In accordance with section 575 of the ADRA, FMCSA's Guidance for use of binding arbitration to resolve civil penalty disputes was developed in consultation with the Attorney General. FMCSA has been informed by the Department of Justice (DOJ) that the Attorney General concurs in the Guidance and implementation of binding arbitration.

The Guidance satisfies the requirements regarding binding arbitration specified by section 575 of the ADRA of 1996, and addresses use of binding arbitration in a manner consistent with FMCSA's dispute resolution process and its procedural rules of practice at 49 CFR part 386.

Issued: March 24, 2003.

Annette M. Sandberg,

Acting Administrator.

[FR Doc. 03–7656 Filed 3–28–03; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2003–14804]

Notice of Request for the Extension of Currently Approved Information Collections

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to extend the following currently approved information collections: Bus Testing Program.

DATES: Comments must be submitted before May 30, 2003.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 10 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Marcel Bellanger, Office of Research, Demonstration and Innovation, (202) 366–0725.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of these information collections, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB reinstatement of this information collection.

Title: Bus Testing Program (*OMB Number: 2132–0550*).

Background: 49 U.S.C. 5323(c) provides that no federal funds appropriated or made available after September 30, 1989, may be obligated or expended for the acquisition of a new bus model (including any model using alternative fuels) unless the bus has been tested at the Bus Testing Center (Center) in Altoona, Pennsylvania. 49 U.S.C. 5318(a) further specifies that each new bus model is to be tested for maintainability, reliability, safety, performance (including braking performance), structural integrity, fuel economy, emissions, and noise.

The operator of the Bus Testing Center, the Pennsylvania Transportation Institute (PTI), has entered into a cooperative agreement with FTA. PTI operates and maintains the Center, and establishes and collects fees for the testing of the vehicles at the facility. Upon completion of the testing of the vehicle at the Center, a test report is provided to the manufacturer of the new bus model. The bus manufacturer certifies to an FTA grantee that the bus the grantee is purchasing has been tested at the Center. Also, grantees about to purchase a bus use this report to assist them in making their purchasing decisions. PTI maintains a reference file for all the test reports which are made available to the public.

Respondents: Bus manufacturers.

Estimated Annual Burden on Respondents: 3½ hours for each of the 15 bus manufacturers.

Estimated Total Annual Burden: 53 hours.

Frequency: Annual.

Issued: March 26, 2003.

Timothy B. Wolgast,

Acting Associate Administrator for Administration.

[FR Doc. 03–7659 Filed 3–28–03; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–8827; Notice 3]

Dan Hill and Associates, Inc.; Red River Manufacturing; Receipt of Application for Renewal of Temporary Exemptions From Federal Motor Vehicle Safety Standard No. 224

We are asking for comments on the application by Dan Hill and Associates, Inc. (''Dan Hill''), of Norman, Oklahoma, and by Red River Manufacturing (''Red River'') of West Fargo, North Dakota, for a renewal of their temporary exemptions from Motor Vehicle Safety Standard No. 224, *Rear Impact Protection.* Dan Hill asserts that compliance would cause substantial economic hardship to manufacturers that have tried in good faith to comply with the standard. Red River argues that absent an exemption it would be otherwise unable to sell a vehicle whose overall level of safety or impact protection is at least equal to that of a nonexempted vehicle.

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

Dan Hill and Red River have been the beneficiaries of temporary exemptions from Standard No. 224, and renewals of exemptions, from January 26, 1998, to April 1, 2003 (for **Federal Register** notices granting the petitions by Dan Hill, *see* 63 FR 3784 and 64 FR 49047; by Red River, *see* 63 FR 15909 and 64 FR 49049; for the most recent grant applicable to both petitioners, *see* 66 FR 20028). The information below is based on material from the petitioners' original and renewal applications of 1998, 1999, 2001, and their most recent applications.

Dan Hill and Red River filed their petitions at least 60 days before the expiration of their existing exemption. Thus, pursuant to 49 CFR 555.8(e), their current exemptions will not expire until we have made a decision on the current requests.

The Petitioners' Reasons Why They Continue To Need an Exemption

Dan Hill. Dan Hill manufactures and sells horizontal discharge semi-trailers (Models ST–1000, CB–4000, and CB–5000, collectively referred to as ''Flow Boy'') that are used in the road construction industry to deliver asphalt and other road building materials to the construction site. The Flow Boy is designed to connect with and latch onto

various paving machines (''pavers''). The Flow Boy, with its hydraulically controlled horizontal discharge system, discharges hot mix asphalt at a controlled rate into a paver which overlays the road surface with asphalt material.

