

(h) Motor vehicles engaged in the transportation of logs and pulpwood between the point of harvest and the first point of processing the harvested product;

(i) Motor vehicles engaged exclusively in hauling gravel or other unmanufactured road building materials.

The Federal Motor Carrier Safety Regulations (FMCSRs) do not contain compatible exemptions. Generally, the FMCSRs do not allow industry-based exemptions. State laws which provide such exemptions for vehicles in interstate commerce are deemed less stringent than the FMCSRs.

Drivers of farm vehicles, such as defined in paragraph (g) of the Mississippi Code, do have limited (49 CFR 391.67, articulated vehicles) and full (49 CFR 391.2(c), nonarticulated vehicles) exemptions from driver qualification requirements of Part 391 of the FMCSRs. Unlike the Mississippi Code, however, the FMCSRs do not exempt farm vehicles or their drivers from any other motor carrier safety requirements. Paragraph (g) is, therefore, determined to be preempted insofar as it provides exemptions for farm vehicles not found in the FMCSRs.

The exemptions in paragraphs (h) and (i) for gravel and log haulers have no parallels in the FMCSRs. Each of these provisions in the Mississippi Code are therefore incompatible with the FMCSRs and are determined to be preempted.

Insofar as these exemptions affect vehicles in interstate commerce, they are contrary to the guideline for regulatory review in 49 CFR Part 355, app. A, which provides that the "requirements must apply to all segments of the motor carrier industry." Because the exemptions are less stringent than Federal regulations, the State law is preempted and shall not be in effect and enforced by the State of Mississippi with respect to commercial motor vehicles in interstate commerce. 49 U.S.C. 31141.

Any person, including the State of Mississippi, may petition the FHWA for a waiver from a preemption determination. 49 U.S.C. 31141(d). A petitioner is afforded the opportunity for a hearing on the record. A waiver may be granted if it is demonstrated that the waiver is not contrary to the public interest and is consistent with the safe operation of commercial motor vehicles.

Any person adversely affected by this determination may also file a petition for judicial review of the determination in the United States Court of Appeals.

It should be reemphasized that this preemption determination is applicable

only to certain State of Mississippi commercial motor vehicle safety laws insofar as they apply to vehicles in interstate commerce. State of Mississippi laws applicable only to vehicles in intrastate commerce are not subject to preemption, and, moreover, appear to be compatible for purposes of the Motor Carrier Safety Assistance Program because they fall within the Tolerance Guidelines. 49 CFR Part 350, app. C.

(49 U.S.C. 31141; 23 U.S.C. 315; 49 CFR 1.48)

Issued on: August 31, 1995.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 95-22564 Filed 9-11-95; 8:45 am]

BILLING CODE 4910-22-P

National Highway Traffic Safety Administration

[Docket No. 95-53; Notice 2]

Cantab Motors, Ltd., Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standards No. 208 and 214

Cantab Motors, Ltd., of Round Hill, Va., applied for a temporary exemption of two years from paragraph S4.1.4 of Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, and for three years from Federal Motor Vehicle Safety Standard No. 214 *Side Impact Protection*. The basis of the application was that compliance will cause substantial economic hardship to a manufacturer that has tried to comply with the standard in good faith.

Notice of receipt of the application was published on July 14, 1995, and an opportunity afforded for comment (60 FR 36328).

The make and type of passenger car for which exemption was requested is the Morgan open car or convertible. Morgan Motor Company ("Morgan"), the British manufacturer of the Morgan, has not offered its vehicle for sale in the United States since the early days of the Federal motor vehicle safety standards. In the nine years it has been in business, the applicant has bought 35 incomplete Morgan cars from the British manufacturer, and imported them as motor vehicle equipment, completing manufacture by the addition of engine and fuel system components. They differ from their British counterparts, not only in equipment items and modifications necessary for compliance with the Federal motor vehicle safety standards, but also in their fuel system components and engines, which are propane fueled. As the party completing manufacture of the vehicle, Cantab

certifies its conformance to all applicable Federal safety and bumper standards. The vehicle completed by Cantab in the U.S. is deemed sufficiently different from the one produced in Britain that NHTSA considers Cantab the manufacturer, not a converter, even though the brand names are the same.

Morgan itself produced 478 cars in 1994, while in the year preceding the filing of its petition in June 1995, the applicant produced 9 cars for sale in the United States. Since the granting of its original exemption in 1990, Cantab has invested \$38,244 in research and development related to compliance with Federal safety and emissions standards. The applicant has experienced a net loss in each of its last three fiscal (calendar) years, with a cumulative net loss for this period of \$92,594.

Application for Exemption From Standard No. 208

Cantab received NHTSA Exemption No. 90-3 from S4.1.2.1 and S4.1.2.2 of Standard No. 208, which expired May 1, 1993 (55 FR 21141). When this exemption was granted in 1990, the applicant had concluded that the most feasible way for it to conform to the automatic restraint requirements of Standard No. 208 was by means of an automatically deploying belt. In the period following the granting of the exemption, Morgan and the applicant created a mock-up of the Morgan passenger compartment with seat belt hardware and motor drive assemblies. In time, it was determined that the belt track was likely to deform, making it inoperable. The program was abandoned, and Morgan and Cantab embarked upon research leading to a dual airbag system.

