



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2015-0111]

Parts and Accessories Necessary for Safe Operation; Ford Motor Company

Application for an Exemption

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The Federal Motor Carrier Safety Administration (FMCSA) announces its decision to grant Ford Motor Company's (Ford) exemption application to allow motor carriers to operate Ford's Transit-based commercial motor vehicles (CMVs) that do not meet the exhaust system location requirements in the Federal Motor Carrier Safety Regulations (FMCSRs). The FMCSRs require (1) the exhaust system of a bus powered by a gasoline engine to discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus and (2) the exhaust system of every truck and truck tractor to discharge to the atmosphere at a location to the rear of the cab or, if the exhaust projects above the cab, at a location near the rear of the cab. Although the Ford Transit does not meet these requirements, it has undergone performance-based testing which demonstrates that the exhaust system achieves a level of safety equivalent to or greater than the level of safety that would be obtained by complying with the regulation. Ford performed carbon monoxide (CO) concentration tests which used CO monitors at various locations within the vehicle to measure the concentration of CO ingress into the occupant compartment

(from the vehicles' own powertrain and exhaust system) under various driving conditions including idle and top speed. The tests showed that the resulting CO concentration is below every threshold used by Federal agencies. FMCSA has concluded that the limited 2-year exemption will achieve a level of safety equivalent to or greater than the level of safety provided by the rule restricting the location of exhaust systems on CMVs to ensure that exhaust fumes will not affect the driver's alertness or health or the health of passengers.

DATES: This exemption is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE TWO YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mr. Luke Loy, Vehicle and Roadside Operations Division, Office of Carrier, Driver, and Vehicle Safety, MC-PSV, (202) 366-0676, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001.

Docket: For access to the docket to read background documents or comments submitted to notice requesting public comments on the exemption application, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue, SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line Federal document management system is available 24 hours each day, 365 days each year. The docket number is listed at the beginning of this notice.

SUPPLEMENTARY INFORMATION:

Background

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The notice must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Ford's Application for Exemption

Ford applied for an exemption from 49 CFR 393.83 to allow motor carriers to operate Ford-manufactured Transit-based CMVs that do not comply with the exhaust system location requirements. A copy of the application is included in the docket referenced at the beginning of this notice.

Section 393.83, "Exhaust systems," includes requirements regarding the location of exhaust systems on CMVS to ensure that exhaust fumes will not affect the driver's alertness or health or the health of passengers. Specifically, § 393.83(c) states

that “[t]he exhaust system of a bus powered by a gasoline engine shall discharge to the atmosphere at or within 6 inches forward of the rearmost part of the bus”; § 393.83(e) states that “[t]he exhaust system of every truck and truck tractor shall discharge to the atmosphere at a location to the rear of the cab or, if the exhaust projects above the cab, at a location near the rear of the cab.”

Ford noted in its application that, while its Transit-based CMVs may not satisfy the specific exhaust system location requirements of § 393.83, it has several internal requirements applicable to the design of the tailpipe system that ensure the system will provide high levels of safety for its customers. According to the application:

. . . Ford’s requirements address passenger compartment exhaust gas intrusion and management of high temperature components. These requirements include testing of the system and basic design requirements for the location of the tailpipe in relation to underbody components like the brake lines and fuel lines.

Most significantly Ford uses internal performance based tests that demonstrate the system achieves a level of safety equivalent to or greater than, the level of safety that would be obtained by complying with the regulation. The main test of interest is the Carbon Monoxide Concentration test. This performance based test uses CO monitors at various locations in the vehicle to measure the concentration of CO ingress into the occupant compartment (from vehicles’ own powertrain and exhaust system) under various driving conditions including idle and top speed.

Ford tested the 2015 model year Transit in accordance with “Ford global common engineering test procedures,” which limits carbon monoxide (CO) levels to 27 parts-per-million (ppm) for a 30 minute Time Weighted Average (TWA) during continuous driving. Ford stated that the 27 ppm limit is based on the Environmental Protection Agency’s (EPA) Acute Exposure Guideline Level limits for CO exposure for 8 hour TWA, which is more severe than both the Occupational Safety & Health Administration’s (OSHA) permissible exposure limit of 50 ppm for an 8 hour TWA and the National Institute of Occupational Safety and Health’s (NIOSH) permissible exposure

limit of 35 ppm for a 10 hour TWA. Under “worst-case conditions,” Ford measured the CO level to be 17 ppm for the Model year 2015 Transit, well below the EPA, OSHA, and NIOSH limits.

