up with the paving machine and dump its load. Standard No. 224 requires the rearmost surface of an underride guard to be located not more than 305mm (12 inches) from the ''rear extremity'' of the trailer.

Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 kg or more, including Columbia's, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear impact guards*. Columbia argued that installation of the rear impact guard would prevent its trailer from operating with the paving machine, and ''would interfere with the hook-up of the asphalt machine and dump operation of the trailer.'' Columbia avers that it ''has investigated the retrofit and modifications needed to bring our products into compliance with FMVSS 224 without success.'' We discuss below its efforts to conform in greater detail.

Columbia's Reasons Why It Believes That Compliance Would Cause It Substantial Economic Hardship and That It Has Tried in Good Faith To Comply With Standard No. 224

Columbia is a small volume manufacturer. Its average production over the past three years has been 12 trailers a year, ''none of which were asphalt paving trailers.'' Normally, it would produce 10 to 40 trailers annually. The company employs 30 people full time and has annual sales of $4–5,000,000. Columbia ''has had requests to quote on 14'' trailers and ''14 truck mounted dump boxes, bringing the total sales figure to around $750,000.00.'' Absent an exemption, Columbia ''will be unable to quote these units substantially decreasing our projected sales figures.'' Its cumulative net loss for the fiscal years 1998, 1999, and 2000 was $99,764. We have asked Columbia to provide data on its fiscal year ending December 31, 2001.

Columbia asserted that it has sought manufacturers of underride guards since 1998. As a result of its search,

> We only found one English company, Quinton-Hazell that is no longer making either type, telescoping or hydraulic. Their research found that because of the expense of these two types of guards they would not be marketable. We have also investigated the work done by SRAC, located in Los Angeles, CA in the hopes that we might be able to use or modify the guards they designed for the trailers we wish to build. Neither was suitable because retracting the bumper and finding a way to keep the build up of asphalt off of any moving parts was not possible.

The company stated that it intended to continue to try and resolve the problems through continued research.

Columbia's Reasons Why It Believes That a Temporary Exemption Would Be in the Public Interest and Consistent With Objectives of Motor Vehicle Safety

Columbia believes that an exemption would be in the public interest and consistent with traffic safety objectives because, ''our type of trailer helps state and municipal governments to produce the safe highways that are needed.'' It contemplates building less than 50 units a year while an exemption is in effect. Further, the amount of time actually spent on the road is limited because of the need to move the asphalt to the job site before it hardens.

How You May Comment on Columbia's Application

If you would like to comment on Columbia's application, please do so in writing, in duplicate, referring to the docket and notice number, and mail to: Docket Management, National Highway Traffic Safety Administration, room PL–401, 400 Seventh Street, SW., Washington, DC 20590.

We shall consider all comments received before the close of business on the date indicated below. Comments are available for examination in the docket in room PL–401 both before and after that date, between the hours of 10 a.m. and 5 p.m. To the extent possible, we also consider comments filed after the closing date. We will publish our decision on the application, pursuant to the authority indicated below.

Comment closing date: January 3, 2003.

Authority: 49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on: November 27, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 02–30734 Filed 12–3–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–02–13956, Notice 1]

Lotus Cars Ltd.; Receipt of Application for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 201

Lotus Cars Ltd. (''Lotus'') of Norwich, England, through Lotus Cars USA, Inc., has applied for a renewal of NHTSA Temporary Exemption No. 99–12 from S7, Performance Criterion, of Federal Motor Vehicle Safety Standard No. 201, *Occupant Protection in Interior Impact,* as described below. The basis of the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.

We are publishing this notice of receipt of the application in accordance with the requirements of 49 U.S.C. 30113(b)(2), and have made no judgment on the merits of the application.

Background

On November 10, 1999, NHTSA granted Lotus Cars Ltd. NHTSA Temporary Exemption No. 99–12 from S7, Performance Criterion, of Federal Motor Vehicle Safety Standard No. 201, *Occupant Protection in Interior Impact* (64 FR 61379). The basis of the grant was that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. The exemption covered the Esprit model, and was to expire on September 1, 2002. However, Lotus applied for a renewal of its hardship exemption on May 10, 2002, thereby staying the expiration date until the agency has acted upon its petition (49 CFR 555.8(e)). The reader is referred to the 1999 notice for information on the original application and Administrator's decision to grant it.

Why Lotus Needs a Temporary Exemption

In early 1997, Lotus decided to terminate production of the Esprit on September 1, 1999, and to homologate the Elise for the American market beginning in 2000. This decision allowed it to choose the option for compliance with S7 provided by S6.1.3, Phase-in-Schedule #3, of Standard No. 201, to forego compliance with new protective criteria for the period September 1, 1998—September 1, 1999, and to conform 100% of its production thereafter.

But a fresh look was taken at the direction of the company, and the plans of early 1997 were abandoned. In due course, new management decided to continue the Esprit in production beyond September 1, 1999, until September 1, 2002, while developing an all-new Esprit, and to remain in the American market without interruption. However, as described in its original petition, the company found itself unable to conform the current Esprit to Standard No. 201. It petitioned for, and received, a temporary exemption until September 1, 2002. Its continued need for an exemption is explained in the next section.

