

laws, through a sustained or recurring course of action or inaction, in a manner affecting trade between the Parties, after the date of entry into force of this Agreement.” The consultations were requested pursuant to Article 16.6.1 of the CAFTA–DR, which states that “[a] Party may request consultations with another Party regarding any matter arising under this Chapter. \* \* \*

#### Issues Raised by the United States

In its request for consultations, the United States notes that the Government of Guatemala appears to be failing to meet its obligations under Article 16.2.1(a) with respect to effective enforcement of Guatemalan labor laws related to the right of association, the right to organize and bargain collectively, and acceptable conditions of work. Based on an extensive examination of Guatemala’s labor laws, collection of factual evidence, and analysis of Guatemala’s obligations under Article 16.2.1(a), the United States identified a significant number of failures by Guatemala to enforce its labor laws, constituting a sustained or recurring course of action or inaction. Failures include: (1) Ministry of Labor failures to investigate alleged labor law violations; (2) Ministry of Labor failures to take enforcement action once the Ministry identified a labor law violation, and (3) Court failures to enforce Labor Court orders in cases involving labor law violations.

#### Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues that will be raised in consultations. Persons may submit public comments electronically to <http://www.regulations.gov> docket number USTR–2010–0023. If you are unable to provide submissions by <http://www.regulations.gov>, please contact Sandy McKinzy at (202) 395–9483 to arrange for an alternative method of transmission.

To submit comments via <http://www.regulations.gov>, enter docket number 2010–0023 on the home page and click “search”. The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” on the left side of the search-results page, and click on the link entitled “Submit a Comment.” (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking on “How to Use

This Site” on the left side of the home page.)

The [www.regulations.gov](http://www.regulations.gov) site provides the option of providing comments by filling in a “Type Comment and Upload File” field, or by attaching a document. It is expected that most comments will be provided in an attached document. If a document is attached, it is sufficient to type “See attached” in the “Type Comment and Upload File” field.

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such and the submission must be marked “BUSINESS CONFIDENTIAL” at the top and bottom of the cover page and each succeeding page. Any comment containing business confidential information must be submitted by fax to Sandy McKinzy at (202) 395–3640. A non-confidential summary of the confidential information must be submitted to [www.regulations.gov](http://www.regulations.gov). The non-confidential summary will be placed in the docket and open to public inspection.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

- (1) Must clearly so designate the information or advice;
- (2) Must clearly mark the material as “SUBMITTED IN CONFIDENCE” at the top and bottom of the cover page and each succeeding page; and
- (3) Must provide a non-confidential summary of the information or advice. Any comment containing confidential information must be submitted by fax. A non-confidential summary of the confidential information must be submitted to <http://www.regulations.gov>. The non-confidential summary will be placed in the docket and open to public inspection.

USTR will maintain a docket on this matter accessible to the public. The public file will include non-confidential comments received by USTR from the public with respect to this matter.

Comments will be placed in the docket and open to public inspection

pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15 or information determined by USTR to be confidential in accordance with 19 U.S.C. 2155(g)(2). Comments open to public inspection may be viewed on the [www.regulations.gov](http://www.regulations.gov) Web site.

**Elissa M. Alben,**

*Acting Assistant United States Trade Representative for Monitoring and Enforcement.*

[FR Doc. 2010–20756 Filed 8–20–10; 8:45 am]

**BILLING CODE 3190–W0–P**

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2010–0118]

#### Wheego Electric Cars, Inc.; Receipt of Application for Temporary Exemption From Advanced Air Bag Requirements of FMVSS No. 208

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

**ACTION:** Notice of receipt of petition for temporary exemption from certain provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*.

**SUMMARY:** In accordance with the procedures in 49 CFR part 555, Wheego Electric Cars, Inc., has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.<sup>1</sup>

This notice of receipt of an application for temporary exemption is published in accordance with statutory provisions. NHTSA has not made any judgment on the merits of the application.

**DATES:** You should submit your comments not later than September 22, 2010.

**FOR FURTHER INFORMATION CONTACT:** David Jasinski, Office of the Chief Counsel, NCC–112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building 4th Floor, Room W41–213, Washington, DC 20590. Telephone: (202) 366–2992; Fax: (202) 366–3820.

<sup>1</sup>To view the application, go to <http://www.regulations.gov> and enter the docket number set forth in the heading of this document.

