relies on the best available data and tools to estimate the GHG emissions associated with transit projects. Where available, the Programmatic Assessment uses conservative emission estimates for construction-related activities that involved direct and indirect emissions—electricity use and sources of construction materials. For example, the Estimator Tool's underground track construction emissions factor corresponding to ICE's most conservative emissions estimate. The emissions factors associated with in the Estimator Tool for electrically powered vehicles use the ''U.S. Mix'' region from the Environmental Protection Agency's (EPA's) eGRID2012, which represents an average value for the country. EPA's eGRID also provides GHG emission data at the sub-region level, which reflect more region-specific electricity generation. The Programmatic Assessment (Appendix B) and the associated Estimator Tool include the eGRID sub-region electricity emission factors, which reflect more region-specific electricity generation. While FTA understands the issue related to litigation due to data quality issues, the Programmatic Assessment is a capture in time of the best available data. FTA's Programmatic Assessment also establishes the methodology used to derive GHG emissions factors that may be replicated by transit agencies using locally available data sets in the Estimator Tool. Lastly, FTA would note that the GHG emissions provide a conservative understanding of transit's contribution to GHG emissions in order to provide disclosure for purposes of NEPA compliance. The use of the Programmatic Assessment is entirely optional, but FTA believes it would reduce litigation risk by taking a ''hard look'' at GHG emissions due to transit projects, even if that assessment is more conservative than actual emissions on certain projects.

On the third general point, the Programmatic Assessment acknowledges that, in addition to displacing automobile VMT, transit can help reduce congestion and spur more compact, transit-oriented development, thus reducing GHG emissions that may have otherwise occurred. The longer timeframe associated with realizing the GHG emission reduction benefits from denser development was not the primary reason why a land use component was not included in the methodology. A land use component was not included because the available tools (*i.e.,* the Land Use Benefit Calculator associated with TCRP Report 176) could not be applied at a programmatic scale due to its location-specific nature. Transit agencies that wish to include the GHG emission benefits associated with the land use effect of transit may do so in NEPA documents. For example, agencies could use the results generated by the Land Use Benefit Calculator and add it to the results generated using the Estimator Tool. FTA notes that including a land use component, if possible for a national Programmatic Assessment, would in most cases reduce the predicted GHG emissions that can be attributed to transit projects.

On the fourth general point, FTA notes that the Programmatic Assessment does not specify the methodology that a transit agency should use to generate travel forecasts. The sample of transit projects analyzed in the Programmatic Assessment included 36 transit projects that applied for funding through the 49 U.S.C. 5309 Capital Investment Grants (CIG) Program. As part of the CIG program, each project developed and submitted travel forecast information, including displaced VMT, using one of the following approaches: Region-wide travel models; incremental data-driven methods; or FTA's Simplified Trips-on-Project Software (STOPS). FTA's Programmatic Assessment cannot include revised methodology incorporating the Land Use Benefit Calculator or STOPS because neither can be developed on a programmatic scale. Transit agencies that choose to calculate GHG emissions for a project can choose the method for calculating VMT.

On the fifth general point, FTA developed the Programmatic Assessment to provide transit agencies with a useful source of methodology, data, and analysis to reference in future environmental review documents to meet NEPA requirements. FTA recommends that NEPA reviews for individual BRT and streetcar projects incorporate this Programmatic Assessment by reference, with no additional need for project-specific analysis for purposes of NEPA. FTA also recommends that light rail projects with a high proportion of displaced VMT to annual transit VMT, regardless of length, alignment, and number of stations, incorporate this Programmatic Assessment by reference, with no additional need for project-specific analysis for purposes of NEPA. In cases where a light rail project is expected to have a lower ratio of displaced VMT to annual transit VMT, however, conducting a project-specific analysis using the Estimator Tool or another locally recommended approach is likely appropriate for purposes of NEPA compliance. FTA will continue to evaluate the Programmatic Assessment and Estimator Tool to make improvements that will provide better estimates of GHG emissions for transit projects. FTA is making available the final Programmatic Assessment at this time, however, so that it is available for incorporation by reference in NEPA documents going forward while FTA continues to make improvements. FTA is also making available its Estimator Tool for transit agencies that wish to have a more tailored estimate of emissions or for which a project differs substantially from those used to create the Programmatic Assessment.

Authority: 42 U.S.C. 4321, *et seq.;* 40 CFR 1507.3; 49 CFR 1.81(a)(5).