Why Compliance Would Cause Substantial Economic Hardship and How Lotus Has Tried in Good Faith To Comply With Standard No. 201

Lotus remarks that the entity that ultimately controls Lotus Cars is ''the Malaysian company Perusahan Otomobile Nasional Berhad.'' However, Lotus' balance sheets and income statements do not indicate that this Asian entity, itself a motor vehicle manufacturer, makes capital contributions to Lotus or otherwise participates in the management of this British company. Lacking these indicia of control, NHTSA has decided not to count cumulatively the production of the two companies which, if totaling at least 10,000 units would render Lotus ineligible for a hardship exemption. In 1999, Lotus produced 2,569 Lotus automobiles; in 2000, 2,993 Lotus automobiles plus 127 Opel/Vauxhall automobiles; and in 2001, 5,181 Lotus automobiles and 3,046 for Opel/Vauxhall. Over the same three-year period it exported 112,162, and 48 vehicles respectively to the United States. Notwithstanding the increase in production, Lotus submitted financial information on September 16, 2002, indicating a total operating loss of 7,513,000 pounds for its fiscal year 2001–2002, a loss of 20,244,000 pounds for its fiscal year 2000–2001, and an operating profit of 12,368,000 pounds for its fiscal year 1999–2000. This represents a cumulative loss of 15,389,000 pounds, or $24,622,400 computed at a rate of $1.6=1 pound.

Lotus had intended to cease production of the exemption Esprit by August 31, 2002, but the successor project was cancelled in early 2001 because of lack of capital. A back-up plan was conceived for a project called M260, but ''was unable to launch itself.'' By the end of 2001, Lotus had laid off 197 employees, and, by early 2002, ''an additional 241 employees were made redundant.'' However, it had located ''an additional supply of air bags and transmissions * * * permitting the construction of up to an additional 140 vehicles.'' The company stated that its ''only hope for keeping the U.S. market alive [is] to build the additional 140 Esprits, ending production on December 31, 2003,'' the period for which it has requested an exemption. No further exemption will be requested for the Esprit as its V8 engine is not designed to meet Model Year 2004 U.S. emissions standards. It hopes to ''find a way to finance'' the M260 project for introduction in the U.S. in 2004. Lotus's petition thus implies that the M260 is being designed to conform with Standard No. 201.

Absent an exemption until 2004, Lotus will suffer the loss of the U.S. market, a substantial economic hardship.

Why an Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

Lotus simply said that ''the extension will continue to be consistent with the public interest and the objectives of the Safety Act.'' In the past, Lotus argued that after many years of sales of the Esprit with its current body shape, the company knew of no head injuries suffered by occupants contacting the upper interior of the cockpit. The number of vehicles anticipated to be sold during the exemption period is insignificant in terms of the number of vehicles already on the roads.

If Lotus USA is required to close because of a denial, its employees will be out of work. In its new application, the company adds that its ''image and credibility would be ruined.'' An exemption would be consistent with the public policy of affording consumers a wide choice of motor vehicles.

How You May Comment on Lotus's Application

We invite you to submit comments on the application described above. Your comments should refer to the docket number and the notice number, and be submitted to: Docket Management Facility, room Pl–401, 400 Seventh Street, SW., Washington, DC 20590. We ask, but do not require, that you submit your comments in duplicate. You may submit your comments by hand, mail, fax (202–493–2251) or electronically: log onto the DMS Web site, *http://dms.dot.gov*, and click on ''Help and Information'' or ''Help/Info'' to obtain instructions.

We shall consider all comments received before the close of business on the comment closing date indicated below. You may examine comments in the docket (from 10 a.m. to 5 p.m.) at the above address both before and after that date. You may also view them on the internet at Web site *http://dms.dot.gov*. To the extent possible, we shall also consider comments filed after the closing date. We shall publish a notice of final action on the application in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: January 3, 2003.

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: November 27, 2002.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 191X)]

Union Pacific Railroad Company—Abandonment Exemption—in Davis and Weber Counties, UT

Union Pacific Railroad Company (UP) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 23.69-mile line of railroad from milepost 754.31 near Valencia, to milepost 778.00 near Ogden, in Davis and Weber Counties, UT.[1] The line traverses United States Postal Zip Codes 84010, 84014, 84015, 84025, 84041, 84067, 84087, and 84401.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.*—

[1] UP states that the physical assets of the line, including the real property interests and track structure thereon, have been sold to the Utah Transit Authority (UTA), in connection with UTA's corridor preservation project. UTA previously filed a verified notice of exemption to acquire from UP this and several other nearby railroad rights-of-way and related improvements in Davis, Weber, Salt Lake and Utah Counties, UT. UTA also simultaneously filed a motion to dismiss that proceeding, maintaining that the transaction was not subject to the Board's jurisdiction, and UTA's dismissal request was granted. UP, however, retained an exclusive, perpetual easement and common carrier obligation on the line to conduct freight operations. *See Utah Transit Authority—Acquisition Exemption—Certain Assets of Union Pacific Railroad Company,* STB Finance Docket No. 34170 (STB served Feb. 22, 2002 and May 22, 2002), respectively. The retained easement will expire upon consummation of the instant abandonment exemption.