

PART 555—TEMPORARY EXEMPTION FROM MOTOR VEHICLE SAFETY AND BUMPER STANDARDS

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AUTHORITY: 49 U.S.C. 30113, 32502, Pub. L. 105-277; delegation of authority at 49 CFR 1.50.

SOURCE: 38 FR 2694, Jan. 29, 1973, unless otherwise noted.

Subpart A—General

§ 555.1 Scope.

This part establishes requirements for the temporary exemption by the National Highway Traffic Safety Administration (NHTSA) of certain motor vehicles from compliance with one or more Federal motor vehicle safety standards in accordance with 49 U.S.C. 30113, and of certain passenger motor vehicles from compliance with all or part of a Federal bumper standard in accordance with 49 U.S.C. 32502.

[64 FR 2861, Jan. 19, 1999]

§ 555.2 Purpose.

(a) The purpose of this part is to provide a means by which manufacturers of motor vehicles may obtain temporary exemptions from Federal motor vehicle safety standards on the basis of substantial economic hardship, facilitation of the development of new

motor vehicle safety or low-emission engine features, or existence of an equivalent overall level of motor vehicle safety.

(b) The purpose of this part is also to provide a means by which manufacturers of passenger motor vehicles may obtain a temporary exemption from compliance with all or part of a Federal bumper standard issued under part 581 of this chapter on a basis similar to that provided for exemptions from the Federal motor vehicle safety standards.

[38 FR 2694, Jan. 29, 1973, as amended at 64 FR 2861, Jan. 19, 1999]

§ 555.3 Application.

This part applies to manufacturers of motor vehicles and passenger motor vehicles.

[64 FR 2861, Jan. 19, 1999]

§ 555.4 Definitions.

Administrator means the National Highway Traffic Safety Administrator or his delegate.

Passenger motor vehicle means a motor vehicle with motive power designed to carry not more than 12 individuals, but does not include a truck not designed primarily to carry its operator or passengers, or a motorcycle.

United States means the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

[38 FR 2694, Jan. 29, 1973, as amended at 64 FR 2861, Jan. 19, 1999]

§ 555.5 Application for exemption.

(a) A manufacturer of motor vehicles or passenger motor vehicles may apply to NHTSA for a temporary exemption from any Federal motor vehicle safety or bumper standard or for a renewal of any exemption on the bases of substantial economic hardship, making easier the development or field evaluation of new motor vehicle safety or impact protection, or low-emission vehicle features, or that compliance with a standard would prevent it from selling a vehicle with an overall level of safety or impact protection at least equal to that of nonexempted vehicles.

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(b) Each application filed under this part for an exemption or its renewal must—

(1) Be written in the English language;

(2) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, Washington, DC 20590;

(3) State the full name and address of the applicant, the nature of its organization (individual, partnership, corporation, etc.) and the name of the State or country under the laws of which it is organized;

(4) State the number and title, and the text or substance of the standard or portion thereof from which the temporary exemption is sought, and the length of time desired for such exemption;

(5) Set forth the basis for the application and the information required by § 555.6(a), (b), (c), or (d) as appropriate.

(6) Specify any part of the information and data submitted which petitioner requests be withheld from public disclosure in accordance with part 512 of this chapter.

(i) The information and data which petitioner requests be withheld from public disclosure must be submitted in accordance with § 512.4 of this chapter.

(ii) The petitioner's request for withholding from public disclosure must be accompanied by a certification in support as set forth in appendix A to part 512 of this chapter.

(7) Set forth the reasons why the granting of the exemption would be in the public interest, and, as applicable, consistent with the objectives of 49 U.S.C. Chapter 301 or Chapter 325.

(c) The knowing and willful submission of false, fictitious or fraudulent information will subject the petitioner to the civil and criminal penalties of 18 U.S.C. 1001.

[38 FR 2694, Jan. 29, 1973, as amended at 39 FR 5489, Feb. 13, 1974; 46 FR 2063, Jan. 8, 1981; 63 FR 44173, Aug. 18, 1998; 64 FR 2861, Jan. 19, 1999; 70 FR 7429, Feb. 14, 2005]

§ 555.6 Basis for application.

