

1. They are substantially similar to vehicles of the same make, model, and model year originally manufactured for importation into and sale in the United States, or originally manufactured in the United States for sale therein, and certified as complying with all applicable FMVSS, and are capable of being readily altered to conform to all applicable FMVSS, or

2. They have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

### Vehicle Eligibility Number

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle Eligibility Number VSA-80 is currently assigned to Canadian-certified passenger cars and Vehicle Eligibility Number VSA-81 is currently assigned to Canadian-certified multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less. If this tentative decision is made final, all passenger cars admissible under the final decision will be assigned vehicle eligibility number VSA-80, and all multipurpose passenger vehicles, trucks, and buses admissible under the final decision will be assigned vehicle eligibility number VSA-81.

### Comments

Section 30141(b) of Title 49, U.S. Code requires NHTSA to provide a minimum period for public notice and comment on decisions made on its own initiative consistent with ensuring expeditious, but full consideration and avoiding delay by any person. NHTSA believes that a comment period of 30 days is appropriate for this purpose. Interested persons are invited to submit written comments on this tentative decision. Comments must refer to the docket and notice number identified at the beginning of this notice and be submitted by any of the following methods:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. Electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal. To access the portal, go to <http://www.regulations.gov> and then follow the online instructions for submitting comments.

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 address both before and after that date. To the extent possible, comments filed after the closing date will also be considered.

Notice of NHTSA's final decision will be published in the **Federal Register** pursuant to the authority identified below.

**Authority:** 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.8; delegation of authority at 49 CFR 1.50.

Issued on: August 8, 2007.

**Nicole R. Nason,**

*Administrator.*

[FR Doc. E7-15829 Filed 8-13-07; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2007-28970]

#### Reliance Trailer Company, LLC; Receipt of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

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

**ACTION:** Notice of receipt of application for a temporary exemption from Federal Motor Vehicle Safety Standard No. 224, *Rear impact protection*.

**SUMMARY:** In accordance with the procedures of 49 CFR Part 555, Reliance Trailer Company, LLC (Reliance) has applied for a Temporary Exemption from Federal Motor Vehicle Safety Standard (FMVSS) No. 224, *Rear impact protection* for three years. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

We are publishing this notice of receipt of the application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and have made no

judgment on the merits of the application.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than September 13, 2007.

**ADDRESSES:** You may submit comments (identified by the DOT DMS Docket Number in the heading of this document) by any of the following methods:

• **Web Site:** <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site by clicking on "Help and Information" or "Help/Info."

• **Fax:** 1-202-493-2251.

• **Mail:** U.S. Department of Transportation, Docket Operations, M-30, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, Washington, DC 20590.

• **Hand Delivery:** Room W12-140, West Building, Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

• **Federal eRulemaking Portal:** Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

**Instructions:** All submissions must include the agency name and docket number for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

**Docket:** For access to the docket in order to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room W12-140, West Building, Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

**Privacy Act:** 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 the comment, if 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 (Volume 65, Number 70; pages 19477-78) or you may visit <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Ms. Dorothy Nakama, Office of the Chief Counsel, National Highway Traffic Safety Administration, NCC-112, 1200 New Jersey Avenue, SE., Mail Code: W41-227, Washington, DC 20590 (Phone: 202-366-2992; Fax 202-366-3820).

**SUPPLEMENTARY INFORMATION:** We are asking for comments on the application of Reliance Trailer Co., LLC (Reliance) for an exemption for three years from Federal Motor Vehicle Safety Standard (FMVSS) No. 224, *Rear Impact Protection*. As explained below, Reliance states that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

### **I. Background Information About Reliance Trailer Co., LLC**

Reliance, a small trailer manufacturer in Spokane, Washington, produces three different product lines: Reliance trailer products; Alloy trailer products; and Sturdyweld products. FMVSS No. 224 has required since 1998, that trailers with a gross vehicle weight rating (GVWR) of 4536 kg or more, including Reliance's trailers, be fitted with a rear impact guard that conforms to FMVSS No. 224.

Reliance petitions for a temporary exemption from FMVSS No. 224 for its Sturdyweld "Pony Trailer." Reliance describes the "Pony Trailer" as having a chassis frame, attached to a tow point at the rear of a dump truck, and an accompanying open top body structure, comprised mainly of a front wall, two sidewalls, a floor, and a tailgate. The force of gravity unloads "Pony Trailers," which are unloaded by lifting the front of the body, using an extendable hydraulic cylinder. Reliance states that it has been unable to successfully design or purchase an acceptable bumper that would both meet FMVSS No. 224 requirements and permit use of the "Pony Trailer" in conjunction with asphalt paving equipment. Reliance states its belief that developing and producing a compliant underride bumper is not the issue, but rather, that if a compliant bumper were to be installed on these "Pony Trailers," the "Pony Trailers" would "be rendered virtually useless to the paving industry, the primary end user of this product."

