



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

DEC 8 2016

MEMORANDUM

OFFICE OF  
AIR AND RADIATION

SUBJECT: Vehicle Emission Inspection and Maintenance (I/M) Provision in the Fixing America's Surface Transportation (FAST) Act

FROM: Karl Simon, Director  
Transportation and Climate Division

A handwritten signature in blue ink, appearing to read "K. Simon".

TO: Air Division Directors  
EPA Regions I-X

On December 4, 2015, President Obama signed the "Fixing America's Surface Transportation (FAST) Act" (Pub. L. No. 114-94) into law. In addition to providing long-term funding certainty for surface transportation infrastructure planning and investment, the FAST Act also included a number of provisions addressing a variety of transportation topics. This memorandum provides guidance on a provision in Section 24405 of the FAST Act ("Treatment of Low-Volume Manufacturers") that addresses the applicability of vehicle emission inspection and maintenance (I/M) program requirements for replica vehicles produced by low-volume manufacturers; it does not discuss all provisions of Section 24405(b) pertaining to low-volume manufacturers and exempted specially produced motor vehicles.

Specifically, Section 24405(b) of the FAST Act amended Section 206(a) of the Clean Air Act (42 U.S.C. 7525(a)) to append additional provisions aimed at replica vehicles produced by low-volume vehicle manufacturers including a new Section 206(a)(5)(F)(ii) which exempts a class of vehicles known as "exempted specially produced motor vehicles" from I/M testing requirements under the Clean Air Act. The new Clean Air Act provision reads as follows:

*(F) Exempted specially produced motor vehicles compliant with this paragraph shall be exempted from—  
(i) motor vehicle certification testing under this section; and  
(ii) vehicle emission control inspection and maintenance programs required under section 110.*

Section 24405(b) of the FAST Act defines an "exempted specially produced motor vehicle" as a light-duty vehicle or light-duty truck produced by a low-volume manufacturer and that:

- 1) is made to resemble the body of a vehicle that was manufactured not less than 25 years before the manufacture of the exempted specially produced vehicle, and

- 2) 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.

The FAST Act defines a low-volume manufacturer as “a motor vehicle manufacturer, other than a person who is registered as an importer under section 30141 of title 49, United States Code, whose annual worldwide production, including by a parent or subsidiary of the manufacturer, if applicable, is not more than 5,000 motor vehicles.” A replica vehicle produced by a low-volume manufacturer is eligible for the exemption under the FAST Act from I/M testing requirements only if the vehicle is compliant with all provisions of Section 24405(b), including the requirement that the motor vehicle engine installed in an exempted specially produced motor vehicle must be from a motor vehicle that is covered by a certificate of conformity issued by the EPA or must be an engine covered by an Executive Order issued by the California Air Resources Board, for the model year in which the exempted specially produced motor vehicle is produced. Furthermore, to qualify for the I/M exemption, the low-volume manufacturer may produce no more than 325 such vehicles in the calendar year in which the exempted replica vehicle is produced.

The FAST Act exemption applies to I/M programs required under the Clean Air Act and thus going forward EPA will not approve state I/M provisions that apply to exempted specially produced replica motor vehicles as part of the federally approved SIP. Further, with passage of the FAST Act, EPA will not apply or enforce EPA approved I/M SIP provisions that apply to exempted specially produced replica motor vehicles, as now defined in the Act. States that currently include the testing of these vehicles in an approved I/M SIP should remove such provisions from the SIP the next time a SIP revision is prepared for submission to EPA. Any such revisions must be consistent with the requirement in section 110(l) that SIP revisions must not interfere with attainment of the National Ambient Air Quality Standards. EPA expects that removal of any relevant I/M SIP provisions that apply to exempted specially produced replica motor vehicles generally will not interfere with attainment. States choosing to continue testing specially produced replica motor vehicles for their own purposes may do so but are not required to test these vehicles to meet the Clean Air Act’s or EPA’s requirements for I/M programs. States choosing to continue testing specially produced replica motor vehicles also cannot claim emission reductions from testing these vehicles as part of an approved SIP.

EPA notes that EPA’s federal I/M regulations at 40 CFR Part 51, Subpart S do not mandate a specific level of vehicle coverage nor do they dictate which types of vehicles must be covered. Thus, EPA’s I/M regulations do not conflict with the FAST Act’s directive that “exempted specially produced motor vehicles” compliant with Section 24405(b) shall be exempted from I/M program requirements under the Clean Air Act. EPA’s I/M regulations provide states with the flexibility to design I/M programs that meet local needs and conditions, including the flexibility to decide which vehicles will be subject to I/M programs and which vehicles will be exempted. This flexibility is consistent with the FAST Act requirement to exempt specially produced replica motor vehicles compliant with Section 24405(b) from I/M required by the Clean Air Act but, as noted above, States retain the authority to impose I/M requirements as a matter of state law.