**COMMENTS:** We invite you to submit comments on the application described above. You may submit comments identified by docket number at the heading of this notice by any of the following methods:

- *Web Site:* <http://www.regulations.gov>.

Follow the instructions for submitting comments on the electronic docket site by clicking on "Help and Information" or "Help/Info."

- *Fax:* 1-202-493-2251.

- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

- *Hand Delivery:* 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Instructions:* All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 am and 5 pm, Monday through Friday, except Federal Holidays. Telephone: (202) 366-9826.

*Privacy Act:* Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit <http://www.dot.gov/privacy.html>.

*Confidential Business Information:* If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential

business information, to the Chief Counsel, NHTSA, at the address given under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation (49 CFR part 512).

#### **SUPPLEMENTARY INFORMATION:**

#### **I. Advanced Air Bag Requirements and Small Volume Manufacturers**

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as "advanced air bags."<sup>2</sup> The upgrade was designed to meet the goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes.

The advanced air bag requirements were a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats.

The new requirements were phased in beginning with the 2004 model year. Small volume manufacturers were not subject to the advanced air bag requirements until September 1, 2006.

In recent years, NHTSA has addressed a number of petitions for exemption from the advanced air bag requirements of FMVSS No. 208. The majority of these requests have come from small manufacturers which have petitioned on the basis of substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. NHTSA has granted a number of these petitions, usually in situations where the manufacturer is supplying standard air bags in lieu of advanced air bags.<sup>3</sup> In addressing these petitions, NHTSA has recognized that small manufacturers may face particular difficulties in acquiring or developing advanced air bag systems.

The agency has carefully tracked occupant fatalities resulting from air bag

deployment. Our data indicate that the agency's efforts in the area of consumer education and manufacturers' providing depowered air bags were successful in reducing air bag fatalities even before advanced air bag requirements were implemented.

As always, we are concerned about the potential safety implication of any temporary exemption granted by this agency. In the present case, we are addressing a petition for a temporary exemption from the advanced air bag requirements submitted by a manufacturer of a small electric car.

#### **II. Overview of Wheego's Petition for Economic Hardship Exemption**

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, Wheego Electric Cars, Inc. (Wheego) has submitted a petition (dated May 31, 2010) asking the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. Wheego requested the exemption for a period of three years.

#### **III. Statutory Basis for Requested Part 555 Exemption**

The National Traffic and Motor Vehicle Safety Act, codified as 49 U.S.C. Chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for this section to NHTSA.

NHTSA established part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*, to implement the statutory provisions concerning temporary exemptions. Vehicle manufacturers may apply for temporary exemptions on several bases, one of which is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

A petitioner must provide specified information in submitting a petition for exemption. These requirements are specified in 49 CFR 555.5, and include a number of items. Foremost among them are that the petitioner must set forth the basis of the application under § 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of 49 U.S.C. Chapter 301.

<sup>2</sup> See 65 FR 30680 (May 12, 2000).

<sup>3</sup> See, e.g., grant of petition to Panoz, 72 FR 28759 (May 22, 2007), or grant of petition to Koenigsegg, 72 FR 17608 (April 9, 2007).

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not state that a manufacturer has substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of "manufacturer" (49 U.S.C. 30102) to be sufficiently broad to include sponsors, depending on the circumstances. Thus, NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

Finally, while 49 U.S.C. 30113(b) states that exemptions from a Safety Act standard are to be granted on a "temporary basis,"<sup>4</sup> the statute also expressly provides for renewal of an exemption on reapplication. Manufacturers are nevertheless cautioned that the agency's decision to grant an initial petition in no way predetermines that the agency will repeatedly grant renewal petitions, thereby imparting semi-permanent exemption from a safety standard. Exempted manufacturers seeking renewal must bear in mind that the agency is directed to consider financial hardship as but one factor, along with the manufacturer's on-going good faith efforts to comply with the regulation, the public interest, consistency with the Safety Act, generally, as well as other such matters provided in the statute.

