

to ten pounds below the inflation pressure that is necessary to support the weight of the bus when it operates with a full load of passengers. In addition, a few certification labels specify an inflation pressure that is ten to twenty pounds below the inflation pressure that is necessary to support the weight of the bus when it operates at maximum capacity. However, if the same tires are inflated to the maximum inflation pressure that is molded on the sidewall, then the tires will support the vehicle's weight. AmTran, in effect, is asking to be excused from preparing and sending corrected certification labels to the vehicles' owners.

In addition, the information on the certification label is required to be specified in English and metric units. According to AmTran, all of the AmTran buses produced prior to February 11, 1999, have a certification label that correctly specifies the weight of the vehicle without identifying it as "lbs."

AmTran supports its application for inconsequential noncompliance for the certification label by stating the following:

- Most buses do not run at full GVWR or full capacity.
- When buses operate at full capacity, it is for a very short period of time.
- There have been no tire warranty claims related to low pressure.
- Most tires are inflated by charts used at maintenance areas and the certification document is not used as a guide.
- The difference between the specified tire pressure and the required tire pressure is not a safety issue in this case.

In addition, AmTran supports its application for inconsequential noncompliance for the missing units of "lbs" by stating the following:

- Not aware of any problems created by the missing unit identification.
- It is understood in the U.S. bus industry that the GAWR and GVWR are listed in pounds.

We have reviewed the petitioner's arguments. The purpose for the labeling requirements in FMVSS No. 120 is to provide the vehicle user with information for the safe operation of the vehicle. FMVSS No. 120 paragraph S5.3.1 specifies that the certification label on buses include the recommended cold inflation pressure for the tires such that the sum of the load ratings of the tires on each axle is appropriate for the GAWR. Part 567 specifies the content and location of the certification label. In this case, no units of measure were provided.

Of the 1,514 buses, our analysis indicates that 557 have specified a tire inflation pressure on the label that is incorrect and may not be able to handle the load. Under-inflation and overloading produces structural failure in a tire; this could cause loss of control while the vehicle is traveling on the highway. This presents a clear and distinct safety hazard. However, the remaining 957 buses, based on our analysis of supplemental data, should be able to handle the full occupant capacity loads when the vehicle tires are inflated to the recommended inflation pressures.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to safety for 557 buses. Accordingly, in regards to the certification label, its application is hereby denied for 557 buses and granted for 957 buses. In addition, the replacement labels should contain the correct data in both metric and English units.

According to AmTran, the processes have been extensively reviewed, the causes of these noncompliances have been isolated, and changes in the processes have been instituted to prevent any future occurrences. In addition, the noncompliance is limited to the buses addressed in this notice, and AmTran stated that its future products will comply with the prescribed requirements.

The agency agrees with AmTran that the label on these buses whose only deficiency is the failure to provide the marking "lbs" for the units, and a metric conversion, is likely to achieve the safety purpose of the required label. The vehicle user will have the correct safety information in the prescribed location and format. Since petitioning the agency on this subject, AmTran has corrected its certification label process to include the prescribed format.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that this labeling noncompliance portion of its petition is inconsequential to motor vehicle safety. Accordingly, we grant its petition on this issue.

(49 U.S.C. 30118, 30120, delegations of authority at 49 CFR 1.50 and 501.8)

Issued on February 2, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2001-8827; Notice 1]

Dan Hill & Associates, Inc.; Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

We are asking for comments on the application by Dan Hill & Associates, Inc. ("Dan Hill"), of Norman, Oklahoma, for an exemption of one year from Motor Vehicle Safety Standard No. 224 *Rear Impact Protection*. Dan Hill asserts 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 our regulations on the subject. This action does not mean that we have made a judgment yet about the merits of the application.

Dan Hill has been the beneficiary of temporary exemptions from Standard No. 224 beginning on January 26, 1998 (see 63 FR 3784 and 64 FR 49047). The information below is based on material from Dan Hill's original and renewal applications of 1998 and 1999, and its most recent application of 2000.

Why Dan Hill Says That it Continues To Need an Exemption

Dan Hill manufactures and sells a horizontal discharge trailer ("Flow Boy") that is used in the road construction industry to deliver asphalt and other road building materials to the construction site. The Flow Boy is designed to connect with and latch onto various paving machines ("pavers"). The Flow Boy, with its hydraulically controlled horizontal discharge system, discharges hot mix asphalt at a controlled rate into a paver which overlays the road surface with asphalt material.

Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 Kg or more, including Flow Boy trailers, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. Dan Hill argued that installation of the rear impact guard will prevent the Flow Boy from connecting to the paver. Thus, Flow Boy trailers will no longer be functional. Paving contractors will be forced to use either competitors' horizontal discharge trailers that comply with Standard No. 224 or standard dump body trucks or trailers which, according to Dan Hill, have inherent limitations and safety risks. In spite of

exemptions totaling three years, Dan Hill avers that it has been unable to engineer its trailers to conform and needs a further year in which to do so. We discuss below its efforts to conform in greater detail.

