

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. NHTSA-99-6187; Notice 1]

Athey Products Corporation, Receipt of Application for Decision of Inconsequential Noncompliance

Athey Products Corporation (Athey) has determined that certain Mobil model Street Sweepers it produced are not in full compliance with 49 CFR 571.105, Federal Motor Vehicle Safety Standard (FMVSS) No. 105, "Hydraulic and Electric Brake Systems," and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Athey has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of an application 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 application.

Paragraph S5.5 of FMVSS No. 105 states that each vehicle with a gross vehicle weight rating greater than 10,000 pounds, except for a vehicle with a speed attainable in 2 miles of not more than 33 mph, shall be equipped with an antilock brake system that directly controls the wheels of at least one front axle and the wheels of at least one rear axle of the vehicle. The effective date of this requirement was March 1, 1999.

Between March 1, 1999 and July 31, 1999 Athey sold and/or distributed 21 Athey Mobil M8A model street sweepers and 56 Mobil M9D model street sweepers which were not equipped with antilock brake systems (ABS) as required by FMVSS No. 105.

Athey supports its application by stating that the noncompliant vehicles are capable of speeds in excess of 33 mph, but spend the majority of their operating time at speeds below 33 mph. According to Athey, a review of information from its customers indicated that these street sweepers spend 80% to 90% of their operation time at speeds below 33 mph. Athey further stated that the agency recognized that vehicle stopping distances and stability would not be substantially improved with ABS during maximum braking at speeds below 33 mph. Finally, in Athey's opinion, due to the low speed operation of these vehicles and the type of road use of street sweepers, maximum brake application

does not normally cause lockup and the subsequent loss of vehicle control or jackknifing.

Athey further supports its application by stating that the hydraulic service brake system with which the street sweepers are equipped is capable of providing 43% more brake torque than necessary to meet the 30 mph stopping performance distance in FMVSS No. 105, Table II, 3rd effectiveness, column (d). The brake system on these street sweepers is also capable of providing 52% more brake torque than required to meet the stopping performance requirements of the 60 mph test (FMVSS No. 105, Table II, 3rd effectiveness, column (d)). Due to the excess braking capability of these vehicles, Athey believes its street sweepers are safe during their limited operation at speeds above 33 mph.

In Athey's opinion, valuable public health and safety benefits are gained by states and municipalities from the use of street sweepers to remove trash, pollutants, and road hazards that are capable of puncturing tires.

In addition to information supporting its arguments that the noncompliance with FMVSS No. 105 is inconsequential, Athey cited several other developments and circumstances that it considers relevant to its application. Athey stated that it attempted to secure the necessary ABS equipment from suppliers in order to meet the March 1, 1999 effective date for ABS installation, but experienced delays in receiving ABS equipment from suppliers due to a backlog of orders. Many other truck manufacturers had ordered ABS equipment and the suppliers were also developing and distributing similar equipment for air-braked trucks. According to Athey, ABS systems meeting the requirements of FMVSS No. 105 will be installed on all vehicles covered by the requirements and the company is currently working with the suppliers of ABS equipment. Further, immediately upon becoming aware of the noncompliance, Athey halted all further sales and/or distribution of the Mobile model M8A and M9D street sweepers.

Athey also noted that the agency had granted a temporary exemption to the Johnson Sweeper Company (JSC) under 49 CFR part 555 from the ABS requirements of FMVSS No. 105. The agency cited the low speed operation of the JSC street sweepers and a reduction in the number of sweepers to fill the need of municipalities if JSC sweepers were not available as factors in deciding to grant JSC the temporary exemption.

Interested persons are invited to submit written data, views, and arguments on the application described

above. Comments should refer to the docket number and be submitted to: U.S. Department of Transportation, Docket Management, Room PL-401, 400 Seventh Street, SW, Washington, DC 20590. It is requested that two copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: November 22, 1999.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on October 18, 1999.

Stephen R. Kratzke,
Acting Associate Administrator for Safety Performance Standards.

[FR Doc. 99-27515 Filed 10-20-99; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Research and Special Programs Administration**

[Docket No. RSPA-99-5143 (Notice No. 99-12)]

Safety Advisory; DOT-3AL Cylinders in Carbon Dioxide Service; Manufacturer Product Recall

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Safety advisory notice.

SUMMARY: RSPA was recently notified of certain cylinders that are stamped incorrectly with the marking "DOT-3AL3000". The cylinders should have been stamped "DOT-3AL1800". The manufacturer, Luxfer (USA), has initiated a product recall of the affected cylinders which are being used in carbon dioxide service. The purpose of this notice is to advise owners, users, and regulators of the cylinders to follow the precautionary measures outlined in this notice.

FOR FURTHER INFORMATION CONTACT: Mark Toughiry or Stanley Staniszewski, Office of Hazardous Materials Technology, Research and Special Programs Administration, U.S. Department of Transportation, 400 Seventh Street SW, Washington DC 20590-001; telephone number (202)366-4545.