

utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

*Title:* Reporting of Technical Activities by FTA Grant Recipients. (OMB Number: 2132-0549).

*Background:* 49 U.S.C. 5303 and 5313(a) and (b) authorize the use of Federal funds to assist metropolitan planning organizations (MPOs), States, and local public bodies in developing transportation plans and programs to serve future transportation needs of urbanized areas and nonurbanized areas throughout the nation. As part of this effort, MPOs are required to consider a wide range of goals and objectives and to analyze alternative transportation system management and investment strategies. These objectives are measured by definable activities such as planning certification reviews and other related activities.

The information collected is used to report annually to Congress, the Secretary, and to the Federal Transit Administrator on how grantees are responding to national emphasis areas and congressional direction, and allows FTA to track grantees' use of Federal planning and research funds.

*Respondents:* FTA grant recipients.

*Estimated Annual Burden on Respondents:* 3 hours for each of the 50 respondents.

*Estimated Total Annual Burden:* 150 hours.

*Frequency:* Annual.

Issued: May 26, 2004.

**Ann M. Linnertz,**

*Deputy Associate Administrator for Administration.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2001-10044; Notice 4]

#### Reliance Trailer Co., LLC.; Grant of Application for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

This notice grants the application by Reliance Trailer Co., LLC, of Spokane, Washington (Reliance), for a renewal of a temporary exemption for its dump body trailer from the Federal Motor Vehicle Safety Standard No. 224, *Rear*

*Impact Protection* (FMVSS No. 224). In accordance with 49 U.S.C. 30113(b)(3)(B)(i), the basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has made a good faith effort to comply with the standard.

The National Highway Traffic Safety Administration (NHTSA) published a notice of receipt of the application on January 16, 2004, and afforded an opportunity for comment.<sup>1</sup>

#### I. Background

Reliance is a small volume manufacturer of dump body trailers built to work specifically with asphalt paving equipment. On October 16, 2001, Reliance was issued a two-year hardship exemption from the requirements of FMVSS No. 224.<sup>2</sup> Despite their efforts since 2001, Reliance had been unable to bring their dump body trailers in compliance with FMVSS No. 224. Accordingly, Reliance petitioned for renewal on September 24, 2003. We note that because Reliance did not apply for a renewal more than 60 days prior to expiration of the original exemption, their exemption lapsed on October 1, 2003.<sup>3</sup> This exemption is effective as of the day of this notice, and will remain in effect until June 1, 2006.

#### II. Why Reliance Needs a Renewal of a Temporary Exemption

FMVSS No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 kg or more, including Reliance's dump body trailers, be fitted with a rear impact guard that conforms to Standard No. 223, *Rear Impact Guards*.

In the original petition, Reliance argued that a rear impact guard would prevent its trailers from properly connecting with, and discharging asphalt into paving equipment. According to petitioners, compliance with FMVSS No. 224 would render their dump body trailers useless for performing their intended function. During the two-year temporary exemption period, Reliance anticipated acquiring the revenue necessary to design a complex retractable rear impact guard that would allow for proper interaction with paving equipment. However, petitioners now state that they have not been able to arrive at a practical, and economic solution for complying with the requirements of FMVSS No. 224. Accordingly, Reliance has asked for an additional two year

time period in which they can derive financial resources necessary for further attempts to bring their dump body trailers into compliance with FMVSS No. 224 without negating their intended function.

#### III. Why Compliance Would Cause Substantial Economic Hardship and How Reliance Has Tried in Good Faith To Comply With the Requirements of Standard No. 224

In addition to their inability to design a practicable rear impact guard, Reliance experienced a significant economic downturn in the past three years. Specifically, petitioner's financial statements show a profit of \$69,284 for the fiscal year 2000; an operating loss of \$1,181,900 for the fiscal year 2001; and an operating loss of \$2,477,700 for the 2002 fiscal year. This represents a cumulative loss over a 3 year period of \$3,590,316.<sup>4</sup> These economic losses forced Reliance to shut down one of their manufacturing facilities in Lynnwood, Washington, and the company is in the midst of further restructuring and consolidation. In 2003, Reliance produced only 12 dump body trailers, which is significantly less than the output in the previous two years. In short, Reliance has not been able to generate profits necessary to continue their efforts to develop a dump body trailer that can effectively interact with paving equipment. According to Reliance, denial of this petition would cause further economic harm to the company because their product would become useless to their only customer—the paving industry.

With respect to petitioner's efforts to comply with FMVSS No. 224, Reliance explored the possibility of implementing moveable, retractable, or removable rear impact guards. However, it was decided that moveable and retractable guards would interfere with paving machines to which a Reliance trailer attaches. This is because the hopper for the paving equipment occupies the space directly behind the rear axle. Reliance anticipates that removable guards would not be reinstalled because they would need to be removed every time the trailer was used.

#### IV. Why a Renewal of an Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

Petitioners contend that the renewal of their exemption would be in the

<sup>1</sup> See 69 FR 2644.

<sup>2</sup> For additional background information on the company please see original petition (66 FR 53471).

<sup>3</sup> See 49 CFR 555.8(e).

