



U.S. Department
of Transportation

Federal Motor Carrier
Safety Administration

400 - Seventh St., SW
Washington, DC 20590

SEP 26 2003

Refer to: MC-PSV

Mr. Fred Stringfellow
Executive Director
Web Sling & Tie Down Association
2105 Laurel Bush Road, Suite 200
Bel Air, MD 21015

Dear Mr. Stringfellow:

Thank you for your July 14 letter requesting that the Federal Motor Carrier Safety Administration (FMCSA) issue a clarification of §§ 393.104(f)(3) and (4) of the agency's new cargo securement rules. You believe the rules could be interpreted as prohibiting the use of certain tiedowns after January 1, 2004.

While we agree that it is very important to ensure uniform enforcement of the new cargo securement rules, we do not believe §§ 393.104(f)(3) and (4) will cause confusion to such an extent that regulatory guidance is needed. Section 393.104(f)(3) requires that each tiedown must be attached and secured in a manner that prevents it from becoming loose, unfastening, opening or releasing while the vehicle is in transit. We consider this to be a performance-based requirement that existing cargo securement devices should meet. If a tiedown assembly were of the type that the tiedown were likely to become loose, unfasten, open or release while the vehicle is in transit it would represent an "unsafe operation" (49 CFR 396.7). Section 396.7 prohibits the operation of a commercial motor vehicle that is in such a condition as to likely cause an accident or a breakdown of the vehicle. Since § 396.7 effectively prohibits the operation of a vehicle with a load secured by devices that are not likely to remain properly adjusted, we believe § 393.104(f)(3) reinforces the obvious. We will work with the enforcement agencies to ensure to the greatest extent practicable, a common understanding of the regulatory requirements.

With regard to § 393.104(f)(4), we do not believe the term "practicable" requires clarification. The term is commonly used in Federal safety regulations applicable to the manufacture and operation of commercial motor vehicles and should not be construed to have a meaning other than how it is used in other regulations. In the context of § 393.104(f)(4), the practicability provision is applicable only to motor carriers, not vehicle and equipment manufacturers. While we encourage vehicle and equipment manufacturers to design and build commercial vehicles and the anchor points on such vehicles (including winch assemblies and other securement points) so that motor carriers can keep the tiedowns inboard of the rub rails, the Final Rule does not require them to do so. The Final Rule does not prohibit the operation of commercial vehicles with anchor points or other securement points that would necessitate attaching the tiedowns outboard of the rub rails. Therefore, motor carriers are not required to replace existing equipment

to comply with § 393.104(f)(4). However, if the anchor points or other securement points are such that there is no readily apparent reason the chains or synthetic webbing could not have been kept inboard of the rub rails, then having them outboard of the rub rails would be a violation of § 393.104(f)(4) on or after January 1, 2004.

We hope this information is helpful. If you have additional questions or concerns you may contact Larry W. Minor, Chief of FMCSA's Vehicle and Roadside Operations Division, at 202-366-4012, or e-mail him at larry.minor@fmcsa.dot.gov.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'R. Proferes', with a long horizontal flourish extending to the right.

Robert F. Proferes
Director, Office of Bus and Truck
Standards and Operations