(a) If the basis of the application is that compliance with the standard would cause substantial economic hardship to a manufacturer that has tried to comply with the standard in

good faith, the applicant shall provide the following information:

(1) Engineering and financial information demonstrating in detail how compliance or failure to obtain an exemption would cause substantial economic hardship, including—

(i) A list or description of each item of motor vehicle equipment that would have to be modified in order to achieve compliance;

(ii) The itemized estimated cost to modify each such item of motor vehicle equipment if compliance were to be achieved—

(A) As soon as possible,

(B) At the end of a 1-year exemption period (if the petition is for 1 year or more),

(C) At the end of a 2-year exemption period (if the petition is for 2 years or more),

(D) At the end of a 3-year exemption period (if the petition is for 3 years),

(iii) The estimated price increase per vehicle to balance the total costs incurred pursuant to paragraph (a)(1)(ii) of this section and a statement of the anticipated effect of each such price increase;

(iv) Corporate balance sheets and income statements for the three fiscal years immediately preceding the filing of the application;

(v) Projected balance sheet and income statement for the fiscal year following a denial of the application; and

(vi) A discussion of any other hardships (e.g., loss of market, difficulty of obtaining goods and services for compliance) that the petitioner desires the agency to consider.

(2) A description of its efforts to comply with the standards, including—

(i) A chronological analysis of such efforts showing its relationship to the rule making history of the standard from which exemption is sought;

(ii) A discussion of alternate means of compliance considered and the reasons for rejection of each;

(iii) A discussion of any other factors (e.g., the resources available to the petitioner, inability to procure goods and services necessary for compliance following a timely request) that the petitioner desires the NHTSA to consider in deciding whether the petitioner

tried in good faith to comply with the standard;

(iv) A description of the steps to be taken, while the exemption is in effect, and the estimated date by which full compliance will be achieved either by design changes or termination of production of nonconforming vehicles; and

(v) The total number of motor vehicles produced by or on behalf of the petitioner in the 12-month period prior to filing the petition, and the inclusive dates of the period. (49 U.S.C. 30113(d) limits eligibility for exemption on the basis of economic hardship to manufacturers whose total motor vehicle production in the year preceding the filing of their applications does not exceed 10,000.)

(b) If the basis of the application is that the exemption would make easier the development or field evaluation of a new motor vehicle safety or impact protection features providing a safety or impact protection level at least equal to that of the standard, the applicant shall provide the following information:

(1) A description of the safety or impact protection features, and research, development, and testing documentation establishing the innovational nature of such features.

(2) An analysis establishing that the level of safety or impact protection of the feature is equivalent to or exceeds the level of safety or impact protection established in the standard from which exemption is sought, including—

(i) A detailed description of how a vehicle equipped with the safety or impact protection feature differs from one that complies with the standard;

(ii) If applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard; and

(iii) The results of tests conducted on the safety or impact protection features that demonstrates performance which meets or exceeds the requirements of the standard.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufac-

turer intends to conform to the standard, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety or impact protection features.

(5) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. An application for renewal of such an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(c) If the basis of the application is that the exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety or impact protection level of that vehicle, the applicant shall provide—

(1) Substantiation that the vehicle is a low-emission vehicle as defined by 49 U.S.C. 30113(a).

(2) Research, development, and testing documentation establishing that a temporary exemption would not unreasonably degrade the safety or impact protection of the vehicle, including—

(i) A detailed description of how the motor vehicle equipped with the low-emission engine would, if exempted, differ from one that complies with the standard;

(ii) If the applicant is presently manufacturing a vehicle conforming to the standard, the results of tests conducted to substantiate certification to the standard;

(iii) The results of any tests conducted on the vehicle that demonstrate its failure to meet the standard, expressed as comparative performance levels; and

(iv) Reasons why the failure to meet the standard does not unreasonably degrade the safety or impact protection of the vehicle.

(3) Substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle.

(4) A statement whether, at the end of the exemption period, the manufacturer intends to conform with the standard.

(5) A statement that not more than 2,500 exempted vehicles will be sold in

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the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. An application for renewal of an exemption shall also include the total number of exempted vehicles sold in the United States under the existing exemption.

