

applications as the Medical Review Board work continues.

V. Conclusion

The Department and the Agency are committed to making our Nation's highways safer by ensuring CMVs are being operated by medically qualified drivers.

Issued on: September 27, 2005.

Warren E. Hoemann,

Deputy Administrator.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favour of relief.

Eureka & Palisade Railroad— Locomotive Number 4

[Docket Number FRA-2005-21966]

The Eureka & Palisade Railroad (EPR), a three-foot gage insular railroad, seeks a waiver of compliance from the requirements of Title 49 Code of Federal Regulations (CFR) § 230.17 One thousand four hundred seventy-two (1472) service day inspection for their locomotive number (EPR) 4. This locomotive was built by the Baldwin Locomotive Works, Philadelphia, Pennsylvania in 1875, and is one of only three remaining narrow gage "American" type (with a wheel arrangement of 4-4-0) steam locomotives. The others are in the Smithsonian Institute in Washington, DC (Jupiter) and the California State Railroad Museum (Sonoma). The Eureka is the only one operational.

The EPR is not engaged in general railroad transportation, providing only railroad tourist excursions on a limited schedule. The Eureka is normally on static display with limited operations on railroads, such as the Durango & Silverton Narrow Gauge Railroad for special events such as their "Railfest".

This waiver requests relief from the requirements of 49 CFR part 230 Inspection and Maintenance Standards for Steam Locomotives, specifically 49

CFR 230.17(a) General. FRA requires that before any steam locomotive is initially put in service or brought out of retirement, and after every 1472 service days or 15 years, which ever is earlier, a 1472 Service day inspection shall be performed. In the Eureka's case, only 126 service days have accumulated over the past 15 years, as the locomotive is only used one or two weeks per year. The locomotive is given the required annual inspections, stored in side a building, with the washout plugs removed to promote airflow and mitigate rust and wastage. The required new FRA Form 4 (boiler specification) was prepared, and is on file with the FRA. The thickness of the sheets was verified using non-destructive inspection methods, and a new front tube sheet was installed, with other minor repairs, at the time the tubes were installed.

In summary, the EPR requests that this petition be granted because the tubes have very little service time, the number 4's dry indoor storage conditions are nearly ideal for locomotive storage, and the financial burden on the individual that owns the locomotive to perform 1472 Service day inspection on a locomotive with only 126 service days since a major overhaul.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2005-21966) and must be submitted in triplicate to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC 20590-0001. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at DOT Central Docket Management Facility, Room Pl-401 (Plaza Level), 400 Seventh Street SW., Washington. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19377-78). The statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC, on September 27, 2005.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-22554; Notice 1]

Michelin North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Michelin North America, Inc. (Michelin) has determined that certain tires it produced in 2005 do not comply with S4.3(d) and S4.3(e) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New pneumatic tires." Michelin has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Michelin has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Michelin'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.

Michelin produced approximately 9,816 BFGoodrich Radial T/A tires during the period from February 20, 2005 through April 7, 2005 that do not comply with FMVSS No. 109, S4.3(d) and S4.3(e). S4.3 of FMVSS No. 109 requires that "each tire shall have permanently molded into or onto both sidewalls * * * (d) The generic name of each cord material used in the plies * * * of the tire" and "(e) Actual number of plies in the sidewall, and the actual number of plies in the tread area if different." The noncompliant tires