount combinations with up to three saddlemounted vehicles. Such combinations may include one fullmount. Saddlemount combinations must also comply with the applicable motor carrier safety regulations at 49 CFR 393.71.

* * * * *

(h) Truck-tractors, pulling 2 trailers or semitrailers, used to transport custom harvester equipment during harvest months within the State of Nebraska may not exceed 81 feet 6 inches.

11. Revise paragraph (c) of § 658.15 to read as follows:

§ 658.15 Width.

* * * * *

(c) Notwithstanding the provisions of this section or any other provision of law, a State may grant special use permits to motor vehicles, including manufactured housing, that exceed 102 inches in width.

12. In § 658.17, revise paragraph (k) and add paragraph (n) to read as follows:

§ 658.17 Weight.

* * * * *

(k) Any over-the-road bus, or any vehicle which is regularly and exclusively used as an intrastate public agency transit passenger bus, is excluded from the axle weight limits in paragraphs (c) through (e) of this section until October 1, 2009. Any State that has enforced, during the period beginning October 6, 1992 and November 30, 2005, a single axle weight limitation of 20,000 pounds or greater but less than 24,000 pounds may not enforce a single axle weight limit on these vehicles of less than 24,000 pounds.

* * * * *

(n) Any vehicle subject to this subpart that utilizes an auxiliary power or idle reduction technology unit in order to promote reduction of fuel use and emissions because of engine idling, may be allowed up to an additional 400 pounds total in gross, axle, and/or tandem axle weights. To be eligible for this exception, the operator of the vehicle must be able to prove, by demonstration and/or certification from the manufacturer, that the idle reduction technology is functional at all times, does not exceed 400 pounds gross weight (including fuel), and that the 400 pound weight increase is not used for any other purpose. Such certification must be available to law enforcement officers at all times.

13. Revise paragraphs (c) and (e) of § 658.23 to read as follows:

§ 658.23 LCV freeze; cargo-carrying unit freeze.

* * * * *

(c) For specific safety purposes and road construction, a State may make minor adjustments of a temporary and emergency nature to route designation and vehicle operating restrictions applicable to combinations subject to 23 U.S.C. 127(d) and 49 U.S.C. 31112 and in effect on June 1, 1991 (July 6, 1991, for Alaska). Adjustments which last 30 days or less may be made without notifying the FHWA. Minor adjustments which exceed 30 days require approval of the FHWA. When such adjustments are needed, a State must submit to the FHWA, by the end of the 30th day, a written description of the emergency, the date on which it began, and the date on which it is expected to conclude. If the adjustment involves route designations the State shall describe the new route on which vehicles otherwise subject to the freeze imposed by 23 U.S.C. 127(d) and 49 U.S.C. 31112 are allowed to operate. To the extent possible, the geometric and pavement design characteristics of the alternate route should be equivalent to those of the highway section which is temporarily unavailable. If the adjustment involves vehicle operating restrictions, the State shall list the restrictions that have been removed or modified. If the adjustment is approved, the FHWA will publish the notice of adjustment, with an expiration date, in the **Federal Register**. Requests for extension of time beyond the originally established conclusion date shall be subject to the same approval and publications process as the original request. If upon consultation with the FHWA a decision is reached that minor adjustments made by a State are not legitimately attributable to road or bridge construction or safety, the FHWA will inform the State, and the original conditions of the freeze may be reimposed immediately. Failure to do so may subject the State to a penalty pursuant to 23 U.S.C. 141.

* * * * *

(e) States further restricting or prohibiting the operation of vehicles subject to 23 U.S.C. 127(d) and 49 U.S.C. 31112 after June 1, 1991, shall notify the FHWA within 30 days after the restriction is effective. The FHWA will publish the restriction in the **Federal Register** as an amendment to appendix C to this part. Failure to provide such notification may subject the State to a penalty pursuant to 23 U.S.C. 141.

* * * * *

Appendix A to Section 658—National Network—Federally Designated Routes

14. Amend appendix A to part 658 as follows:

A. By removing the words ''[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional highways.]'' and adding, in their place, the words ''[The federally-designated routes on the National Network consist of the Interstate System, except as noted, and the following additional highways.]'' in each place that they appear;

B. By removing the explanatory phrase ''No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all Federal-aid Primary highways under State law'' for the States of Arkansas, Colorado, Indiana, Kansas, Louisiana, Mississippi, Montana, Nebraska, Nevada, Ohio, South Dakota, Texas, Utah, Washington, and Wyoming, and add, in its place, the words, ''No additional routes have been federally designated; STAA-dimensioned commercial vehicles may legally operate on all highways which, prior to June 1, 1991, were designated as Federal-aid primary highways.'';

C. By revising the entries for ''New Mexico'' to read as follows:

NEW MEXICO

US 56	I–25 Springer	OK State Line.
US 60	AZ State Line	I–25 Socorro.
US 62	U.S. 285 Carlsbad	TX State Line.
US 64	AZ State Line	NM 516 Farmington.
US 70	AZ State Line	I–10 Lordsburg.
US 70	I–10 Las Cruces	U.S. 54 Tularosa.
US 70	U.S. 285 Roswell	U.S. 84 Clovis.
NM 80	AZ State Line	I–10 Road Forks.
US 84	TX State Line Clovis	CO State Line.
US 87	U.S. 56 Clayton	TX State Line.
US 160	AZ State Line (Four Corners).	CO State Line.
US 285	TX State Line s. of Carlsbad.	CO State Line.
NM 491	1–40 Gallup	CO State Line.
US 516	U.S. 64 Farmington	U.S. 550 Aztec.
US 550	NM 516 Aztec	CO State Line.
US 666	I–40 Gallup	CO State Line.

Appendix B to Part 658—Grandfathered Semitrailer Lengths

15. Amend appendix B to Part 658 in footnotes 1,2, and 3 by removing the reference ''23 CFR 658.13(h)'' and by adding in its place ''23 CFR 658.13(g)'' each place it appears.

[FR Doc. E6–6422 Filed 4–28–06; 8:45 am]

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DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–06–033]

RIN 1625–AA08

Special Local Regulations for Marine Events; Pamlico River, Washington, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish temporary special local regulations for the ''SBIP—Fountain Powerboats Kilo Run and Super Boat Grand Prix'', a marine event to be held August 4 and August 6, 2006, on the waters of the Pamlico River, near Washington, North Carolina. These special local regulations are necessary to provide for the safety of life on navigable waters during the event. This action is intended to restrict vessel traffic in portions of the Pamlico River during the event.

DATES: Comments and related material must reach the Coast Guard on or before May 31, 2006.

ADDRESSES: You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 119 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, fax them to (757) 398–6203, or e-mail them to *Dennis.M.Sens@uscg.mil*. The Inspections and Investigations Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–06–033), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.