

No. 108 are intended to assure a sufficient luminous intensity of the reflex reflectors towards the source of illumination. Although the rear reflex reflectors' installation height falls slightly below the specified minimum height by 0.20 inches (5 mm), Porsche has confirmed that the rear reflex reflectors meet or exceed all applicable FMVSS requirements regarding the luminous intensity performance as stated under § 571.108, S14 and all other relevant requirements of FMVSS No. 108 of paragraphs S8.1 and S8.2. Porsche provided a copy of the photometric test results for the rear reflex reflectors, which Porsche believes shows that the installation height does not affect the performance of the luminous intensity of the rear reflex reflectors or the visibility of the subject vehicles.

2. Porsche is unaware of any accidents, injuries, warranty claims or customer complaints related to the slight shortfall of the rear reflex reflectors' installation height. The absence of indicant data supports the conclusion that the minimal deviation in mounting height does not affect the performance of the rear reflectors or the visibility of the subject vehicles.

3. Porsche notes that NHTSA has previously granted a similar petition. See 79 FR 69558, November 21, 2014. In that petition, Harley-Davidson described the noncompliance with FMVSS No. 108 where the rear reflex reflectors were mounted an average of 0.3 inches to 0.7 inches below the required 15 inch height. NHTSA determined that this noncompliance, where the deviation from the specified height was even greater than in the present case, was inconsequential to motor vehicle safety based primarily on the lack of reduction in conspicuity as compared to compliant vehicles. Porsche respectfully suggests that its noncompliant vehicles are also equally conspicuous.

4. The purpose of the FMVSS No. 108 reflex reflector requirement is to prevent crashes by permitting early detection of an unlighted motor vehicle at an intersection or when parked on or by the side of the road, and the height requirement is intended "to ensure adequate reflex reflector performance relative to headlamps that would illuminate them." See 82 FR 24204 (May 25, 2017). Porsche stated that the photometry performance of the reflex reflectors in the subject vehicles well exceeds the minimum performance standards outlined in FMVSS No. 108, Table XVI. Based on the photometry performance of the reflectors in the subject vehicles, and the fact that the vehicles meet or exceed the

requirements of paragraphs S8.1 and S8.2 of FMVSS No. 108, with regard to reflection performance, Porsche believes the vehicles satisfy the safety objectives of the standard.

5. The noncompliance issue has been corrected in production vehicles and all vehicles currently being produced meet applicable mounting height requirements.

6. The mounting height of the reflex reflectors complies with the minimum height requirements of the United Nations ECE regulations. Those regulations specify a minimum mounting height of 250 mm (9.84 inches) for rear retro-reflectors. See UN R48, § 6.14.4.2. The reflex reflectors in the subject Porsche vehicles, with a mounting height of 14.8 inches, are well within this requirement.

Porsche concluded that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition, to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject vehicles that Porsche no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant vehicles under their control after Porsche notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8).

Otto G. Matheke III,
Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2018-0108; Notice 1]

Great Dane Trailers, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Great Dane Trailers, LLC (Great Dane), has determined that certain model year (MY) 2002-2006 Great Dane Dry Freight Trailers do not comply with Federal Motor Vehicle Safety Standards (FMVSS) No. 223, *Rear Impact Guards*, and FMVSS No. 224, *Rear Impact Protection*. Great Dane filed a noncompliance report dated November 12, 2018 and subsequently amended it on December 5, 2018 and June 11, 2019. Great Dane also petitioned NHTSA on December 6, 2018 for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of Great Dane's petition.

DATES: The closing date for comments on the petition is February 3, 2020.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and may be submitted by any of the following methods:

- **Mail:** Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal Holidays.

- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.

- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no

limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. *Overview:* Great Dane has determined that certain MY 2002–2006 Great Dane Dry Freight Trailers do not fully comply with paragraphs S5.3(b) of FMVSS No. 223, *Rear Impact Guards* (49 CFR 571.223), and S5.1 of FMVSS No. 224, *Rear Impact Protection* (49 CFR 571.224). Great Dane filed a noncompliance report pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports* dated November 12, 2018 and subsequently amended it on December 5, 2018 and June 11, 2019. Great Dane also petitioned NHTSA on December 6, 2018 pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance* for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

This notice of receipt of Great Dane'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.

II. *Trailers Involved:* Approximately 15,535 MY 2002–2006 Great Dane Dry Freight Trailers, manufactured between July 1, 2002, and December 31, 2005, are potentially involved.

III. *Noncompliance:* Great Dane explained that the noncompliance is that the rear impact certification plate on the rear impact guard of the subject trailers does not contain the date of manufacture as required by paragraphs S5.3(b) of FMVSS No. 223 and S5.1 of FMVSS 224.

IV. *Rule Text:* Paragraphs S5.3(b) of FMVSS 223 and S5.1 of FMVSS No. 224 include the requirements relevant to this petition. Each vehicle shall be equipped with a rear impact guard certified as meeting Federal Motor Vehicle Safety Standard No. 223.

Each guard shall be permanently labeled with the information specified in paragraphs S5.3 (a) through (c) of FMVSS No. 223. The information shall be in English and in letters that are at least 2.5mm high. The label shall be placed on the forward or rearward facing surface of the horizontal member of the guard, provided that the label does not interfere with the retroreflective sheeting required by paragraph S5.7.1.4.1(c) of FMVSS No. 108 (49 CFR 571.108), and is readily accessible for visual inspection. The label is required to contain the statement: "Manufactured in ___" (inserting the month and year of guard manufacture.)

V. *Summary of Great Dane's Petition:* The following views and arguments are the views and arguments provided by Great Dane. They have not been evaluated by the agency and do not reflect the views of the agency.

Accordingly, Great Dane described the subject noncompliance and stated that the noncompliance is inconsequential as it relates to motor vehicle safety as follows:

1. This particular group of trailers has rear impact guard certification plates installed that include the name of the manufacturer, as well as the letters DOT. Great Dane believes that the omission of the date of manufacture to be an inconsequential type of noncompliance as it relates to vehicle safety.

2. Every trailer that Great Dane builds requiring a rear impact guard has, in addition, a certification plate (on the front of the trailer) that ensures the rear impact guard meets the Federal Standards. Therefore, the subject trailers have affixed to them certification plates

certifying that the entire trailer, including the rear impact guard, meet and/or exceed all the Federal Motor Vehicle Safety Standards in effect on the date of manufacture as indicated.

3. Great Dane states that they believe the extra certification plate required on the rear impact guard is redundant, further stating that the Commercial Vehicle Safety Alliance (CVSA) filed a petition to both NHTSA and Federal Motor Carrier Safety Administration (FMCSA) to remove the requirement for the certification plate on the rear impact guard.

4. Great Dane has never installed a third-party produced rear impact guard on any of its trailers.

5. Due to the extreme age of the trailers in this group (13–16 years old), Great Dane believes that the notification and remedy process would not be very effective, as most of these trailers are probably no longer in service.

6. Great Dane states that in the long period that these trailers have been in service, they have only recently been given notice that the date of manufacture was omitted on the rear impact guard. The fact that this omission went unnoticed over a period of 13–16 years provides another reason Great Dane believes that this instance of noncompliance should be deemed inconsequential.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject trailers that Great Dane no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant trailers under their control after Great Dane notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,
Director, Office of Vehicle Safety Compliance.
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