#### IV. Wheego's Petition

Wheego submitted a petition for exemption from certain requirements of FMVSS No. 208, *Occupant Crash Protection*. Specifically, the petition requests an exemption from paragraphs S14, S15, S16, S17, S18, S19, S21, S23, S25, S26, and S27 of FMVSS No. 208, which relate to the advanced air bag requirements. Wheego has requested an exemption for the Wheego Whip LiFe (LiFe) model, an all-electric "full speed"

car, and that the exemption period run for three years. Wheego requests an exemption pursuant to 49 U.S.C. 30113(b)(3)(B)(i) and 49 CFR 555.6(a).<sup>5</sup>

The basis for Wheego's application is substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. According to the petition, Wheego is a privately held company incorporated in the State of Delaware, with headquarters in Atlanta, Georgia. Its total motor vehicle production during the 12 months preceding the filing of the petition was 308 vehicles. Wheego indicated that all of these vehicles were all-electric Wheego Whip LSVs (low speed vehicles). In order for a vehicle to qualify as a low speed vehicle under FMVSS No. 500, Low Speed Vehicles, its top speed must not exceed 25 miles per hour.

Wheego states that the LiFe is based on a high strength steel unibody chassis made by Shijiazhuang ShuangHuan Automobile Co. (ShuangHuan) in China. ShuangHuan manufactures a passenger car (called the "Noble") with the chassis and an internal combustion engine for sale in China, Australia, Greece, and other parts of the world outside the United States. Wheego states that, by purchasing and using an existing chassis, it was able to avoid the high cost of developing and manufacturing a brand new vehicle design. Wheego also states that ShuangHuan has developed dual standard air bags for the chassis, but not an advanced air bag system.

Wheego contends that granting an exemption would be in the public interest. Wheego intends the LiFe to be "one of the first affordable electric cars available in the United States." Wheego states that electric vehicles have several benefits including reducing the nation's reliance on foreign oil and reducing greenhouse gas and other emissions. Wheego also contends that, allowing it to enter the market now would contribute to the development of electric vehicles in general by helping to evaluate the market and performance of electric vehicles with real world experience. Wheego also cites employment opportunities as a benefit.

Wheego intends to produce only a limited number of LiFes in the first three years of production, which it contends would limit the overall impact on motor vehicle safety. Wheego projects selling 550 LiFes in 2010, 1,200 in 2011, 2,400 in 2012, and 5,000 in 2013. Wheego states that the primary

purpose of the LiFe will be as a commuter vehicle because it will have a limited range compared to that of gasoline powered vehicles. The LiFe will have a projected range of 100 miles and will require a minimum of 5 hours to regain a 50 percent charge. Because of the small sales volume and limited range, Wheego states that the number of hours the LiFe will be on roads will be lower compared to a gasoline powered vehicle, thereby reducing the likelihood of a crash.

Wheego contends that compliance with the advanced air bag requirements would cause substantial economic hardship and that Wheego has tried to comply with the standard in good faith. Wheego states that it cannot acquire an off-the-shelf advanced air bag system for the LiFe because an advanced air bag system has never been developed for the chassis used in the LiFe. Wheego states that it does not have the technical or financial resources to develop such a system independently and would have to cancel the development of a passenger car and terminate its operations if it does not obtain the requested exemption.

In October 2009, Wheego engaged J.K. Technologies in Baltimore, Maryland, for help with testing and certification requirements of the FMVSSs. Also in October 2009, Wheego approached TASS Engineering Services and Bosch for help in developing an advanced air bag system for the LiFe. Based upon this consultation, Wheego estimates that an advanced air bag system would cost \$3 million and would take 18 months to test and implement. Wheego intends to spend \$1 million in each of 2011, 2012, and 2013 in an effort to develop a system that will comply with the advanced air bag requirements. Wheego states that based on its projected revenues, by the end of the third year of an exemption, Wheego should be able to build cars with advanced air bags at no additional cost.

One issue raised by Wheego's petition is whether ShuangHuan might also be considered a manufacturer of the vehicle, given the relationship between Wheego and ShuangHuan. As indicated above, pursuant to 49 U.S.C. 30113, in order to be eligible for exemption, a manufacturer must not have produced more than 10,000 vehicles in the previous year. While Wheego by itself would meet this requirement, NHTSA must consider whether ShuangHuan could also be considered a manufacturer of the LiFe.

If ShuangHuan were also considered to be a manufacturer, there would be issues of whether we should consider one or both companies with respect to

<sup>5</sup> Wheego has not requested a two-year exemption for the development or field evaluation of a low-emission vehicle under 49 U.S.C. 30113(b)(3)(B)(iii) and 49 CFR 555.6(c).

