

Advocates for Highway and Auto Safety (Advocates) expressed opposition to FMCSA's policy to grant exemptions from the FMCSR, including the driver qualification standards. Specifically, Advocates: (1) Objects to the manner in which FMCSA presents driver information to the public and makes safety determinations; (2) objects to the Agency's reliance on conclusions drawn from the vision waiver program; (3) claims the Agency has misinterpreted statutory language on the granting of exemptions (49 U.S.C. 31136(e) and 31315); and finally (4) suggests that a 1999 Supreme Court decision affects the legal validity of vision exemptions.

The issues raised by Advocates were addressed at length in 64 FR 51568 (September 23, 1999), 64 FR 66962 (November 30, 1999), 64 FR 69586 (December 13, 1999), 65 FR 159 (January 3, 2000), 65 FR 57230 (September 21, 2000), and 66 FR 13825 (March 7, 2001). We will not address these points again here, but refer interested parties to those earlier discussions.

Conclusion

The Agency has not received any adverse evidence on any of these drivers that indicates that safety is being compromised. Based upon its evaluation of the 26 renewal applications, FMCSA renews the Federal vision exemptions for Paul G. Albrecht, Elijah A. Allen, Jr., David W. Brown, Monty G. Calderon, David J. Caldwell, Walden V. Clarke, Awilda S. Colon, David Hagadorn, Zane G. Harvey, Jr., Jeffrey M. Keyser, Donnie A. Kildow, Carl M. McIntire, Daniel A. McNabb, David G. Meyers, Robert E. Moore, Thomas L. Oglesby, Michael J. Paul, Russell A. Payne, Rodgey M. Pegg, Raymond E. Peterson, Zbigniew P. Pietranik, John C. Rodriguez, James A. Walker, Richard A. Westfall, Charles E. Wood, and Joseph F. Wood.

In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: February 5, 2009.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E9-2954 Filed 2-11-09; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2009-0008]

Beall Corporation; Receipt of Application for a Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

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

ACTION: Notice of receipt of petition for temporary exemption from Federal Motor Vehicle Safety Standard (FMVSS) No. 224, *Rear impact protection*.

SUMMARY: We are asking for comments on the application of Beall Corporation for a temporary exemption from the requirements of FMVSS No. 224. The basis for the application is that compliance would cause substantial economic hardship to the manufacturer which has tried in good faith to comply with the standard.

We are publishing this notice of receipt of the application in accordance with our regulations on the subject. This action does not mean that we have made a judgment about the merits of the application.

DATES: You should submit your comments not later than March 16, 2009.

FOR FURTHER INFORMATION CONTACT: Ari Scott, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., West Building 4th Floor, Room W41-326, Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

SUPPLEMENTARY INFORMATION: In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR Part 555, Beall Corporation, d/b/a Power Truckweld ("Beall"), a Dump Body trailer manufacturer, has petitioned the agency for a temporary exemption from the rear impact protection requirements in FMVSS No. 224 (49 CFR 571.224). The basis for the application is that compliance would cause substantial economic hardship to the manufacturer, which has tried in good faith to comply with the standard. A copy of the petition has been placed in the docket for this notice.¹ Beall has requested a three-year hardship exemption.

¹ To view the application, go to <http://www.regulations.gov> and enter the docket number set forth in the heading of this document. The company has withdrawn its request for confidential treatment of certain business and financial information submitted in its petition for temporary exemption.

Beall is a company that manufactures trailers in Washington and Oregon. The company has been in existence for over a decade. Beall states that the total number of vehicles produced in the 12-month period prior to filing the petition was 79. Of those vehicles, 64 were dump body type trailers that would be covered by the requested temporary exemption. The largest number of Dump Body trailers the petitioner sold in recent years is 79 in 2005.