Standard No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 kg or more, including Flow Boy trailers, be fitted with a rear impact guard that conforms to Standard No. 223 *Rear Impact Guards.* Dan Hill argued that installation of the rear impact guard will prevent the Flow Boy from connecting to the paver. Thus, Flow Boy trailers will no longer be functional. Paving contractors will be forced to use either competitors' horizontal discharge trailers that comply with Standard No. 224 or standard dump body trucks or trailers which, according to Dan Hill, have inherent limitations and safety risks. In spite of continued exemptions since the effective date of the standard, Dan Hill avers that it has been unable to engineer its trailers to conform. Dan Hill and Red River jointly filed a petition for rulemaking with NHTSA to amend Standard No. 224 to exclude horizontal discharge trailers. The petition was filed on March 23, 2001. Dan Hill requests an exemption of two years with the hope that the petition will be granted and rulemaking completed by April 1, 2005. We discuss below its efforts to conform in greater detail.

Red River. Red River has previously applied for exemptions on the basis that compliance would cause it substantial economic hardship. The company now applies for an exemption on the basis that absent an exemption it would be otherwise unable to sell a vehicle whose overall level of safety is at least equal to that of a nonexempted motor vehicle. Red River believes ''petitioning on the basis of equal overall safety ([49 CFR] 555.6(d)) is more appropriate because Red River is now part of a larger family of companies and because the merits of Red River's requested renewal of its exemption under § 555.6(d) are straightforward and clear.'' Red River references its continuing but unsuccessful efforts to develop a means to conform its horizontal discharge trailers to Standard No. 224, and its petition for ameliorative rulemaking, filed jointly with Dan Hill.

Dan Hill'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

Dan Hill is a small volume manufacturer. Its total production in the 12-month period preceding its latest petition was 55 units, a substantial decline from the 151 units reported in the petition preceding the current one. In the absence of a further exemption, Dan Hill asserts that the majority of its ''work force in the Norman, Oklahoma plant would be laid off resulting in McClain County losing one of its largest single employers.'' If the exemption were not renewed, Dan Hill's gross sales in 2003 would decrease by approximately $5,526,522. Its cumulative net income after taxes for the fiscal years 2000, 2001, and 2002 was $271,058. It projects a net income of $46,267 for fiscal year 2003.

The **Federal Register** notices cited above contain Dan Hill's arguments of its previous good faith efforts to conform with Standard No. 224 and formed the basis of our previous grants of Dan Hill's petitions. Dan Hill originally asked for a year's exemption in order to explore the feasibility of a rear impact guard that would allow the Flow Boy trailer to connect to a conventional paver. It concentrated its efforts between 1998 and 1999 in investigating the feasibility of a retractable rear impact guard, which would enable Flow Boys to continue to connect to pavers. The company examined various alternatives: Installation of a fixed rear impact guard, redesign of pavers, installation of a removable rear impact guard, installation of a retractable rear impact guard, and installation of a ''swing-up'' style tailgate with an attached bumper. Its efforts to conform, from September 1999 until December 2000, involved the design of a swing-in retractable rear impact guard. A review of its design, by Tech, Inc., showed that this, too, was not feasible. Among other things, Tech, Inc., was concerned that ''the tailgate, hinges, and air cylinders will not meet the criteria of the Standard 224-plasticity requirement,'' and that ''the bumper is a potential safety hazard'' because if the gate were raised and ''a flagman or a trailer stager is in between the paver and the bumper while the gate and bumper is rising, the bumper could cause serious injury or death.'' A copy of Tech Inc.'s report has been filed in the docket as part of Dan Hill's 2001 petition. The report also indicated that the costs associated with this design may be cost prohibitive ''when trying to win business in a highly competitive, yet narrow marketplace.'' Having concluded that compliance of horizontal discharge trailers with Standard No. 224 was unattainable, Dan Hill filed the petition for permanent relief through rulemaking, mentioned above.

Red River's Reasons Why Compliance Would Preclude Sale of Its Horizontal Discharge Trailers and Why These Trailers Provide an Overall Level of Safety at Least Equal to That of Nonexempted Trailers

Under 49 U.S.C. 30113(b)(3)(B)(iv), as implemented by 49 CFR 555.6(d), we may grant a temporary exemption on finding that compliance with Standard No. 224 ''would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles.''

A requirement that its horizontal discharge trailers comply with Standard No. 224 would preclude their sale, according to Red River. The petitioner discusses a range of options using fixed and retractable guards, concluding that ''the design and manufacturing problems associated with the development of a retractable rear impact guard for construction horizontal discharge trailers are enormous—perhaps, even insurmountable.

Nonexempted trailers are equipped with rear underride guards. Red River's horizontal discharge trailers will not be equipped with these guards, but, in Red River's opinion, an equivalent level of safety exists because the geometry of these trailers is similar to that of ''wheels-back'' trailers that are specifically exempted from Standard No. 224. Further, if measurements were based ''on the traditional dry van approach, and a plane was passed through the rear door and rear frame of the Red River trailers, the plane would be less than six inches beyond the rear tire.''

In addition, according to Red River, the design affords protection against passenger compartment intrusion in rear-end collisions in that the maximum forward movement of a motor vehicle involved in a rear-end collision is 24 inches; it is not likely that any part of the trailer would strike the colliding vehicle's windshield.

Red River notes that the trailer beds of end dump trailers have to be raised in order for their cargo to be off-loaded by gravity, contrasted with the more controlled discharge of cargo by horizontal discharge trailers. Further, use of end dump trailers is problematic on uneven terrain or where overhead obstacles such as bridges and power lines are present.

