

**ADDRESSES:** You may submit comments identified by Docket No. NHTSA-03-14396 by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., 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 or Regulatory Identification Number (RIN) for this rulemaking. For detailed instructions on submitting comments and additional information on the rulemaking process, see the Public Participation heading of the Supplementary Information section of this document. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading under Regulatory Notices.

**Docket:** For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** For nonlegal issues: Dr. William J.J. Liu, Office of Rulemaking, NVS-113, telephone (202) 366-4923. For legal issues: Mr. George Feygin, Office of Chief Counsel, NCC-112, telephone (202) 366-2992. Both can be reached at the National Highway Traffic Safety Administration, 400 7th St., SW., Washington, DC 20590.

#### **SUPPLEMENTARY INFORMATION:**

##### **Table of Contents**

- I. Background
- II. FMVSS No. 224
- III. Petition
- IV. Proposed Amendments
- V. Estimated Costs and Benefits
- VI. Request for and Submission of Comments
- VII. Rulemaking Analyses and Notices

## **I. Background**

RCC horizontal discharge trailers are a unique piece of equipment used in the road construction industry to deliver asphalt and other building materials to construction sites. The trailers are equipped with a mechanical drive and a conveyor to feed asphalt into a lay down or paving machine for road construction and paving operations. With their hydraulically controlled horizontal discharge systems, the trailers discharge mixed asphalt at a controlled rate into pavers, which overlay the road surface with asphalt material.

From the standpoint of FMVSS No. 224, the RCC horizontal discharge trailer's most unique and technologically problematic feature stems from the fact that the rear of the trailer is designed to connect with and latch onto various paving machines. Typically, the paving machine attaches itself to the rear axle of an RCC horizontal discharge trailer via hydraulic arms, and the edge of the trailer's conveyor belt extends over the paving machine opening. This configuration is critical to the road construction process as it allows the RCC horizontal discharge trailer to deposit asphalt mix directly into the paving machine hopper. This feature also allows for a more controlled off-loading, as compared to a steel end dump trailer, which is the only other vehicle capable of delivering asphalt mix to road construction sites.<sup>1</sup> A more controlled offloading not only prevents spillage of asphalt and other debris on the road surfaces, but also ensures a more leveled road surface.

As a result of their unique configuration and the method by which they interact with paving machines, RCC horizontal discharge trailers may not be able to comply with FMVSS No. 224.

This rulemaking proposal is in response to a joint petition for rulemaking submitted to the agency on March 23, 2001, by Dan Hill & Associates, Inc. (Dan Hill) and Red River Manufacturing, Inc., a Division of Trail King Industries, Inc. (Red River) (Docket No. NHTSA-2001-8876). Dan Hill and Red River are manufacturers of RCC horizontal discharge trailers. The petition requested that the agency amend FMVSS No. 224 to "exclude construction controlled horizontal

discharge semitrailers from the scope of the standard." Since the effective date of the standard, January 26, 1998 (61 FR 2004, January 24, 1996), Dan Hill and Red River have each been twice granted temporary exemptions from FMVSS No. 224 for their RCC horizontal discharge trailers due, in part, to the impracticability of installing underride guards on RCC horizontal discharge trailers.<sup>2</sup> Red River's current temporary exemptions would have expired on April 1, 2003. NHTSA's regulations allow for the continued effectiveness of the exemption, pending the agency's final determination of a renewal petition, if such renewal petition is submitted 60 days before the expiration of the existing petition (49 CFR 555.8(e)). Since Red River once again filed for a temporary exemption from FMVSS No. 224 more than 60 days before the expiration of the most recent temporary exemptions, their current exemption will be valid until NHTSA makes a final decision on their petition. The agency has granted Dan Hill a three-year temporary exemption, which expires May 1, 2006 (68 FR 28880, May 27, 2003).

## **II. FMVSS No. 224**

Underride occurs when a light vehicle crashes into the rear end of a heavy truck that has a chassis higher than the hood of the light vehicle. In certain instances, the light vehicle "slides" or underrides the rear end of the heavy vehicle to such an extent that the rear end of the trailer strikes and enters the passenger compartment of the light vehicle, resulting in passenger compartment intrusion (PCI). PCI crashes can result in severe injuries and fatalities to the light vehicle occupants due to occupant contact with the rear end of the heavy truck.

In an attempt to reduce the frequency and severity of underride collisions, NHTSA issued FMVSS No. 224 (61 FR 2004, January 24, 1996). The standard went into effect on January 26, 1998. The standard requires that all new trailers and semitrailers with a GVWR of 10,000 lbs or more be equipped with an underride guard. The underride guard is attached to the rear of the platform (within 305 mm [12 in] of the rear extremity of the vehicle) and acts to prevent the light vehicle from sliding under the truck chassis.

<sup>1</sup> Because the horizontal discharge trailers do not rise to unload their contents like steel end dump trailers, they can be used on uneven terrain, or where overhead obstructions such as bridges and power lines completely prevent the use of dump trailers.

<sup>2</sup> See 63 FR 15909, 15910 (Apr. 1, 1998); 64 FR 49049, 49050 (Sept. 9, 1999); 66 FR 20028, 20030 (Apr. 18, 2001). Exemptions were based on the "substantial economic hardship" grounds under 49 CFR § 555.6(a). Nevertheless, the economic hardship was rooted in impracticability of installing underride guards.