<sup>4</sup> 49 U.S.C. 30113(b)(1).

the 10,000 vehicle limitation for eligibility, hardship, good faith efforts, etc. We note, for example, that we have in the past cited the possible situation of large manufacturers potentially avoiding the statutory 10,000 vehicle limit by engaging in joint ventures with small companies and having the small company submit the petition.<sup>6</sup>

Wheego uses the chassis of the ShuangHuan Noble for its vehicle. However, we have no knowledge of the modifications Wheego makes to the vehicles other than to install an electric powertrain in the vehicle. We have little knowledge of whether Wheego makes changes to the design of the ShuangHuan Noble to bring it into compliance with U.S. standards or whether ShuangHuan is making the modifications. Wheego states that it has spent the majority of its time and resources developing the LiFe's safety features, including the seat belt requirements. However, Wheego also states that the standard air bags have been developed by ShuangHuan.

We have found articles on Wheego's Web site stating that Wheego and ShuangHuan are entering into a "partnership" to produce electric vehicles. Wheego's Web site also states that ShuangHuan would manufacture an electric vehicle similar to the LiFe, called the E-Noble, to sell outside of the United States.<sup>7</sup> Also, the Web site of ShuangHuan includes, at the top right of its home page (English language),<sup>8</sup> a box titled "Electric Noble in USA" with a picture of the vehicle. Clicking on the box brings up the Wheego Web site. This linkage suggests that the E-Noble and LiFe are very similar vehicles.

Due to the nature of the LiFe and the relationship between ShuangHuan and Wheego, NHTSA will closely examine whether Wheego is eligible for a financial hardship exemption for this vehicle. NHTSA specifically requests comments on this issue.

Upon receiving a petition, NHTSA conducts an initial review of the

<sup>6</sup> See grant of petition to Tesla Motors, Inc., 73 FR 4944, 4948 (Jan. 28, 2008).

<sup>7</sup> See Wheego and ShuangHuan Automobile Announce Electric Car Partnership, available at <http://wheego.net/more/2008/11/19/rtev-and-shuanghuan-automobile-announce-electric-car-partnership-2/> (last accessed July 27, 2010); Wheego Electric Cars and Shuanghuan Automobile Form EV Partnership, available at <http://wheego.net/more/2008/11/20/rtev-and-shuanghuan-automobile-form-ev-partnership/> (last accessed July 27, 2010); Wheego, Shuanghuan Auto Plan 2-Seater Electric Car for '09, available at <http://wheego.net/more/2008/11/20/rtev-shuanghuan-auto-plan-2-seater-electric-car-for-%E2%80%9809/> (last accessed July 27, 2010). A copy of these articles has been included in the docket.

<sup>8</sup> See <http://www.hbshauto.com/en/> (last accessed July 28, 2010).

petition with respect to whether the petition is complete and whether the petitioner appears to be eligible to apply for the requested petition. The agency has tentatively concluded that the petition is complete. The agency has not made any judgment on the eligibility of the petitioner or the merits of the application, and is placing a non-confidential copy of the petition in the docket.

We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on: August 17, 2010.

**Joseph S. Carra,**

*Acting Associate Administrator for Rulemaking.*

[FR Doc. 2010-20805 Filed 8-20-10; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket No. MARAD-2010-0074]

#### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel TARA VANA.

**SUMMARY:** As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket MARAD-2010-0074 at <http://www.regulations.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments.

Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before September 22, 2010.

**ADDRESSES:** Comments should refer to docket number MARAD-2010-0074. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. You may also send comments electronically via the Internet at <http://www.regulations.gov> or <http://smses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://www.regulations.gov>.

#### FOR FURTHER INFORMATION CONTACT:

Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue, SE., Room W21-203, Washington, DC 20590. Telephone 202-366-5979.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel TARA VANA is:

*Intended Commercial Use of Vessel:*  
"Carrying passengers for pleasure cruising, sailing."

*Geographic Region:* "California."

#### Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

By Order of the Maritime Administrator.

Dated: August 13, 2010.

**Christine Gurland,**

*Secretary, Maritime Administration.*

[FR Doc. 2010-20760 Filed 8-20-10; 8:45 am]

**BILLING CODE 4910-81-P**