(d) If the basis of the application is that the applicant is otherwise unable to sell a vehicle whose overall level of safety or impact protection is at least equal to that of a nonexempted vehicle, the applicant shall provide—

(1) A detailed analysis of how the vehicle provides the overall level of safety or impact protection at least equal to that of nonexempted vehicles, including—

(i) A detailed description of how the motor vehicle, if exempted, differs from one that conforms to the standard;

(ii) A detailed description of any safety or impact protection features that the vehicle offers as standard equipment that are not required by the Federal motor vehicle safety or bumper standards;

(iii) The results of any tests conducted on the vehicle demonstrating that it fails to meet the standard, expressed as comparative performance levels;

(iv) The results of any tests conducted on the vehicle demonstrating that its overall level of safety or impact protection exceeds that which is achieved by conformity to the standards.

(v) Other arguments that the overall level of safety or impact protection of the vehicle is at least equal to that of nonexempted vehicles.

(2) Substantiation that compliance would prevent the sale of the vehicle.

(3) A statement whether, at the end of the exemption period, the manufacturer intends to comply with the standard.

(4) A statement that not more than 2,500 exempted vehicles will be sold in the United States in any 12-month period for which an exemption may be granted pursuant to this paragraph. An application for renewal of any exemption shall also include the total number of exempted vehicles sold in the

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United States under the existing exemption.

[38 FR 2694, Jan. 29, 1973, as amended at 39 FR 5489, Feb. 13, 1974; 63 FR 44173, Aug. 18, 1998; 64 FR 2861, Jan. 19, 1999]

§ 555.7 Processing of applications.

(a) The agency publishes a notice of the application in the FEDERAL REGISTER, affording opportunity for comment.

(b) No public hearing, argument, or other formal proceeding is held directly on an application filed under this part before its disposition under this section.

(c) Any interested person may, upon written request, appear informally before an appropriate official of the NHTSA to discuss an application for exemption or the action taken in response to a petition.

(d) If the Administrator determines that the application does not contain adequate justification, he denies it and notifies the petitioner in writing. He also publishes in the FEDERAL REGISTER a notice of the denial and the reasons for it.

(e) If the Administrator determines that the application contains adequate justification, he grants it, and notifies the petitioner in writing. He also publishes in the FEDERAL REGISTER a notice of the grant and the reasons for it.

(f) Unless a later effective date is specified in the notice of the grant, a temporary exemption is effective upon publication of the notice in the FEDERAL REGISTER and exempts vehicles manufactured on and after the effective date.

[38 FR 2694, Jan. 29, 1973, as amended at 39 FR 5489, Feb. 13, 1974; 39 FR 37988, Oct. 25, 1974; 64 FR 2861, 2862, Jan. 19, 1999; 83 FR 66160, Dec. 26, 2018]

§ 555.8 Termination of temporary exemptions.

(a) A temporary exemption from a standard granted on the basis of substantial economic hardship terminates according to its terms but not later than 3 years after the date of issuance unless terminated sooner pursuant to paragraph (d) of this section.

(b) A temporary exemption from a standard granted on a basis other than

substantial economic hardship terminates according to its terms but not later than 2 years after the date of issuance unless terminated sooner pursuant to paragraph (d) of this section.

(c) Any interested person may petition for the termination or modification of an exemption granted under this part. The petition will be processed in accordance with the procedures of part 552 of this chapter.

(d) The Administrator terminates or modifies a temporary exemption if he determines that—

(1) The temporary exemption is no longer consistent with the public interest and the objectives of the Act; or

(2) The temporary exemption was granted on the basis of false, fraudulent, or misleading representations or information.

(e) If an application for renewal of a temporary exemption that meets the requirements of § 555.5 has been filed not later than 60 days before the termination date of an exemption, the exemption does not terminate until the Administrator grants or denies the application for renewal.

(f) The Administrator publishes in the FEDERAL REGISTER a notice of:

(1) An application for termination or modification of an exemption and the action taken in response to it; and

(2) Any termination or modification of an exemption pursuant to the Administrator's own motion.

[38 FR 2694, Jan. 29, 1973, as amended at 39 FR 37989, Oct. 25, 1974; 40 FR 42015, Sept. 10, 1975; 64 FR 2861, Jan. 19, 1999]

§ 555.9 Temporary exemption labels.

