

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

[Docket No. NHTSA 99-6207, Notice 2]

Bombardier Motor Corporation of America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance

This notice grants the application by Bombardier Motor Corporation of America, Inc. (BMCA) to be exempted from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 for vehicles that fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies*. By not complying with FMVSS No. 209, the vehicles also fail to comply with FMVSS No. 500, *Low Speed Vehicles*. BMCA has filed an appropriate report pursuant to 49 CFR Part 573 "Defect and Noncompliance Reports." BMCA has also applied under 49 CFR Part 556 to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301 "Motor Vehicle Safety." The basis of the petition is that the noncompliance is claimed to be inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** November 8, 1999 and an opportunity afforded for comment (64 FR 61178). The comment closing date was December 9, 1999.

No comments were received.

Background

BMCA is a Delaware corporation with its principal place of business at 730 East Strawbridge Avenue, Melbourne, FL 32901. BMCA is the importer (manufacture) of a Low-Speed Vehicle ("LSV") under the brand name Bombardier NV neighborhood vehicle. This vehicle is built by Bombardier, Inc., in Canada. On May 6, 1999, BMCA sent the National Highway Traffic Safety Administration (NHTSA) a letter pursuant to Title 49, Part 573 of the Code of Federal Regulations, for the purpose of reporting to NHTSA a noncompliance with FMVSS No. 209, S4.1(j)—"Marking." FMVSS No. 500 *Low-Speed Vehicles*, requires vehicles such as the Bombardier NV to be equipped with seat belt assemblies that comply with FMVSS No. 209.

FMVSS No. 209 S4.1 (j) requires that each seat belt assembly be permanently and legibly marked or labeled with the year of manufacture, model, and name or trademark of manufacturer or distributor, or of importer if manufactured outside the United States.

The seat belt assemblies, manufactured by Good Success Corporation, model AB401 (309), installed in Bombardier NVs sold between June 17, 1998 and April 9, 1999 do not have the requisite marking or labeling. With the exception of the marking, the seat belt assemblies in question are said to comply fully with FMVSS No. 209.

Bombardier argues that, because the labeling noncompliance has no bearing on the materials or performance standards specified in FMVSS No. 209, all the seat belt assemblies in question were properly installed as original equipment, and BMCA's replacement part system would preclude the purchase and installation of an improper replacement seat belt assembly for a Bombardier NV, the noncompliance poses no motor vehicle safety risk.

Discussion

NHTSA has reviewed BMCA's application and, for the reasons discussed below, has decided that the noncompliance of the BMCA seat belt assemblies and the Bombardier NVs with the specified labeling requirements, is inconsequential to motor vehicle safety. Included in the petition was a letter from Erlin, Himes Associates to the seat belt assembly manufacturer, Good Success Corporation, indicating that the seat belt assemblies tested meet the performance requirements of FMVSS No. 209 for the type of seat belt assemblies tested.

NHTSA agrees that the lack of the correct label would not have any effect on occupant safety in these circumstances. BMCA produces only one vehicle model for highway use, and there is only one model of seat belt retractor for these vehicles. Therefore, it is highly unlikely that the wrong assemblies will be provided for replacement.

NHTSA has granted similar petitions for noncompliance with seat belt assembly labeling standards. *See, generally, TRW, Inc.*, Dkt. No. 92-67; Notice 2, 58 FR 7171 (1993); *Chrysler Corporation*, Dkt. No. 92-94-No.2, 57 Fed. Reg. 45,865 (1992). In both of these cases, the petitioners demonstrated that the noncompliant seatbelt assemblies were properly installed, and due to their respective replacement parts ordering systems, improper replacement seat belt assembly selection and installation would not be likely to occur.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance that it describes is inconsequential to safety. The determination is limited to the vehicles

and equipment covered by the Part 573 report.

Accordingly, BMCA's application is granted, and it is exempted from providing the notification of noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120. All products manufactured or sold on and after the April 9, 1999, including any replacement seat belt assemblies, must comply fully with the requirements of FMVSS Nos. 500 and 209.

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

Issued on: October 4, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 00-25972 Filed 10-6-00; 8:45 am]

BILLING CODE 4910-59-P

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

[Preemption Determination No. PD-13(R); Docket No. RSPA-97-2581 (PDA-16(R))]

Nassau County, New York, Ordinance on Transportation of Liquefied Petroleum Gases

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

ACTION: Decision on petition for reconsideration of administrative determination of preemption.

Petitioner: New York Propane Gas Association (NYPGA)

Local Laws Affected: Nassau County, New York, Ordinance No. 344-1979, Sections 6.7(A) & (B) and Section 6.8.

Applicable Federal Requirements: Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.*, and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180.

Modes Affected: Highway.

SUMMARY: Based on additional information provided by NYPGA and persons submitting comments on NYPGA's petition for reconsideration, RSPA finds that the requirement in Sections 6.7(A) and (B) of Ordinance No. 344-1979 for a permit to deliver liquefied petroleum gas (LPG) within Nassau County is preempted with respect to trucks that are based outside of Nassau County. As applied to and enforced against those vehicles, that requirement causes unnecessary delays in the transportation of hazardous