



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 **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

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 am to 5 pm 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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