A manufacturer of an exempted vehicle shall—

(a) Submit to the Administrator, within 30 days after receiving notification of the grant of an exemption, a sample of the certification label required by part 567 of this chapter and paragraph (c) of this section;

(b) Affix securely to the windshield or side window of each exempted vehicle a label in the English language containing the statement required by paragraph (c)(1) or (2) of this section, and with the words "Shown above" omitted.

(c) Meet all applicable requirements of part 567 of this chapter, except that—

(1) The statement required by § 567.4(g)(5) of this chapter shall end with the phrase "except for Standards Nos. [listing the standards by number and title for which an exemption has been granted] exempted pursuant to NHTSA Exemption No. _____."

(2) Instead of the statement required by § 567.5(c)(7)(iii), the following statement shall appear:

THIS VEHICLE CONFORMS TO ALL APPLICABLE FEDERAL MOTOR VEHICLE SAFETY (AND BUMPER) STANDARDS IN EFFECT IN [Month, Year] EXCEPT FOR STANDARD NOS. [Listing the standards by number and title for which an exemption has been granted] EXEMPTED PURSUANT TO NHTSA EXEMPTION NO. _____.

(Secs. 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1403, 1408); sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); secs. 102, 105, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912, 1915); delegations of authority at 49 CFR 1.50 and 501.8)

[38 FR 2694, Jan. 29, 1973, as amended at 50 FR 10772, Mar. 18, 1985; 60 FR 1750, Jan. 5, 1995]

§ 555.10 Availability for public inspection.

(a) Information relevant to an application under this part, including the application and supporting data, memoranda of informal meetings with the applicant or any other interested person, and the grant or denial of the application, is available for public inspection, except as specified in paragraph (b) of this section, in Room PL-401 (Docket Management), 400 Seventh Street, SW., Washington, DC 20590. Copies of available information may be obtained, as provided in part 7 of the regulations of the Office of the Secretary of Transportation (49 CFR part 7).

(b) Except for the release of confidential information authorized by part 512 of this chapter, information made available for inspection under paragraph (a) shall not include materials not relevant to the petition for which confidentiality is requested and granted in accordance with 49 U.S.C. 30166

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and 30167 and section 552(b) of title 5 of the U.S.C.).

[38 FR 2694, Jan. 29, 1973, as amended at 46 FR 2064, Jan. 8, 1981; 48 FR 44081, Sept. 27, 1983; 63 FR 44173, Aug. 18, 1998; 64 FR 2862, Jan. 19, 1999]

Subpart B—Vehicles Built in Two or More Stages and Altered Vehicles

SOURCE: 70 FR 7429, Feb. 14, 2005, unless otherwise noted.

§ 555.11 Application.

This subpart applies to alterers and manufacturers of motor vehicles built in two or more stages to which one or more standards are applicable. No manufacturer or alterer that produces or alters a total exceeding 10,000 motor vehicles annually shall be eligible for a temporary exemption under this subpart. Any exemption granted under this subpart shall be limited, per manufacturer, to 2,500 vehicles to be sold in the United States in any 12 consecutive month period. Incomplete vehicle manufacturers and intermediate manufacturers that do not intend to certify the vehicles in accordance with 49 CFR 567.5(f) or (g), and instead furnish Incomplete Vehicle Documents to final-stage manufacturers in accordance with 49 CFR 568.4 or 49 CFR 568.5, are not eligible for temporary exemptions under this subpart.

[71 FR 28196, May 15, 2006]

§ 555.12 Petition for exemption.

An alterer; an incomplete vehicle manufacturer intending to certify the vehicle in accordance with 49 CFR 567.5(f); an intermediate manufacturer intending to certify the vehicle in accordance with 49 CFR 567.5(g); a final-stage manufacturer; or an industry trade association representing a group of alterers, incomplete vehicle manufacturers, intermediate manufacturers and/or final-stage manufacturers may seek, as to any vehicle configuration altered and/or built in two or more stages, a temporary exemption or a renewal of a temporary exemption from any performance requirement for which a Federal motor vehicle safety standard specifies the use of a dynamic test procedure to determine compli-

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ance. Each petition for an exemption under this section must be submitted to NHTSA and must:

(a) Be written in the English language;

(b) Be submitted in three copies to: Administrator, National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590;