Additionally Ford stated that it has internal requirements to establish the appropriate clearance required between a vehicle and the ground to meet a minimum level of on-road functionality. Ford has specific departure angle requirements for their vehicle to reduce tailpipe contact with the ground, curbs, ramps, etc., during various driving modes which may result in damage to the exhaust system that may adversely affect the exhaust function.

FMCSA published a notice of the application in the Federal Register on April 17, 2015, and asked for public comment (80 FR 21294).

Comments

The Agency received one comment, from an anonymous commenter. The commenter expressed concern “that over time after the vehicle is initially manufactured, the exhaust system will be subject to wear and tear and as such may not perform to the same standard that it did upon original manufacture. Although Ford was able to demonstrate that the system was able to detect potentially dangerous situations with the exhaust at the time of manufacture, we will truly have no understanding of how that system will perform 10 or 15 years later.”

FMCSA Response

FMCSA acknowledges the commenter’s concern that exhaust systems, like other vehicle components and equipment, are subject to wear and tear as vehicles age. However, 49 CFR part 396 requires a motor carrier to systematically inspect, repair, and

maintain all motor vehicles subject to its control (§ 396.3(a)), and ensure that all parts and accessories are in safe and proper operating condition at all times (§ 396.3(a)(1)). Further, § 396.17 requires every CMV to be inspected at least once every 12 months in accordance with the provisions of Appendix G to Subchapter B of Chapter III of the FMCSRs, “Minimum Periodic Inspection Standards,” which includes a review of the vehicle’s exhaust system. Finally, FMCSA expects that, as these exhaust systems wear out, vehicle owners will replace them with exhaust systems identical or equivalent to the original equipment, ensuring an equivalent level of performance.

As noted below, this temporary exemption is valid for a limited period of 2 years, and any party possessing information that would demonstrate that motor carriers using Ford Transit-based CMVS are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

FMCSA Decision

The FMCSA has evaluated the Ford exemption application. The Agency believes that granting the temporary exemption to allow the operation of Model Year 2015 Ford Transit-based gas bus models (of all gross vehicle weight ratings), vans over 10,000 pounds gross vehicle weight rating, and corresponding future Transit-based models of the same design produced during the effective period of the exemption will provide a level of safety that is equivalent to, or greater than, the level of safety achieved without the exemption. Ford conducted performance-based testing that demonstrates that

the design of the exhaust system for the Model Year 2015 and later Ford Transit CMVs (1) results in CO exposure limits that are well below EPA, OSHA, and NIOSH established thresholds, and (2) will maintain a level of safety that is equivalent to the level of safety achieved without the exemption.

Terms and Conditions for the Exemption

The Agency hereby grants the exemption for a 2-year period, beginning [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] and ending [INSERT DATE TWO YEARS FROM DATE OF PUBLICATION IN THE FEDERAL REGISTER]. During the temporary exemption period, motor carriers will be allowed to operate Model Year 2015 Ford Transit-based gas bus models (of all gross vehicle weight ratings), vans over 10,000 pounds gross vehicle weight rating, and corresponding future Transit-based models of the same design produced during the effective period of the exemption that do not meet the exhaust system location requirements. The exemption will be valid for 2 years unless rescinded earlier by FMCSA. The exemption will be rescinded if: (1) motor carriers and/or commercial motor vehicles fail to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315(b).

Interested parties possessing information that would demonstrate that motor carriers using Ford Transit-based CMVs are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any such information and, if safety is being compromised or if the continuation of the exemption is

not consistent with 49 U.S.C. 31136(e) and 31315(b), will take immediate steps to revoke the exemption.

Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating a vehicle covered by the exemption.

Issued on August 5, 2015.

T.F. Scott Darling, III
Chief Counsel

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