For all these reasons, Red River submits that its horizontal discharge trailers have an overall level of safety at least equal to that of end dump trailers that comply with Standard No. 224.

Arguments Presented by Dan Hill and Red River Why a Renewal of Their Temporary Exemptions Would Be in the Public Interest and Consistent With Objectives of Motor Vehicle Safety

Dan Hill. Dan Hill previously argued that an exemption would be in the public interest and consistent with traffic safety objectives because, without an exemption, ''within a short time, production of the trailer will cease entirely. This would mean a significant loss to many people in the state, including shareholders, lenders, employees, families, and other stakeholders.'' 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. Dan Hill also cited its efforts before 2001 to enhance the conspicuity of Flow Boy trailers by: 1. Adding ''High intensity flashing safety lights; 2. doubling the legally required amount of conspicuity taping at the rear of the trailer; 3. [adding] safety signage; 4. [adding] red clearance lights that normally emit light in twilight or night-time conditions; and 5. installation of a rear under-ride protection assembly 28″ above the ground and 60″ in width.''

With respect to the current petition, Dan Hill concludes that ''the general public benefits from better and improved roads as a result of the horizontal discharge method of delivering and discharging hot mix asphalt and other road building materials.'' It also asserts that ''contractors benefit from the discharge system because they operate more efficiently, [and] experience greater safety records which results in lower costs.'' Such trailers ''present a safe alternative to the standard dump body truck or trailer'' because ''the location of the rear-most axle of the Flow Boy causes its rear tires to act as a buffer and limits the maximum forward movement of a motor vehicle involved in a rear-end collision with a horizontal discharge trailer * * *.''

Red River. Red River argues that, ''because of the functionality and safety of Red River's construction horizontal discharge trailers, the exemption requested here would be in the public interest.''

According to Red River, an exemption would be consistent with considerations of safety as well. The trailers spend a large portion of their operating time off the public roads. Further, ''typical hauls are short and have a minimal amount of highway time when compared with other semi-trailers.'' As noted above, Red River knows of no rear end collisions involving this type of trailer that has resulted in injuries.

How You May Comment on the Applications by Dan Hill and Red River

If you would like to comment on the applications, 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: April 30, 2003.

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

Issued on March 26, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–7655 Filed 3–28–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 03–14758]

Grant of Applications of Two Motorcycle Manufacturers for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

This notice grants the applications by two motorcycle manufacturers for a temporary exemption of two years from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays.* The applicants assert that ''compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall level of safety at least equal to the overall safety level of nonexempt vehicles,'' 49 U.S.C. 30113(b)(3)(iv).

The manufacturers who have applied for a temporary exemption are Malaguti USA, Miami, Florida, on behalf of Malaguti S.p.A. of Bologna, Italy, and Yamaha Motor Corporation USA of Cypress, California. Malaguti's petition covers four vehicles it describes as ''motor scooters:'' the Phantom 200cc, the Madison 200cc and 400cc, and the B–2 500cc. Yamaha seeks relief for its Vino 125 (125cc) machine.

Because the safety issues are identical we have decided to address both the petitions in a single notice. Further, given the opportunity for public comment on these issues in the years 1998–2002 (which resulted only in comments in support of the petitions), we have concluded that a further opportunity to comment on the same issues is not likely to result in any substantive submissions, and that we may proceed to decisions on these petitions. See, *e.g.*, most recently the grant of applications by five motorcycle manufacturers (67 FR 62850).

The Reason Why the Applicants Need a Temporary Exemption

The problem is one that is common to the motorcycles covered by the applications. If a motorcycle is produced with rear wheel brakes, S5.2.1 of Standard No. 123 requires that the brakes be operable through the right foot control, although the left handlebar is permissible for motor-driven cycles (Item 11, Table 1). Motor-driven cycles are motorcycles with motors that produce 5 brake horsepower or less. Malaguti and Yamaha petitioned to use the left handlebar as the control for the rear brakes of certain of their motorcycles whose engines produce more than 5 brake horsepower. The frame of each of these motorcycles has not been designed to mount a right foot operated brake pedal (*i.e.,* these scooter-type vehicles which provide a platform for the feet and operate only through hand controls). Applying considerable stress to this sensitive pressure point of the frame could cause failure due to fatigue unless proper design and testing procedures are performed.

Absent an exemption, the manufacturers will be unable to sell the motorcycle models named above because the vehicles would not fully comply with Standard No. 123.

Arguments Why the Overall Level of Safety of the Vehicles To Be Exempted Equals or Exceeds That of Non-Exempted Vehicles

As required by statute, the petitioners have argued that the overall level of safety of the motorcycles covered by their petitions equals or exceeds that of a non-exempted motor vehicle for the following reasons. All vehicles for which petitions have been submitted are equipped with an automatic transmission. As there is no foot-operated gear change, the operation and use of a motorcycle with an automatic transmission is similar to the operation and use of a bicycle, and the vehicles