Dan Hill's Reasons Why it Believes That Compliance Would Cause it Substantial Economic Hardship and That it Has Tried in Good Faith To Comply With Standard No. 224

Dan Hill is a small volume manufacturer. Its total production in the 12-month period preceding its latest petition was 151 units. In the absence of a further exemption, Dan Hill asserts that approximately 70 percent of its work force would have to be laid off. If the exemption were not renewed, Dan Hill's gross sales would decrease by \$8,313,337 in 2001. Its cumulative net income after taxes for the fiscal years 1998, 1999, and 2000 was \$454,556, but net income has declined in 2000 and 1999 from the year before. It projects a net loss of \$291,947 for fiscal year 2001.

The **Federal Register** notices cited above contain Dan Hill's arguments of its previous good faith efforts to conform with Standard No. 224 and form the basis of our previous grants of Dan Hill's petitions. Dan Hill originally asked for a year's exemption in order to explore the feasibility of a rear impact guard that would allow the Flow Boy trailer to connect to a conventional paver. It concentrated its efforts between 1998 and 1999 in investigating the feasibility of a retractable rear impact guard, which would enable Flow Boys to continue to connect to pavers. The company has examined the various alternatives: installation of a fixed rear impact guard, redesign of pavers, installation of a removable rear impact guard, installation of a retractable rear impact guard, and installation of a "swing-up" style tailgate with an attached bumper. Its latest efforts to conform, from September 1999 until December 2000, involve the design of a swing-in retractable rear impact guard. A review of its design, by Tech, Inc., shows that this, too, is not feasible. Among other things, Tech, Inc., is concerned that "the tailgate, hinges, and air cylinders will not meet the criteria of the Standard 224-plasticity requirement," and that "the bumper is a potential safety hazard" because if the gate were raised and "a flagman or a trailer stager is in between the paver and the bumper while the gate and bumper is rising, the bumper could cause serious injury or death." A copy of Tech Inc.'s report has been filed in the docket as part of Dan Hill's petition. The report also indicates that the costs associated

with this design may be cost prohibitive "when trying to win business in a highly competitive, yet narrow marketplace."

Dan Hill's Reasons Why it Believes That a Temporary Exemption Would Be in the Public Interest and Consistent With Objectives of Motor Vehicle Safety

Dan Hill believes that an exemption would be in the public interest and consistent with traffic safety objectives because, without an exemption, "within a short time, production of the trailer will cease entirely. Jobs will be lost and a major employer in McClain County will be lost. This would mean a significant loss to many people in the state, including shareholders, lenders, employees, families, and other stakeholders." Dan Hill's production represents less than .05% of trailers manufactured. The amount of time actually spent on the road is limited because of the need to move the asphalt to the job site before it hardens. Nevertheless, Dan Hill has taken recent efforts to enhance the conspicuity of Flow Boy trailers by: 1. adding "High intensity flashing safety lights; 2. Doubling the legally required amount of conspicuity taping at the rear of the trailer; 3. [adding] Safety signage; 4. [adding] Red clearance lights that normally emit light in twilight or nighttime conditions; and 5. Installation of a rear under-ride protection assembly 28" above the ground and 60" in width." Finally, the location of the rear tires is such that the tires act as a buffer "and reduce the likelihood of impact with the semi-trailer and the vehicle's windshield or interior of the vehicle significantly."

How You May Comment on Dan Hill's Application

If you would like to comment on Dan Hill's application, please do so in writing, in duplicate, referring to the docket and notice number, and mail to: Docket Management, National Highway Traffic Safety Administration, room PL-401, 400 Seventh Street, SW, Washington, DC 20590.

We shall consider all comments received before the close of business on the date indicated below. Comments are available for examination in the docket in room PL-401 both before and after that date, between the hours of 10 a.m. and 5 p.m. To the extent possible, we also consider comments filed after the closing date. We will publish our decision on the application, pursuant to the authority indicated below.

Comment closing date: March 5, 2001.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on February 8, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2001-8809; Notice 1]

EGO Vehicles Inc.; Receipt of Application for Temporary Exemption From Federal Motor Vehicle Safety Standards Nos. 119 and 120

EGO Vehicles Inc. ("Ego"), a Delaware corporation located in Fairhope, Alabama, through counsel in San Francisco, California, has applied for a temporary exemption of its "eGO" motor driven cycle from Federal Motor Vehicle Safety Standards Nos. 119, *New Pneumatic Tires for Vehicles Other Than Passenger Cars*, and No. 120, *Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars*. The basis of the application is that an exemption would make easier the development or field evaluation of a low-emission motor vehicle and would not unreasonably lower the safety level of the vehicle.

This notice of receipt of an application is published in accordance with the requirements of 49 U.S.C. 30113(b)(2) and does not represent any judgment of the agency on the merits of the application.

EGO seeks an exemption of two years from the requirements of Standards Nos. 119 and 120. Standard No. 119 establishes performance and endurance, marking, and treadwear indicators for motorcycle tires. Standard No. 120 establishes requirements for DOT-certified rims of certain sizes to ensure compatibility with DOT-certified tires of the same sizes. The eGO vehicle is not a motorcycle of conventional configuration, having a "chassis design * * * similar to that of a large scooter, but it has handlebars, a seat and other components that make it more similar in appearance and operation to a bicycle." The eGO is powered by a single electric motor producing less than 2 horsepower, and is therefore a "motor driven cycle," a subcategory of motorcycle under NHTSA definitions and regulations. The speed of the eGO "is limited by its controller and drivetrain configuration to less than 20 miles per hour."

EGO states that it has located "many high-performance bicycle rims and tires," but that "none of the