(c) State the full name and address of the applicant, the nature of its organization (e.g., individual, partnership, corporation, or trade association), the name of the State or country under the laws of which it is organized, and the name of each alterer, incomplete vehicle manufacturer, intermediate manufacturer and/or final-stage manufacturer for which the exemption is sought;

(d) State the number, title, paragraph designation, and the text or substance of the portion(s) of the standard(s) from which the exemption is sought;

(e) Describe by type and use each vehicle configuration (or range of vehicle configurations) for which the exemption is sought;

(f) State the estimated number of units of each vehicle configuration to be produced annually by each of the manufacturer(s) for whom the exemption is sought;

(g) Specify any part of the information and data submitted that the petitioner requests be withheld from public disclosure in accordance with part 512 of this chapter, as provided by § 555.5(b)(6).

(1) The information and data which petitioner requests be withheld from public disclosure must be submitted in accordance with § 512.4 of this chapter.

(2) The petitioner's request for withholding from public disclosure must be accompanied by a certification in support as set forth in appendix A to part 512 of this chapter.

[71 FR 28196, May 15, 2006]

§ 555.13 Basis for petition.

The petition shall:

(a) Discuss any factors (e.g., demand for the vehicle configuration, loss of market, difficulty in procuring goods and services necessary to conduct dynamic tests) that the applicant desires NHTSA to consider in deciding whether

to grant the application based on economic hardship.

(b) Explain the grounds on which the applicant asserts that the application of the dynamic test requirements of the standard(s) in question to the vehicles covered by the application would cause substantial economic hardship to each of the manufacturers on whose behalf the application is filed, providing a complete financial statement for each manufacturer and a complete description of each manufacturer's good faith efforts to comply with the standards, including a discussion of:

(1) The extent that no Type (1) or Type (2) statement with respect to such standard is available in the incomplete vehicle document furnished, per part 568 of this chapter, by the incomplete vehicle manufacturer or by a prior intermediate-stage manufacturer or why, if one is available, it cannot be followed;

(2) A description of the incomplete vehicle to be used to manufacture the vehicle(s) subject to the petition. This description must identify the manufacturer of the incomplete vehicle, state the incomplete vehicle's GVWR, and provide other available specifications;

(3) The availability of alternative incomplete vehicles, including incomplete vehicles of different size, GVWR, and number of axles, from the same and other incomplete vehicle manufacturers, that could allow the petitioner to rely on Incomplete Vehicle Documents when certifying the completed vehicle, instead of petitioning under this subpart;

(4) The existence, or lack thereof, of generic or cooperative testing that would provide a basis for demonstrating compliance with the standard(s); and

(c) Explain why the requested temporary exemption would not unreasonably degrade safety.

[71 FR 28196, May 15, 2006]

§ 555.14 Processing of petitions.

The Administrator shall notify the petitioner whether the petition is complete within 30 days of receipt. The Administrator shall attempt to approve or deny any complete petition submitted under this subpart within 120 days after the agency acknowledges

that the application is complete. Upon good cause shown, the Administrator may review a petition on an expedited basis.

§ 555.15 Time period for exemptions.

Subject to § 555.16, each temporary exemption granted by the Administrator under this subpart shall be in effect for a period of three years from the effective date. The Administrator shall identify each exemption by a unique number.

§ 555.16 Renewal of exemptions.

An alterer, intermediate or final-stage manufacturer or a trade association representing a group of alterers or, intermediate and/or final-stage manufacturers may apply for a renewal of a temporary exemption. Any such renewal petition shall be filed at least 60 days prior to the termination date of the existing exemption and shall include all the information required in an initial petition. If a petition for renewal of a temporary exemption that meets the requirements of this subpart has been filed not later than 60 days before the termination date of an exemption, the exemption does not terminate until the Administrator grants or denies the petition for renewal.

§ 555.17 Termination of temporary exemptions.

The Administrator may terminate or modify a temporary exemption if (s)he determines that:

(a) The temporary exemption was granted on the basis of false, fraudulent, or misleading representations or information; or

(b) The temporary exemption is no longer consistent with the public interest and the objectives of the Act.

§ 555.18 Temporary exemption labels.

An alterer or final-stage manufacturer of a vehicle that is covered by one or more exemptions issued under this sub-part shall affix a label that meets meet all the requirements of 49 CFR 555.9.