Nova supported its application by stating that the lamps do not pose a safety risk. It does not explain what leads it to believe that there is no possibility of confusing the subject amber lamps with required lamps or why flashing green lamps also would not confuse observers. It does admit that there is ''a slight chance'' that the amber ones could be confused with the hazard lamps. The fact remains that they will attract attention, while having no readily apparent safety meaning, given that they are unique in the motor vehicle environment. This dilutes driver attention that needs to be focused on the driving task.

In addition, Nova states that because its customers specifically requested these noncompliant lamps and the agency cannot force the customers to return the buses to make them compliant, it would be unlikely they would return the vehicles in a recall campaign. This does not persuade us to grant the application. It is necessary that Nova notify its customers that the vehicles it sold them were noncompliant. It must also explain to the customers why they are noncompliant and the potential consequences of the noncompliance. If a large percentage of owners decide not to return their vehicles for remedy, the agency may investigate whether the Nova notification was adequate, and further action could be required.

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 motor vehicle safety, and that it should not be exempted from the notification and remedy requirements of the statute. Accordingly, its application is hereby denied.

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

Issued on: May 6, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–01–10411; Notice 2]

Reliance Trailer Company, LLC; Grant of Application for Decision of Inconsequential Noncompliance

Reliance Trailer Company, LLC, of Spokane, Washington (''Reliance''), has determined that 26 of its dump body trailers, manufactured between February and June 2001, fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 224, ''Rear Impact Protection,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defects and Noncompliance Reports.''

On May 29, 2001, Reliance submitted a petition to the agency and requested that it 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.

We published a notice of receipt of the application on August 24, 2001, affording an opportunity to comment (66 FR 44663). We did not receive any comments on the notice. This notice grants the application.

The dump body trailers Reliance manufactured between February and June 2001 do not comply with FMVSS No. 224, ''because their wheels were located farther ahead of the 12″ wheels back dimension,'' and hence do not qualify for exclusion from FMVSS No. 224. Paragraph S4 of FMVSS No. 224 defines a wheels back vehicle as a trailer or semitrailer whose rearmost axle is permanently fixed and is located such that the rearmost surface of tires of the size recommended by the vehicle manufacturer for the vehicle on that axle is not more than 305 mm [12 inches] forward of the transverse vertical plane tangent to the rear extremity of the vehicle.'' Reliance's Part 573 report acknowledged that the 26 affected dump body trailers are not in compliance with FMVSS No. 224, since the rearmost surface of their tires must be 16″–18″ forward of the rear extremity of the trailers to accommodate asphalt lay down equipment used in road construction.

Reliance supported its petition for a determination of inconsequential noncompliance with the following reasons:

1. *The noncompliance has no safety concerns*—Reliance knows ''of no rear end collisions, involving injuries, with this type of trailer.'' Typical hauls of these trailers are short and have minimal amount of time traveling on highways compared with most freight trailers.

2. *There is no practical way to remedy the noncompliance*—''Currently, no one has been able to get paver manufacturers to revise, or users to retrofit all their equipment so that under-ride could be accommodated.'' Reliance stated that ''any device behind the tires will interfere with [the trailer's] operation unless it can be moved out of the way when [the] dumping takes place.''

3. *NHTSA granted temporary exemptions to competitors and similarly designed trailers*—Reliance noted that NHTSA granted a renewal of a temporary exemption from FMVSS No. 224 to Beall Trailers of Washington, Inc., another manufacturer of dump body trailers; the agency also granted a temporary exemption to Dan Hill & Associates, and Red River Manufacturing, Inc., manufacturers of trailers having similar interference problems with paving equipment.

4. *Reliance will aggressively proceed to conduct remedial activities*—Reliance will conduct ''a review of paving equipment that these trailers mate with to determine if they can be retrofitted or modified to accommodate trailers with tires located within 12″ of the rear.'' Further, Reliance ''will aggressively proceed to design, build, test and provide prototypes to determine the feasibility and usefulness of these devices.''

Based on the above stated reasons, Reliance requested that the agency grant the inconsequential petition. Our analysis of the Reliance request follows.

Reliance implied that the noncompliance should cause no safety concerns since Reliance knows ''of no rear end collisions, involving injuries, with this type of trailer.'' This lack of knowledge by Reliance of injury-producing crashes is not convincing evidence that such designs present no safety risk. In promulgating FMVSS No. 224, NHTSA concluded that the limit for a ''wheels back vehicle'' should be set at 12 inches, and that vehicles with their rearmost tires positioned farther forward than that would present undue safety risk. While NHTSA also does not have evidence of any passenger car underride rear impact crashes with rear discharge asphalt dump body trailers, there is no reason to conclude that such trailers would be any less vulnerable to real-end crashes than other types of trailers in similar use. Nevertheless, due to the fact that only 26 trailers are involved, the safety risk is not conclusive.

Reliance stated that there is no practical way to remedy the noncompliance at a reasonable cost without interfering with the trailer's operation. In order to bring the 26 trailers in question into compliance, their rear axles would have to be repositioned farther rearward. For vehicles that have already been built, NHTSA agrees that this would be a costly modification. NHTSA also agrees that such an alteration may render the trailers unusable for their intended purpose, because with the axles farther rearward they may not be able to be properly positioned for unloading asphalt into the paving equipment with which they have to interact.

Reliance also noted the fact that the agency has granted temporary exemptions to competitors of similarly designed trailers, based partially on the same reasons. Reliance submitted a petition for a temporary exemption from FMVSS No. 224, for its future production of the same design as the 26 dump body trailers that are the subject of this notice. On October 22, 2001, we granted a temporary exemption to Reliance (66 FR 53471).

Finally, Reliance stated that it ''will aggressively proceed to design, build, test and provide prototypes to determine the feasibility and usefulness of these devices.'' Since the above exemption was granted as temporary, NHTSA anticipates that Reliance will make progress in developing a design that is fully compliant.

Accordingly, the agency has decided that Reliance has met its burden of persuasion that the noncompliance described herein is inconsequential to motor vehicle safety and its application is granted. Therefore, Reliance Trailer Company, LLC is not required to provide notification and remedy of the noncompliance as required by 49 U.S.C. 30118 and 30120.

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

Issued on: May 6, 2002.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

[FR Doc. 02–11715 Filed 5–9–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–55 (Sub–No. 612X)]

CSX Transportation, Inc.—Abandonment Exemption-in Greenville, SC

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon approximately 1.31 miles of rail line between Valuation Station 47+50 and Valuation Station 115+11.5 in Greenville, Greenville County, SC. The line traverses United States Postal Service Zip Code 29601.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on June 11, 2002, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by May 20, 2002. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by May 30, 2002, with: Surface Transportation Board, Case Control Unit, 1925 K Street NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Natalie S. Rosenberg, Counsel, CSX Transportation, Inc., 500 Water Street J150, Jacksonville, FL 32202.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Applicant has filed an environmental report which addresses the abandonment's effects, if any, on the environment or historic resources. SEA will issue an environmental assessment (EA) by May 17, 2002. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1552. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

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[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which as of April 8, 2002, is set at $1,100. *See* 49 CFR 1002.2(f)(25).