



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
NATIONAL VEHICLE AND FUEL EMISSIONS LABORATORY
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OFFICE OF
AIR AND RADIATION

October 18, 2019

CD-19-10 (LDV and LDT)

**SUBJECT: Low Volume Manufacturer Specially Produced Motor Vehicle Exemption
from Certification Testing**

Dear Manufacturer:

The purpose of this letter is to describe Clean Air Act (CAA)-related requirements imposed by the FAST Act and the process that EPA recommends manufacturers follow when seeking to rely on the low-volume manufacturer specially produced motor vehicle certification testing exemption.

On December 4, 2015, the “Fixing America’s Surface Transportation” (FAST) Act (Pub. L. No. 114-94) was signed into law. In addition to providing funding for transportation infrastructure, the FAST Act added an exemption from motor vehicle certification testing requirements under Section 206(a) of the CAA for “low-volume manufacturers” that produce “exempted specially produced motor vehicles,” as those terms are defined by the FAST Act.

The enclosure to this letter describes the background, definitions, conditions of exemption, prohibited acts, and process that manufacturers should follow to meet the “FAST Act” requirements for the specially produced vehicle certification testing exemption. The enclosure also refers to regulations recently adopted by the California Air Resources Board for specially produced motor vehicles; more information can be found on their website.

If you have any questions about this guidance, please contact David Wright at wright.davida@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Byron J. Bunker".

Byron J. Bunker, Director
Compliance Division
Office of Transportation and Air Quality

Enclosure

Enclosure to CD-19-10

Low Volume Manufacturer Specially Produced Motor Vehicle Exemption from Certification Testing

I. Purpose

This guidance describes the requirements and recommends a process for a low-volume manufacturer that seeks to rely on the specially produced motor vehicle exemption in the “Fixing America’s Surface Transportation” (FAST) Act (Pub. L. No. 114-94) from the new motor vehicle certification testing requirements under Section 206(a) of the Clean Air Act (CAA).

The EPA is providing this guidance to facilitate the implementation of the FAST Act provisions, but this guidance does not change any provision contained in the FAST Act, the CAA or EPA regulations, does not establish binding rules or requirements, and does not alter the legal rights or obligations of manufacturers or others under these provisions. Interested parties should review the applicable provisions of the FAST Act in their entirety.

II. Background

In addition to providing funding for transportation infrastructure, the act addresses additional motor vehicle provisions in Subtitle D. Section 24405(a) of the FAST Act amended 49 U.S.C. 30114 by adding an exemption for replica motor vehicles produced by “low-volume manufacturers” from Federal motor vehicle safety standards (FMVSS) contained in 49 U.S.C. 30112(a).

In addition, Section 22405(b) of the FAST Act amended Section 206(a) of the Clean Air Act (42 U.S.C. 7525(a)) by adding an exemption from motor vehicle certification testing requirements under Section 206(a) of the Clean Air Act (CAA) for “low-volume manufacturers” that produce “exempted specially produced motor vehicles,” as those terms are defined by the Act. This guidance letter specifically addresses the CAA certification testing exemption. This guidance describes the requirements and the process that EPA recommends manufacturers follow when seeking to rely on the low-volume manufacturer specially produced motor vehicle certification testing exemption under the Act. Vehicles that qualify for the specially produced motor vehicle exemption are not required to undergo motor vehicle certification testing under CAA Section 206(a).

III. FAST Act Applicable Definitions

(1) “low-volume manufacturer” is defined in the FAST Act as a motor vehicle manufacturer, other than a person who is registered as an importer under 49 U.S.C. 30141, whose annual worldwide production, including by a parent or subsidiary of the manufacturer, if applicable, is not more than 5,000 motor vehicles. (Section 206(a)(5)(H)(ii) of the CAA)

(2) “exempted specially produced motor vehicle” is defined in the FAST Act as a light duty vehicle or light duty truck produced by a low-volume manufacturer that:

- Is made to resemble the body of a motor vehicle that was manufactured not less than 25 years before the manufacture of the exempted specially produced motor vehicle, and
- Is manufactured under a license for the product configuration, trade dress, trademark, or patent, for the motor vehicle that is intended to be replicated from the original manufacturer, its successors or assignees, or current owner of such product configuration, trade dress, trademark, or patent rights.

(Section 206(a)(5)(H)(i) of the CAA)

IV. Conditions of the Exemption from Section 206(a) of the CAA

In order to qualify for the exemption from motor vehicle certification testing, a low-volume manufacturer must meet requirements from the FAST Act that are codified in Section 206(a)(5) of the Clean Air Act. In summary, a low-volume manufacturer must:

(1) Maintain the FMVSS safety exemption. NHTSA has the authority to revoke an exemption previously granted for a low-volume manufacturer of specially produced motor vehicles. EPA will revoke the certification emission testing exemption for any previously allowed low-volume manufacturer of exempted specially produced motor vehicles if an applicable safety exemption is revoked by NHTSA.