<sup>4</sup> To see Reliance petition for renewal of their temporary exemption, please go to <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2001-10044.

public interest for the following reasons. First, Reliance argues that denial of this petition request would reduce their payroll by 15 to 18 employees. Second, Reliance argues that an exemption would allow the company to continue providing paving equipment needed by road building industry.

According to Reliance, this exemption will facilitate their efforts to continue seeking a practicable and financially viable solution that would allow dump body trailers with rear impact guards to functionally interact with paving equipment.

#### V. Comments Received on the Reliance Petition

The agency received no comments on the petition for renewal of the exemption.

#### VI. The Agency's Findings

The agency is granting the Reliance petition for the following reasons:

1. The Reliance petition clearly demonstrates the financial difficulties experienced by the company, with cumulative losses in the past three years exceeding \$3,500,000.

2. The application indicates that Reliance has made a good faith effort to bring their dump body trailers into compliance with Federal safety standards.

3. Traditionally, the agency has found that the public interest is served in affording continued employment to a small volume manufacturer's work force. In this instance, denial of the petition would likely decrease Reliance payroll by 15 to 18 employees.

4. Because these trailers will be manufactured in limited quantities and because typical hauls are short with a minimal amount of time spent traveling on highways, the agency finds that this exemption will likely have a negligible impact on the overall safety of U.S. highways. At the same time, the public interest is served because these special-purpose, road construction trailers perform an important function by facilitating road construction and maintenance.

5. The agency notes that there is no substantial difference between Reliance petition and other hardship applications that we have granted in the past. For example, we recently granted an exemption to another manufacturer of similar dump body trailers. On February 13, 2003, Columbia Body Manufacturing Co. received a three-year exemption from the requirements of FMVSS No. 224.<sup>5</sup>

<sup>5</sup> For details on that exemption, please see 68 FR 7406.

6. The term of this exemption will be limited to two years and the agency anticipates that this time period will enable Reliance to derive revenues necessary to continue their efforts to bring their dump body trailers in compliance with FMVSS No. 224.

In consideration of the foregoing, it is hereby found that compliance with the requirements of Standard No. 224 would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. It is further found that the granting of an exemption would be in the public interest and consistent with the objectives of traffic safety.

In accordance with 49 U.S.C. 30113(b)(3)(B)(i), Reliance is granted NHTSA Temporary Exemption No. EX 04-1, from the requirements of 49 CFR 571.224; Standard No. 224, *Rear Impact Protection*. The exemption shall remain in effect until June 1, 2006.

#### FOR FURTHER INFORMATION CONTACT:

George Feygin in the Office of Chief Counsel, NCC-112, (Phone: (202) 366-2992; Fax (202) 366-3820; e-mail: [George.Feygin@nhtsa.dot.gov](mailto:George.Feygin@nhtsa.dot.gov)). (49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: May 25, 2004.

Jeffrey W. Runge,  
Administrator.

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#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-17939; Notice 1]

##### Bentley Motors, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Bentley Motors, Inc. (Bentley) has determined that certain vehicles that it manufactured in 2004 do not comply with S4.2.2(a) of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, "Theft protection." Bentley has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Bentley has petitioned 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.

This notice of receipt of Bentley's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of

judgment concerning the merits of the petition.

Approximately 464 model year 2004 Bentley Continental GT vehicles are affected. S4.2.2(a) of FMVSS No. 114 requires that

\* \* \* provided that steering is prevented upon the key's removal, each vehicle \* \* \* [which has an automatic transmission with a "park" position] may permit key removal when electrical failure of this [key-locking] system \* \* \* occurs or may have a device which, when activated, permits key removal.

In the affected vehicles, the steering does not lock when the ignition key is removed from the ignition switch using the optionally provided device that permits key removal in the event of electrical system failure or when the transmission is not in the "park" position.

Bentley believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Bentley states the following in its petition:

The ignition key/transmission interlock requirements of S4.2 were enacted in Docket 1-21, Notice 9 published May 30, 1990. In that amendment, there was no provision for a device to permit key removal if the transmission was not in the PARK position. In response to petitions for reconsideration and comments to the original NPRM by Toyota, Nissan, Subaru and the Rover Group, NHTSA published Docket 1-21, Notice 10 on March 26, 1991 to revise S4.2 by adding S4.2.1 and S4.2.2 which permit a device to enable ignition key removal if located behind a non-transparent cover that must be removed with the use of a tool. The activation of the override could permit ignition key removal even though the transmission is not in PARK or it could permit moving the transmission out of the PARK position after removal of the ignition key. The condition required for the operation of the device in each case is that the steering would be prevented when the ignition key is removed from the ignition switch.

Toyota and Honda filed petitions for reconsideration to the March 1991 Final Rule amendment and these were responded to in Docket 1-21, Notice 11 on January 17, 1992. In Notice 11, NHTSA amended S4.2.2(a) to clarify that ignition key removal is permitted even though the transmission is not in PARK without the activation of the device in the event of vehicle electrical failure. However, removal of the ignition key with the transmission not in PARK under conditions when the vehicle has normal electric power would only be permitted with the use of the device. The condition for permitting ignition key removal under any situation when the transmission was not in PARK was that the steering would be prevented when the ignition key is removed from the ignition switch.

The provision that the steering must be locked when the ignition key is removed from the ignition switch was discussed in both Notice 10 (56 FR 12467, March 20,