

many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2012 Mercedes-Benz S-Class passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 113 *Hood Latch System*, 116 *Motor Vehicle Brake Fluids*, 124 *Accelerator Control Systems*, 126 *Electronic Stability Control Systems*, 135 *Light Vehicle Brake Systems*, 139 *New Pneumatic Radial Tires for Light Vehicles*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, 225 *Child Restraint Anchorage Systems*, and 302 *Flammability of Interior Materials*.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: replacement of the instrument cluster with a U.S.-model component and reprogramming the unit to indicate correct vehicle mileage.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: Replacement of the headlamps, side marker lamps, and tail lamps with U.S.-model components and reprogramming the vehicle computer to activate necessary systems.

Standard No. 110 *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less*: installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: replacement of the passenger side rearview mirror with a U.S.-model component or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection and Rollaway Prevention*: reprogramming the vehicle computer to activate the key warning system.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems*: reprogramming of the vehicle computer.

Standard No. 138 *Tire Pressure Monitoring Systems*: Replacement of,

non-U.S.-model parts and software with U.S.-model components so that the vehicle is identical to the U.S.-model in regards to the standard.

Standard No. 207 *Seating Systems*: replacement of non-conforming seating systems with U.S.-model components.

Standard No. 208 *Occupant Crash Protection*: inspection to confirm that belts, airbags, sensors, control units, wiring harnesses, knee bolsters, labels, and braces bear U.S.-model part numbers. Non-U.S.-model parts will be replaced with U.S.-model components so that the vehicle identical to the U.S.-model in regards to the standard. The vehicle computer must also be reprogrammed to activate the seat belt warning system.

Standard No. 209 *Seat Belt Assemblies*: inspection of seatbelts and replacement of non-conforming belts with U.S.-model components.

Standard No. 301 *Fuel System Integrity*: inspection of all vehicles and replacement of any non U.S.-model fuel system components with U.S.-model components as necessary to conform to the requirements of FMVSS No. 301.

Standard No. 401 *Interior Trunk Release*: installation of U.S.-model interior trunk release components.

The petitioner states that the bumpers and bumper support structure are identical to that of the U.S. certified model. However, the bumper impact absorbers must be replaced with U.S.-model components to comply with 49 CFR part 581.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield post to meet the requirements of 49 CFR Part 565.

Because the subject petition covers nonconforming vehicles that have been manufactured on or after September 1, 2006, compliance with the advanced air bag requirements of FMVSS No. 208 is of significant concern to the agency. NHTSA is therefore particularly interested in comments regarding the ability of a Registered Importer to readily alter the subject vehicles to fully meet the driver and front outboard passenger frontal crash protection and child passenger protection requirements of FMVSS No. 208. The following is a partial listing of the components that may be affected:

- a. Driver's frontal air bag module
- b. Passenger frontal air bag module
- c. Passenger frontal air bag cover
- d. Knee air bags
- e. Knee bolsters
- f. Passenger outboard frontal seat belt system

- g. Driver and front outboard seat assemblies including seat tracks and internal seat components
- h. Steering wheel components, including the clock spring assembly, the steering column, and all connecting components
- i. Instrument panel
- j. Instrument panel support structure (i.e. cross beam)
- k. Occupant sensing and classification systems, including sensors and processors
- l. Restraint control modules
- m. Passenger air bag status indicator light system, including related display components and wiring
- n. Wiring harnesses between the restraint control module, occupant classification system and restraint system components
- o. Control system computer software and firmware

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey Giuseppe,

Acting Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0110; Notice 2]

Ford Motor Company, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Grant of Petition.

SUMMARY: Ford Motor Company (Ford) has determined that certain model year 2009-2012 Ford F-650 and F-750 trucks manufactured from April 14, 2008, through May 1, 2012 do not fully comply with paragraph S5.3.2(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 105, *Hydraulic and*

Electric Brake Systems. Ford has filed an appropriate report dated July 2, 2012 pursuant to 49 CFR part 573 *Defect and Noncompliance Responsibility and Reports*.

ADDRESSES: For further information on this decision contact Stuart Seigel, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5287, facsimile (202) 366-7002.