(2) Obtain a license to manufacture the exempted specially produced motor vehicle (i.e. replica vehicle) from the OEM, its successors or assignees, or current owner of such product configuration, trade dress, trademark or patent rights. (Section 206(a)(5)(H)(i)(II) of the CAA)

(3) Annually register with the EPA prior to manufacturing exempted specially produced motor vehicles as described in Section VI. Certification Testing Exemption Process. (Section 206(a)(5)(E) of the CAA)

(4) Use (a) a motor vehicle engine, including all engine emission controls, from a light-duty motor vehicle covered by a Certificate of Conformity (CoC) issued by EPA for the model year in which the exempted specially produced motor vehicle is produced, or (b) a motor vehicle engine, including all engine emission controls, from a light-duty motor vehicle covered by an Executive Order (EO) issued by the California Air Resources Board (CARB) for the model year in which the exempted specially produced motor vehicle is produced, or (c) a motor vehicle engine, including all engine emission controls, covered by an EO issued by CARB under its regulations (see Light-Duty Engine Packages for Use in New Light-Duty Specially-Produced Motor Vehicles for 2019 and Subsequent Model Years, Title 13, California Code of Regulations, sections 2209, 2209.1, 2209.2, 2209.3, 2209.4, 2209.5, 2209.6, 2209.7, 2209.8, 2209.9, and 2209.10, effective October 1, 2019). (Section 206(a)(5)(A) of the CAA)

(5) Receive from the engine manufacturer written instructions on how to install the engine in the exempted specially produced motor vehicle and how to maintain functionality of the engine's emission control system and OBD system. The written instructions must include

the emission control warranty information in compliance with Section 207 of the CAA, including where warranty repairs can be performed, emission control labels to be affixed to the vehicle and the EPA Certificate of Conformity number for the OEM vehicle in which the engine was originally intended or the Executive Order number for the engine. (Sections 206(a)(5)(A)(i) and 206(a)(5)(A)(iii) of the CAA)

(6) Install the engine according to the written installation instructions provided by the engine manufacturer. (Section 206(a)(5)(A)(ii) of the CAA)

(7) Install the engine manufacturer supplied emission control label on the specially produced exempted motor vehicle (Section 206(a)(5)(A)(iii) of the CAA). The emission control label should exclude any reference to evaporative emissions. The label should include the following information:

- the engine manufacturer name;
- the engine displacement or the engine manufacturer test group, as applicable;
- the emission control systems used (use the current control systems abbreviations that are used in light duty certification), including OBD compliance except for evaporative emissions; and,
- a statement indicating that “this is a specially produced motor vehicle that is exempted from certification emission testing.”

(8) Certify to installing the engine according to the engine manufacturer’s written instructions. (Section 206(a)(5)(A)(ii) of the CAA)

(9) Provide to the purchaser of the exempted specially produced motor vehicle all the information received from the engine manufacturer, including information regarding emission warranties and all emissions-related recalls. (Section 206(a)(5)(D) of the CAA)

(10) Limit production of the exempted specially produced motor vehicles to no more than 325 such vehicles in the calendar year in which the vehicle was produced or imported. (Section 206(a)(5)(A)(iv) of the CAA)

(11) Provide EPA an annual compliance report at the end of the calendar year as described in Section VI. Certification Testing Exemption Process. (Section 206(a)(5)(E) of the CAA)

V. FAST Act Vehicle Testing Exemption and CAA Prohibited Acts

Any of the following actions will be treated as a prohibited act, subject to civil penalties under section 205(a), civil actions under section 205(b), and administrative assessment of penalties under section 205(c) of the CAA:

- (1) An engine installation that is not performed in accordance with the written instructions provided by the engine manufacturer. (Section 206(a)(5)(C) of the CAA)
- (2) Any alterations to the engine that are not in accordance with the engine manufacturer written instructions. (Section 206(a)(5)(C) of the CAA)

Nothing in the FAST Act shall be construed to exempt any person from the CAA vehicle tampering prohibitions of section 203(a)(3) or the requirements of section 208. (Section 206(a)(5)(G)(ii) of the CAA)

VI. Certification Testing Exemption Process

In order for a low-volume manufacturer to qualify for the certification testing exemption in the FAST Act, the low-volume manufacturer and the manufacturer of the engine to be installed in the specially produced motor vehicle will submit documents to EPA. A low-volume manufacturer shall annually register with EPA and the manufacturer of the engine to be installed will submit written instructions to the low-volume manufacturer and EPA before the low-volume manufacturer begins to install or alter an engine or vehicle based on the FAST Act exemption. The written instructions from the engine manufacturer contains the following information:

- (1) Instructions explaining how to install the engine and maintain functionality of the emission control system and the on-board diagnostic system;
- (2) Emission control warranty information in compliance with Section 207 of the CAA (including where warranty repairs can be performed);
- (3) Copy of the emission control label to be affixed to the vehicle; and,
- (4) Copy of the Certificate of Conformity number for the applicable vehicle in which the engine was originally intended or the applicable Executive Order number for the engine.

