



## **Notice of Enforcement Discretion**

### Temporary Exclusion from Truck Length and Width Limitations

#### Camera Monitoring Systems

U.S. Department of Transportation

Federal Highway Administration

As a general matter, Federal statutes at 49 U.S.C. 31111 and 31113, and implementing regulations at 23 CFR part 658, establish the applicable length and width limitations that States must enforce with respect to commercial motor vehicles operating on the National Network. In general, these limitations include prohibiting States from limiting the length of the semitrailer in a truck tractor-semitrailer combination to less than 48 feet and imposing a width limitation of more or less than 102 inches. The specific limitations that apply to States and various classifications of commercial motor vehicle are specified in 23 CFR 658.13 and 658.15. The Federal Highway Administration (FHWA) regulation at 23 CFR 658.16 excludes certain specified vehicle components from the length and width limitations, including rear view mirrors. Pursuant to 23 U.S.C. 141 and implementing regulations at 23 CFR part 657, States must certify annually to FHWA that they are adequately enforcing laws applicable to commercial motor vehicle size and weight (including length and width) or face a penalty of reduced Federal-aid highway apportionments equal to seven percent for the fiscal year.

The regulatory exclusion for rear view mirrors at 23 CFR 658.16(b)(1) from commercial motor vehicle length and width requirements is a long-standing exclusion. This exclusion was included in the original codification of 23 CFR part 658 in 1984 (49 CFR 23302), and was based on a standard general policy adopted by the FHWA in 1979 (44 FR 37710) and the States through the American Association of State Highway and Transportation Officials (AASHTO) in 1963 (see general discussion in 65 FR 50471 (2000)). Rear view mirrors are excluded from length and width requirements because these devices are necessary for the safe operation of the vehicles, and are required under National Highway Traffic Safety Administration (NHTSA) and Federal Motor Carrier Safety Administration (FMCSA) regulations implementing Federal Motor Vehicle Safety Standard (FMVSS) No. 111 (49 CFR 571.111).

The regulatory list of exclusions at 23 CFR 658.16 has not kept pace with the development of technology. In particular, camera monitoring systems (CMS) are being designed to be used in place of, or supplementary to, rear view mirrors. For example, on February 21, 2019 (84 FR 5557), the FMCSA announced a 5-year exemption to allow motor carriers to operate CMVs with certain CMS installed as an alternative to the two rear-vision mirrors required by Federal Motor Carrier Safety regulations. FMCSA determined that granting the exemption to allow use of this system in lieu of mirrors would likely achieve a level of safety equivalent to or greater than the level of safety provided by the regulation. In doing so, FMCSA provided that no State shall enforce any law or regulation applicable to interstate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Accordingly, in order to avoid conflict with FMCSA's safety determination, the FHWA will not penalize States for the non-enforcement of the applicable length and width requirements with respect to any CMS technology that is approved by NHTSA and/or FMCSA. Furthermore, FHWA will not

penalize States for the non-enforcement of the applicable length and width requirements with respect to CMS accessories not inconsistent with or prohibited by 49 CFR part 393, Subpart A. This non-enforcement posture applies provided such equipment and accessories do not decrease the safe operation of the motor vehicle under regulations administered by NHTSA and/or FMCSA. As provided in the U.S. Department of Transportation's regulatory agenda, the FHWA intends to update 23 CFR part 658, and will consider appropriate updates to accommodate CMS technology with length and width requirements. This determination is in effect until further notice or the duration of FMCSA's exemption, whichever is shorter.

This notice has no impact or effect on the implementation, administration, interpretation, or enforcement of NHTSA or FMCSA regulations, policy, or guidance. Any questions about NHTSA or FMCSA regulations, policy, or guidance should be directed to those agencies, as appropriate.