Reliance states that asphalt lay-down equipment has a hopper, into which the "Pony Trailer" dumps hot mix. The "Pony Trailer" is a gravity feed dump trailer that dumps material into a hopper positioned directly behind the rear axle. This requires that Reliance's rear axle be set so that the back edge of the rear tire is 18 inches to 24 inches ahead of the rearmost point of the vehicle. Reliance states that anything behind the rear axle would interfere with the operation of the lay-down equipment. Reliance states that the area behind the rear axle is where the underride bumper would be placed. Any underride bumper would either

have to be moved out of the way, or removed during the paving operation. Reliance states that it is unaware of any manufacturer of similar trailers that has been able to economically design or purchase a movable bumper that meets the requirements set forth by FMVSS No. 224.

Reliance asks that the "Pony Trailer" receive a temporary exemption from FMVSS No. 224 for three years.

### **II. Previous Federal Register Documents Addressing Reliance's Applications of Temporary Exemptions From FMVSS No. 224**

On July 10, 2001 (66 FR 36032) (DOT Docket No. NHTSA-2001-10044), we published a notice of receipt of Reliance's application for temporary exemption from FMVSS No. 224 for its "dump body trailers." We noted that Reliance's product appeared to be a horizontal discharge trailer that is used in the road construction industry to deliver asphalt and other road building materials to the construction site. However, the sole commenter on the notice, Dan Hill & Associates, stated that there is a "very substantial difference between controlled horizontal discharge semi-trailers and dumping-type semi-trailers." Dan Hill stated that Reliance's trailer is a "dump body/gravity feed" trailer. Dan Hill distinguished this type of trailer as one that "can handle everything from 9-foot-plus slabs of concrete all the way down to sand, whereas the \* \* \* controlled horizontal discharge products are limited to the transportation of hot-mix asphalt and, on occasion, other related processed road-building materials under 2" in size." Dan Hill stated that the horizontal discharge trailer manufacturers share a market of fewer than 400 unit sales per year. Dan Hill further stated that in contrast, the "dumping type trailer" manufacturers produce on average 7,451 units per year. Dan Hill cited as the source of its information, the U.S. Census Bureau, measurement period 1991 through 1997.

In a **Federal Register** document published on October 21, 2001 (66 FR 53471) (DOT Docket No. NHTSA-2001-10044), we granted Reliance's application of temporary exemption from FMVSS No. 224 for "dump body trailers." The basis of the grant was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. Reliance was granted NHTSA Temporary Exemption No. 2001-6, which expired October 1, 2003.

In a **Federal Register** document published on June 1, 2004 (69 FR 30989) (DOT Docket No. NHTSA-2001-10044),

we granted Reliance's application of temporary exemption from FMVSS No. 224 for "dump body trailers." The basis of the grant was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. Reliance was granted NHTSA Temporary Exemption No. EX 04-01, which expired on June 1, 2006.

### **III. 2004 Final Rule Excluding Horizontal Discharge Trailers From FMVSS No. 224**

In a final rule published on November 19, 2004 (69 FR 67663) (DOT Docket No. NHTSA-2004-19033) we amended FMVSS No. 224 to exclude from its coverage, road construction controlled horizontal discharge trailers (RCC horizontal discharge trailers). RCC horizontal discharge trailers are used in the road construction industry to deliver asphalt to construction sites and gradually discharge asphalt mix into the paving machines overlaying the road surface. The agency decided to exclude RCC horizontal discharge trailers from FMVSS No. 224 after concluding that installation of rear impact guards would interfere with the RCC horizontal discharge trailers' intended function and is therefore impracticable due to the unique design and purpose of these vehicles.

In public comments responding to a notice of proposed rulemaking (NPRM) published on September 19, 2003, proposing to amend FMVSS No. 224 to exclude RCC horizontal discharge trailers, Reliance wrote to request that NHTSA amend the definition of an RCC horizontal discharge trailer to include gravity feed dump trailers. We declined Reliance's request for the following reasons:

A RCC horizontal discharge trailer is a single-purpose vehicle designed to deliver and discharge asphalt materials into paving equipment in a controlled manner. Unlike the RCC horizontal discharge trailers, gravity feed dump trailers are versatile vehicles used for a multitude of tasks. Often, gravity feed dump trailers are used in a way that does not require controlled offloading or interaction with other equipment such as paving machines. Further, many gravity feed dump trailers fall under wheels back exception. Others can easily accommodate an underride guard.

Because it is not impracticable for all gravity feed dump trailers to comply with FMVSS No. 224, the agency prefers to review the necessity of exempting gravity feed dump body trailers within the context of temporary exemptions pursuant to 49 CFR Part 555. In certain limited circumstances, the agency grants temporary exemptions to gravity feed dump trailer manufacturers based, in part, on impracticability of compliance. In fact, several gravity feed dump trailer

manufacturers, including Reliance, have previously received exemptions from FMVSS No. 224.\* \* \*

The agency notes that gravity feed dump trailers are more common and represent a larger vehicle population compared to RCC horizontal discharge trailers. Accordingly, we are concerned that exempting a larger vehicle population from the requirements of the standard may lead to negative safety consequences exceeding those associated with exempting only the RCC horizontal discharge trailers. Because of a larger vehicle population and because of their versatility of use, the agency cannot conclude that a risk of an underride collision with a gravity feed dump trailer is negligible. Finally, we note that Reliance's request is outside the scope of the NPRM, and this rulemaking action cannot exempt other types of vehicles from the requirements of FMVSS No. 224 without further notice.