Beall states that the denial of the requested exemption will result in substantial economic hardship. According to the statements of the petitioner, the denial of exemption could cost the company 40 percent of its projected sales during the period covered by the exemption, a situation which could cause the layoff of 100% of its employees. Additionally, Beall asserts that if the exemption is denied, it would lose the entire \$800,000 goodwill investment associated with the 2001 purchase of Pioneer Truckweld. It also notes that several of its competitors, such as Reliance and Columbia Body Manufacturing, have received exemptions from FMVSS No. 224, and that it needs to be able to compete effectively with these entities in the dump body trailer sales market, as well as the dump body truck market, as many customers will not allow a manufacturer to bid on a dump body truck if they cannot supply a dump body trailer.

Beall also provides specific financial information with its statement for the years 2004 through 2006. In 2004, it indicates that it posted a loss of over \$200,000. In 2005, that loss was approximately \$138,000. Finally, in 2006, the total loss was over \$53,000. In the event that this petition is denied, Beall estimates that it will lose over \$24,000 in the year following the denial. While Beall did not provide specific financial information regarding the projected financial impact of a grant, it has stated that such a grant is necessary for the survival of the Power Truckweld division.

The petitioner believes that it is impossible to estimate the cost of compliance because the method by which compliance may be achieved is unknown at this time, and requires substantial further engineering analysis. Beall states that it has tried, unsuccessfully, to design or outsource the design of a device that would satisfy FMVSS No. 224 for dump body trailers.

In explaining why it has not been currently able to meet the rear impact protection requirements, Beall points to a number of technical challenges associated with designing a compliant rear impact protection system. Namely,

it states that a device designed to satisfy FMVSS No. 224 for dump body applications must also be capable of moving clear, so that the hopper of the paving machines can pass through the space initially occupied by the rear impact protection device. It argues that if the paving machine cannot position itself underneath the dump body, the asphalt will spill out as the dump body raises and unloads the asphalt. The petitioner states that it has been pursuing the design of acceptable systems in a joint project with the Mechanical Engineering department at Montana State University, using techniques such as Finite Element analysis and physical testing devices. In addition, it claims to have designed acceptable guards for a number of non-asphalt paving applications.

Beall states it has considered several alternative means of compliance. These include plastically deforming devices and hinged and retractable devices. However, the petitioner believes that there are a number of problems with regard to these solutions. First, due to clearance issues, space for retractable devices is not readily available, and redesign of the vehicle to accommodate such devices could result in decreased stability. Second, the petitioner states that asphalt paving surface has the effect of rendering these sorts of devices unusable over time. Finally, Beall notes that trailers could be operated with these devices in the retracted position, resulting in no safety benefits.

Beall states that under a temporary exemption, it would continue to pursue a compliant rear impact protection device that would meet the current standards, including attachment and methods of maintenance to ensure proper function while in service. The petitioner states that it will continue to work with others in the paving industry to develop an acceptable solution.

Beall's believes that the public interest would benefit from this exemption, stating the following:

It would be in the public's interest to allow Pioneer Truckweld to manufacture the equipment required to improve and expand the road building effort in the Western United States while an intense effort is maintained by Pioneer Truckweld to design an acceptable under ride device that will perform well in a paving operation.

Additionally, in its petition, Beall notes that the failure to receive an exemption could cause the closure of the Pioneer Truckweld operation and the layoff of 38 employees in U.S. operations. Also, we note that given the relatively low number of vehicles produced by the petitioner over its history, and the fact that they are

primarily used in road construction tasks as opposed to being driven in the flow of traffic, the safety impact of the lack of required rear impact protection equipment is likely to be relatively small.

How you may comment on the application: 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 a.m. and 5 p.m., 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 a.m. and 5 p.m., 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).

Issued on: February 5, 2009.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4461, 4461-A, and 4461-B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4461, Application for Approval of Master or Prototype Defined Contribution Plan; Form 4461-A, Application for Approval of Master or Prototype Defined Benefit Plan; Form 4461-B, Application for Approval of Master or Prototype Plan, Mass Submitter Adopting Sponsor.

DATES: Written comments should be received on or before April 13, 2009 to be assured of consideration.

ADDRESSES: Direct all written comments to R. Joseph Durbala, Internal Revenue