SUPPLEMENTARY INFORMATION:

I. Ford's Petition

Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Ford has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

On February 21, 2014 Ford supplemented its original petition of July 23, 2012, by updating the number of affected vehicles and their dates of manufacture, and including additional justification for a decision of inconsequential noncompliance.

Notice of receipt of the July 23, 2012 petition was published, with a 30-day public comment period, on January 25, 2013 in the **Federal Register** (78 FR 5560). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2012-0110."

II. Vehicles Involved

Affected are approximately 7,393 model year 2009-2012 Ford F-650 and F-750 trucks that were manufactured from April 14, 2008, through May 1, 2012.

III. Noncompliance

Ford explains that the noncompliance is that the subject vehicles do not illuminate the parking brake telltale lamp when the ignition switch is in the "on" or "start" positions as required by FMVSS No. 105.

IV. Rule Text

Paragraph S5.3.2(a) of FMVSS No. 105 requires: Except as provided in paragraph (b) of this section, all indicator lamps shall be activated as a check of lamp function either when the ignition (start) switch is turned to the "on" (run) position when the engine is not running, or when the ignition (start) switch is in a position between "on"

(run) and "start" that is designated by the manufacturer as a check position.

V. Summary of Ford's Analyses

Ford stated its belief that although the affected vehicles do not illuminate the parking brake telltale lamp when the ignition start switch is in the "on" or "start" positions that the condition is inconsequential to motor vehicle safety for the following reasons:

1. The parking brake telltale lamp functions as intended—only the telltale bulb check at start-up is not illuminated—unless the parking brake is applied.

2. Unlike most other telltales, the parking brake telltale will simultaneously illuminate when the customer applies the handbrake—essentially functioning as a bulb check. And, if the lamp does not illuminate when the handbrake is applied, the customer is able to identify the condition.

3. If customers inadvertently operate the vehicle with the parking brake applied, the service brakes will not be affected because the design of the subject vehicles utilizes a separate, dedicated parking brake mounted on the driveshaft. Additionally, inadvertent application of the parking brake will result in poor vehicle acceleration and "drag" providing further indications that the parking brake is engaged.

4. Instrument panel telltale bulbs are highly reliable. Engineering has reported no parking telltale bulb warranty claims for any of the affected F-650 & F-750 vehicles, from 2009 through 2012.

5. The physical position of the parking brake handle (on the tunnel) provides a readily apparent indication when the parking brake is applied. Partial parking brake applications are not a concern because the handle mechanism utilizes an over-cam locking design, which assures the parking brake is either fully applied or fully released. This design precludes a parking brake from being partially applied.

6. The 2011-2012 model year vehicles incorporate a warning chime which activates (in addition to the parking brake telltale) when the parking brake is applied and the vehicle is driven over 4 miles-per-hour.

7. The operators of these vehicles are typically professional drivers, requiring additional licensing and are familiar with the operation of these types of over-cam, driveshaft-mounted parking brakes.

Ford is also unaware of any field reports, accidents or injuries attributed to this condition.

Ford additionally indicated that changes were made in production on May 1, 2012, and that they had taken multiple steps to help ensure that the parking brake telltale "check of lamp function" issue that resulted in the non-compliance does not occur in the future, including Ford validation of the design with no planned cluster/parking brake revisions until new model updates.

In summation, Ford believes that the described noncompliance of the subject vehicles is inconsequential to motor vehicle safety, and that its petition, to exempt from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

VI. NHTSA Decision

NHTSA has reviewed Ford's analyses that the subject noncompliance is inconsequential to motor vehicle safety. Specifically, the parking brake telltale is not activated as a check of lamp function either when the ignition (start) switch is turned to the "on" (run) position when the engine is not running, or when the ignition (start) switch is in a position between "on" (run) and "start" as required by Paragraph S5.3.2(a) of FMVSS No. 105.