Lucy Garliauskas,

Associate Administrator, Office of Planning and Environment, Federal Transit Administration.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2015–0075; Notice 2]

PACCAR, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: PACCAR, Inc. (PACCAR), has determined that certain Peterbilt and Kenworth trucks do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective devices, and Associated Equipment.* PACCAR filed a noncompliance report dated June 11, 2015, that was later revised on June 12, 2015. PACCAR also petitioned NHTSA on July 9, 2015, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information on this decision contact Mike Cole, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366–2334, facsimile (202) 366–5930.

SUPPLEMENTARY INFORMATION:

I. Overview

PACCAR, Inc. (PACCAR), has determined that certain Peterbilt and

Kenworth trucks do not fully comply with paragraph S9.3.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective devices, and Associated Equipment.* PACCAR filed a noncompliance report dated June 11, 2015, that was later revised on June 12, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports.* PACCAR also petitioned NHTSA on July 9, 2015, pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), 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.

Notice of receipt of PACCAR's petition was published, with a 30-day public comment period, on September 25, 2015 in the **Federal Register** (80 FR 57911). One comment was received. To view the petition, comments 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–2015–0075.''

II. Trucks Involved

Affected are approximately 197 MY 2015–2016 Kenworth K270 and K370 manufactured between November 11, 2014 and March 18, 2015 and MY 2015–2016 Peterbilt 220 manufactured between November 10, 2014 and March 18, 2015.

III. Noncompliance

PACCAR explains that due to a programming error in the cab controller software in the subject trucks, the turn signal pilot indicator located on the instrument panel flashes twice as fast as the turn signals flash, and therefore does not meet the requirements of paragraph S9.3.2 of FMVSS No. 108.

IV. Rule Text

Paragraph S9.3.2 of FMVSS No. 108 requires in pertinent part

S9.3.2 The indicator must consist of one or more lights flashing at the same frequency as the turn signal lamps.

V. Summary of PACCAR's Position

PACCAR stated its belief that the subject noncompliance is inconsequential to motor vehicle safety. PACCAR states that the purpose of the turn signal pilot indicator is to assure that the vehicle operator can determine whether the turn signal system is activated. Thus, PACCAR believes that the pilot indicators in the subject trucks fully accomplishes that purpose; *i.e.,* they flash when the turn signal is activated, and they cease flashing when the turn signal is deactivated (either manually or automatically).

PACCAR reviewed the agency's decisions on petitions for inconsequentiality in connection with various noncompliances with turn signal requirements. While PACCAR did not find any prior decisions that are similar to this noncompliance, PACCAR believes that NHTSA has granted previous petitions in connection with turn signal noncompliance that carried potentially greater safety risks.

PACCAR is not aware of any crashes or injuries associated with the noncompliance and it has not received any consumer complaints or warranty claims related to this issue.

PACCAR additionally informed NHTSA that after the noncompliance was discovered, all production of the noncompliant trucks in PACCAR's possession was put on hold until the software error could be corrected.

In summation, PACCAR believes that the described noncompliance of the subject trucks is inconsequential to motor vehicle safety, and that its petition, to exempt PACCAR 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.

NHTSA's Decision

Comments Received: One comment was received from Mr. Bryan Branson who supported granting this petition. Mr. Branson explained that because the in-cab warning to the driver is there and working, this noncompliance causes no safety hazard to the motoring public. Mr. Branson also believed that a recall for this issue would be a costly and difficult burden to the truck owner if they had to take the unit out of service to repair this issue.

NHTSA's Analysis: As noted by PACCAR, the (exterior mounted) turn signal lamps on the affected vehicles comply with all requirements of FMVSS No. 108. As such, surrounding traffic and pedestrians would be unaffected by the noncompliance and would be notified of the driver's intention to make a turn when the affected vehicle's turn signals are activated. The person solely affected by the noncompliance would be the individual driver of the vehicle. When the turn signal lamps are activated, the driver will still be receiving the required notification that the vehicle's turn signals are flashing, albeit at twice the required rate. This could be seen as a minor annoyance to the driver; however, the agency does not believe that this would distract the driver or cause the driver to refrain from using the turn signal lamps to indicate his intention to turn. Thus, the agency does not believe that this is a safety issue.

Further, PACCAR indicated that most of the trucks in this population are covered by another recall (15V–206) and the remedy for that recall will include a software reflash that will correct the turn signal indicator lamp flash rate at the same time. As such, we believe that truck owners will be afforded a correction for this issue at their truck's next service visit or when receiving the remedy to the aforementioned recall.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that PACCAR has met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, PACCAR's petition is hereby granted and PACCAR is exempted from the obligation of providing notification of, and remedy for the subject noncompliance.

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 vehicles that PACCAR 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 PACCAR 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.

Jeffrey M. Giuseppe,

Director, Office of Vehicle Safety Compliance.

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