According to the applicant, Morgan tried without success to obtain a suitable airbag system from Mazda, Jaguar, Rolls-Royce and Lotus. As a result, Morgan is now developing its own system for its cars, and "[a]s many as twelve different sensors, of both the impact and deceleration (sic) type, have been tested and the system currently utilizes a steering wheel from a Jaguar and the Land Rover Discovery steering column." Redesign of the passenger compartment is underway, involving knee bolstering, a supplementary seat belt system, anti-submarining devices, and the seats themselves. Morgan informed the applicant on May 2, 1995, that it had thus far completed 10 tests on the mechanical components involved "and are now carrying out a detailed assessment of air bag operating systems and columns before we will be in a position to undertake the full set of

appropriate tests to approve the installation in our vehicles.”

Application for Exemption From Standard No. 214

Concurrently, Morgan and the applicant have been working towards meeting the dynamic test and performance requirements for side impact protection, for which Standard No. 214 has established a phase-in schedule. Although Morgan fits its car with a dual roll bar system specified by Cantab, and Cantab installs door bars and strengthens the door latch receptacle and striker plate, the system does not yet conform to the new requirements of Standard No. 214, and the applicant has asked for an exemption of three years. It does, however, meet the previous side door strength requirements of the standard. Were the phase-in requirement of S8 applied to it, calculated on the basis of its limited production, only very few cars would be required to meet the standard.

Safety and Public Interest Arguments

Because of the small number of vehicles that the applicant produces and its belief that they are used for pleasure rather than daily for business commuting or on long trips, and because of the three-point restraints and side impact protection currently offered, the applicant argued that an exemption would be in the public interest and consistent with safety. It brought to the agency's attention two recent oblique front impact accidents at estimated speeds of 30 mph and 65 mph respectively in which the restrained occupants "emerged unscathed."

Further, the availability "of this unique vehicle . . . will help maintain the existing diversity of motor vehicles available to the U.S. consumer." Finally, "the distribution of [this] propane-fueled vehicle has contributed to the national interest by promoting the development of motor systems by using alternate fuels."

No comments were received on the application.

In adding only engine and fuel system components to incomplete vehicles, the applicant is not a manufacturer of motor vehicles in the conventional sense. It does not produce the front end structural components, instrument panel, or steering wheel, areas of the motor vehicle whose design is critical for compliance with the airbag requirements of Standard No. 208. These are manufactured by Morgan, and the applicant is necessarily dependent upon Morgan to devise designs that will enable conformance with Standard No.

208. The applicant has been monitoring Morgan's progress, and that company is engaging in testing and design activities necessary for eventual conformance. The fact that the applicant is requesting only a two-year exemption, rather than three, indicates its belief that complying operator and passenger airbags will at last be fitted to its cars by the end of this period.

Similarly, the applicant is dependent upon the structural design of its vehicle for compliance with Standard No. 214. As with Standard No. 208, Morgan and the applicant are working towards conformance, though apparently it will not be achieved within two years. In both instances, however, the applicant is conscious of the need to conform and has been taking steps to accomplish it. Although the company's total expenditure of \$38,244 in the last five years to meet emission and safety requirements is low, the small number of cars produced for sale in the United States in the last year, nine, would not make available substantial funds to the company, and its cumulative net losses of \$92,594 indicate an operation whose financial existence is precarious.

Applicant's cars are equipped with manual three-point restraint systems and comply with previous side impact intrusion requirements. Because applicant produces only one line of vehicles, it cannot take advantage of the phase-in requirement. Given the existing level of safety of the vehicles and the comparatively small exposure of the small number of them that would be produced under an exemption, there would appear to be an insignificant risk to traffic safety by providing an exemption. The public interest is served by maintaining the existence of small businesses and by creating awareness of alternative power sources.

In consideration of the foregoing, it is hereby found that to require immediate compliance with Standards Nos. 208 and 214 would cause substantial economic hardship to a manufacturer that has in good faith attempted to meet the standards, and that an exemption would be in the public interest and consistent with the objectives of traffic safety.

Accordingly, the applicant is hereby granted NHTSA Exemption No. 95-2, from paragraph S4.1.4 of 49 CFR 571.208 Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection*, expiring September 1, 1997, and from 49 CFR 571.214 Motor Vehicle Safety Standard No. 214 *Side Impact Protection*, expiring September 1, 1998. (49 U.S.C. 30113; delegation of authority at 49 CFR 1.50)

Issued on September 7, 1995.

Ricardo Martinez,
Administrator.

[FR Doc. 95-22605 Filed 9-11-95; 8:45 am]

BILLING CODE 4910-59-P

[Docket No. 95-52; Notice 2]

Decision that Nonconforming 1992 Mercedes-Benz 300CE Passenger Cars are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1992 Mercedes-Benz 300CE passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1992 Mercedes-Benz 300CE passenger cars not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to a vehicle originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with the safety standards (the U.S.-certified version of the 1992 Mercedes-Benz 300CE), and they are capable of being readily altered to conform to the standards.

DATE: This decision is effective as of September 12, 1995.

FOR FURTHER INFORMATION CONTACT: George Entwistle, Office of Vehicle Safety Compliance, NHTSA (202-366-5306).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A) (formerly section 108(c)(3)(A)(i) of the National Traffic and Motor Vehicle Safety Act (the Act)), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. § 30115 (formerly section 114 of the Act), and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As