Engine manufacturers will submit this information to EPA through EV-CIS (formerly Verify), EPA's engine and vehicle compliance information system. Engine manufacturers will combine the required information, outlined above, into a document which will then be uploaded into EV-CIS. Instructions for registering with EV-CIS and uploading the installation instructions and supporting information are described below.

Low-volume manufacturers shall annually register with EPA to qualify for the specially produced motor vehicle exemption. At the end of the calendar year the low-volume manufacturer also will submit an annual report. Prior to manufacturing exempted specially produced motor vehicles, low-volume manufacturers register with EPA and submit to EPA the following annual registration information:

- (1) Summary of total world-wide motor vehicle sales for the preceding calendar year, including by a parent company or subsidiary of the low-volume manufacturer. Sales summary includes passenger automobiles, light-duty trucks, and specially produced motor vehicles;
- (2) A description of the specially produced motor vehicles(s) to be produced;
- (3) NHTSA safety exemption(s) approval;
- (4) License to manufacture the exempted specially produced motor vehicle from the OEM, its successors or assignees, or current owner of such product configuration, trade dress, trademark or patent rights; or, other documentation sufficient to establish the existence of a license; and,
- (5) The engine manufacturer provided-instructions on how to install the engine, emission control warranty information in compliance with Section 207 of the CAA (including where warranty repairs can be performed), copy of the emission control label to be affixed to the vehicle, and the EPA Certificate of Conformity or the CARB Executive Order for the engine and emission control system. The engine manufacturer will have provided the same information to EPA as part of the engine manufacturer's EPA submittal.

At the end of the calendar year (a maximum of 60 days after December 31 of the calendar year during which vehicles were built and sold), the low-volume manufacturer will submit an annual report to EPA including the following documents and information:

- (1) A description of the exempted specially produced motor vehicles including the total number produced during the calendar year;
- (2) A description of the engine(s) installed in the exempted specially produced motor vehicles;
- (3) The OEM Certificate of Conformity number or Executive Order number of the engine installed in the vehicles; and,
- (4) A certification by the low-volume manufacturer that the exempted specially produced motor vehicles were produced according to the instructions from the engine manufacturer and that the engine conforms in all material respects to the description

in the OEM application that is covered by the EPA Certificate of Conformity or CARB Executive Order.

(Section 206(a)(5)(E) of the CAA)

The annual registration and end of calendar year annual report will be submitted to EPA through EV-CIS. In order to upload the required documents, engine manufacturers and low-volume vehicle manufacturers must be registered system users. To register as a user, the manufacturer must complete the following steps:

Part 1: Company registration for EV-CIS; and,

Part 2: Account setup for EV-CIS.

Detailed instructions regarding company registration can be found on the EPA website at the following address: <https://www.epa.gov/vehicle-and-engine-certification/company-registration-engines-and-vehicles-compliance-information>.

Detailed instructions regarding how to set up an account once a manufacturer has completed the registration process can be found on the EPA website at the following address: <https://www.epa.gov/vehicle-and-engine-certification/account-setup-engines-and-vehicles-compliance-information-system-ev>.

If any of the information supplied by the low-volume manufacturer changes (i.e., offering additional exempted specially produced motor vehicles by the same low volume manufacturer or from other related low volume manufacturers within the calendar year), the annual registration should be updated and re-submitted to EPA. Low-volume manufacturers should make the necessary modifications to their previously submitted registration and upload the revised version(s) of the annual registration to EV-CIS.

Prior to uploading documents, the manufacturer must have completed the Company registration and setup an account (see previously described Part 1 and Part 2 registration steps). Once the account is set-up, the manufacturer submits documents by logging into EV-CIS and selecting “Submit Compliance Information”. This module requires the user to select an industry to continue, select “Light-Duty Vehicles and Trucks”. Next, select the “Upload Compliance Documents” button. At the Upload Compliance Documents page, specify the Document Applicability (choose General Applicability), and applicable Model Year. Select the correct document type from the menu. The menu includes FAST Act Document options including the Annual Registration and Annual Report for the low-volume vehicle manufacturers, and Installation Instructions for engine manufacturers. Select the appropriate Confidentiality Status for the document being uploaded (CBI or FOI).

Manufacturers that assert that portions of their Annual Report or Annual Registration are Confidential Business Information (CBI) need to upload two versions into the Verify system: a Freedom of Information (FOI) version and a CBI version. The CBI version is a complete submittal which includes CBI information and is noted as such when the document is uploaded by selecting the appropriate Confidentiality Status (CBI). The FOI version of the

document is created by removing only the CBI. The FOI version of the document should be uploaded and identified as the FOI version when uploaded.

If you have issues uploading your documents into EV-CIS, contact the help desk at evcishelpdesk@epacdx.net or 1-888-890-1995.