(See 69 FR at 67666.) (Emphasis added.)

Thus, in the November 2004 final rule, we declined to provide a blanket exemption from FMVSS No. 224 for gravity feed dump trailers.

#### **IV. Reliance's Current Application for a Temporary Exemption From FMVSS No. 224**

The application, dated June 15, 2006, addressed in today's document is the third from Reliance requesting a temporary exemption from FMVSS No. 224. Pursuant to 49 CFR Part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*, Reliance presents the following arguments in favor of its application.

##### ***A. Reliance's Statement of Economic Hardship***

Reliance stated that during the past year, the "Pony Trailers" have accounted for 55 percent of its manufacturing profits. Reliance stated that if it must comply with FMVSS No. 224, the "Pony Trailers" would be "rendered inefficient" for the paving industry, the primary end user of the product, and Reliance would have no alternative than to discontinue production of the Sturdyweld product line. If Reliance discontinues production of the Sturdyweld product line, it will be forced to reduce its workforce, commensurate with the decline in overall sales and profits. This would cause approximately thirty employees to lose their jobs. With the discontinuation of the Sturdywell product line, and subsequent loss of profit, Reliance would fall well below profitability, and may ultimately be forced to cease operations.

##### ***B. Reliance's Statement of Good Faith Efforts To Comply***

Reliance states that asphalt lay-down equipment has a hopper, into which the

"Pony Trailer" dumps hot mix. Reliance states that the "Pony Trailer" is a gravity feed dump trailer that dumps material into a hopper positioned directly behind the rear axle. Reliance states that this requires that the "Pony Trailer's" rear axle be set so the back edge of the rear tire is 18 inches to 24 inches ahead of the rear most point of the trailer, and that anything behind the rear axle would interfere with the operation of the lay-down equipment.

Reliance states that the area behind the rear axle is where the underride bumper would be, and provides an illustration. Reliance states that any underride bumper would either have to be moved out of the way, or removed during the paving operation. Reliance stated that it is unaware of any manufacturer of similar trailers that has been able to design economically or purchase a movable bumper that meets FMVSS No. 224 requirements.

Reliance states that the 18 to 24 inches behind the rear tires required for paving is only slightly more than the 12 inches required to meet the axle back requirement. Reliance considers this to be a much safer position than the typical over the road freight hauling trailer, where the distance from the back of the tire to the end of the trailer can reach upwards of 110 inches if no rear impact guard were in place.

Reliance states that it has continued to explore any options that the company believes would permit compliance with FMVSS No. 224 and allow operation of the "Pony Trailers" in conjunction with paving equipment. Reliance states that it has exhausted "all known possibilities." Reliance stated that it will continue to work with its customers to look for a "viable solution" to this issue.

##### ***C. Reliance's Statement of Public Interest***

Reliance states that it anticipates building fewer than 100 units of the "Pony Trailer" per year, and concludes that the quantity of "Pony Trailers" produced is very small in comparison to over the road type units. Reliance states that the typical hauls for "Pony Trailers" are short with a minimal amount of time spent traveling on highways, compared with most freight trailers. Reliance states that asphalt batch plants are typically set up close to the paving site, so that the asphalt can remain hot enough to flow from the trailer into the paver and spread effectively. Reliance states that the vehicles spend very little time traveling on busy roads to the job location. Reliance states that special access is often provided to the job site, reducing exposure to other vehicles, and that "at

this time" it is unaware of any collisions or subsequent injuries related to the "Pony Trailer."

Reliance states that it is in the public interest to grant the temporary exemption so that it can continue as a profitable company, can allow Reliance to retain and expand its current workforce, thus stimulating the economy, and so that Reliance can continue to "produce a quality product" to serve the paving industry, and the needs of the American people by continuing safe and effective operation of paving equipment, to produce, new, as well as maintain existing roads for transportation needs.

**Authority:** 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8.

Issued on: August 8, 2007.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E7-15836 Filed 8-13-07; 8:45 am]

**BILLING CODE 4910-59-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Pipeline and Hazardous Materials Safety Administration Office of Hazardous Materials Safety; Notice of Delays in Processing Special Permits Applications**

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

**ACTION:** List of applications delayed more than 180 days.

**SUMMARY:** In accordance with the requirements of 49 U.S.C. 5117(c), PHMSA is publishing the following list of special permit applications that have been in process for 180 days or more. The reason(s) for delay and the expected completion date for action on each application is provided in association with each identified application.

**FOR FURTHER INFORMATION CONTACT:** Delmer F. Billings, Director, Office of Hazardous Materials Special Permits and Approvals, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, East Building, PHH-30, 1200 New Jersey Avenue, SE., Washington, DC 20590-0001, (202) 366-4535.

#### **Key to "Reason for Delay"**

1. Awaiting additional information from applicant.
2. Extensive public comment under review.
3. Application is technically complex and is of significant impact or precedent-setting and requires extensive analysis.