If the parking brake telltale lamp bulb fails, the vehicle operator would not be alerted by illumination of the parking brake telltale that the vehicle's parking brake is applied. However, as the vehicle in this condition is driven, a number of indicators would provide feedback to the vehicle operator that the parking brake is applied. First, the vehicle drivability would be affected with poor acceleration and "drag." A warning chime for the 2011-2012 model year vehicles would be activated when the vehicle is driven over 4 miles per hour. Lastly, the physical position of the parking brake handle located on the tunnel, would provide a visual indication that the parking brake is applied. The parking brake has an over-cam locking design that assures that the brake is not partially applied. The combination of the aforementioned operator feedback indicators is sufficient that in the event of a non-operative parking brake telltale light, an operator would have sufficient warning and information to take corrective action. In addition, the parking brake is mounted on the drive shaft and, therefore, separate from the service brake system. Thus, in the unlikely event that the vehicle was driven with an applied parking brake the service brake system would not be

compromised thereby reducing the severity of the noncompliance.

We also note that this telltale is specific only to the application of the parking brake, and is not a combined indicator for multiple brake malfunctions. As a separate indicator, the severity of the noncompliance is further reduced as it indicates only one versus multiple brake system malfunctions.

Furthermore, each application of the parking brake activates the dedicated parking brake indicator telltale. This effectively functions as a secondary de-facto bulb check. Drivers that routinely use the parking brake in the subject vehicles will become accustomed to seeing a telltale with the word "Park" activated when setting the parking brake and are consequently likely to recognize a malfunction if this expected telltale does not illuminate.

The affected vehicles, the F-650 and F-750 trucks, are medium duty work trucks typically operated by professional drivers that are experienced with and knowledgeable of their work equipment including the operation of the over-cam, driveshaft-mounted parking brake systems. It is highly likely that even without a visual indicator, these individuals will readily determine when the parking brake is set simply by the altered feel of vehicle drivability.

In consideration of the foregoing, NHTSA has decided that Ford has met its burden of persuasion that the FMVSS No. 105 noncompliance is inconsequential to motor vehicle safety. Accordingly, Ford's petition is hereby granted and Ford is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject noncompliant vehicles that Ford no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their

control after Ford notified them that the subject noncompliance existed.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8.

Jeff Giuseppe,
Acting Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA-2014-0003 (PDA-37(R))]

New York City Permit Requirements for Transportation of Certain Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: Interested parties are invited to comment on an application by the American Trucking Associations, Inc. (ATA) for an administrative determination whether Federal hazardous material transportation law preempts requirements of the New York City Fire Department for a permit to transport certain hazardous materials by motor vehicle through New York City, or for transshipment from New York City, and the fee for the permit.

DATES: Comments received on or before June 2, 2014 and rebuttal comments received on or before July 16, 2014 will be considered before an administrative determination is issued by PHMSA's Chief Counsel. Rebuttal comments may discuss only those issues raised by comments received during the initial comment period and may not discuss new issues.

ADDRESSES: ATA's application and all comments received may be reviewed in the Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590. The application and all comments are available on the U.S. Government Regulations.gov Web site: <http://www.regulations.gov>.

Comments must refer to Docket No. PHMSA-2014-0003 and may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the

online instructions for submitting comments.

- *Fax:* 1-202-493-2251.
- *Mail:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Docket Operations Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

A copy of each comment must also be sent to (1) Boyd Stephenson, Director, Hazardous Materials & Licensing Policy, American Trucking Associations, 950 Glebe Road, Suite 210, Arlington, VA 22203, and (2) Salvatore J. Cassano, Commissioner, New York City Fire Department, 9 Metrotech Center, New York, NY 11201. A certification that a copy has been sent to these persons must also be included with the comment. (The following format is suggested: "I certify that copies of this comment have been sent to ATA and the New York City Fire Department at the addresses specified in the **Federal Register**.")

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing a comment submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477-78), or you may visit <http://www.regulations.gov>.

A subject matter index of hazardous materials preemption cases, including a listing of all inconsistency rulings (IRs) and preemption determinations (PDs), is available through PHMSA's home page at <http://phmsa.dot.gov>. From the home page, click on "Regulations," then on "Preemption of State and Local Laws" (in the "Hazmat Safety" column). A paper copy of the index will be provided at no cost upon request to Mr. Hilder or Mr. Lopez, at the address and telephone number set forth in **FOR FURTHER INFORMATION CONTACT** below.

FOR FURTHER INFORMATION CONTACT: Frazer C. Hilder or Vincent Lopez, Office of Chief Counsel (PHC-10), Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone No. 202-366-4400; facsimile No. 202-366-7041.