

noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Notice of receipt of the application was published, with a 30-day comment period, on January 30, 2003, in the **Federal Register** (68 FR 5972). NHTSA received no comments.

The petitioner argued as follows: FMVSS No. 109(S4.3(a)) requires that one size designation be molded on the tire's sidewall, except that equivalent inch and metric size designations may be used. The correct size designation, P275/60R15, was molded on both upper sidewalls and the lower sidewall on the DOT serial number side. However, on the side opposite the DOT serial number, a number of tires were stamped with an incorrect size designation of P275/80R15 in the lower sidewall area. The noncompliant tires were produced during the 23rd and 32nd production weeks of 2002.

The incorrect size designation was removed from the mold and the correct size designation inserted; however, prior to the mold being correctly stamped, 5,706 tires were inadvertently shipped marked with the one incorrect size designation.

Cooper states that the incorrect size designation on each tire is inconsequential to safety. The incorrect marking is the series designation. In the two most prominent locations and the serial side of the tire, the series designation is correct. Additionally there is no P275/15 sized tire manufactured in an 80 series. The noncompliant tires produced from the involved mold during the aforementioned production periods comply with all other requirements of FMVSS 109.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. The tires are certified to meet all the performance requirements of FMVSS No. 109. The agency agrees with Cooper's statement indicating that the incorrect size designation on each tire does not present a serious safety concern. Although there is an incorrect size marking in one location on the tire that refers to the tire's series, we note that the correct tire size is stamped in three other locations on the tire sidewall. The incorrectly-stated series does not constitute a safety concern, since the incorrect designation does not exist and the consumer or the tire dealer can locate the correct tire size elsewhere on the tire sidewall. Cooper has also

correctly stamped the mold thus correcting the problem.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's application is granted and the applicant is exempted from providing the notification of the noncompliance as would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

**Authority:** 49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 30, 2003.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 03-27655 Filed 11-3-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34418]

#### CSX Transportation, Inc.—Trackage Rights Exemption—Norfolk Southern Railway Company

Pursuant to a written trackage rights agreement dated June 20, 2003, Norfolk Southern Railway Company (NSR) has agreed to grant trackage rights to CSX Transportation, Inc. (CSXT), over approximately 21.3 miles of rail line in the Cincinnati, OH area. The trackage rights are between: (1) Milepost CF 30.9 at Butler Street and milepost CF 17.15 at Vaughn, a distance of 13.75 miles; (2) milepost BE 4.0 at Hopple Street and milepost BE 2.7 at Mitchell Avenue, a distance of 1.3 miles; and (3) milepost CJ 248.75 and the connection with CSXT at NA Tower/Ivorydale Junction at milepost CJ 255.00, a distance of 6.25 miles.

Although CSXT states that the transaction was scheduled to be consummated on October 21, 2003, the earliest the transaction could be consummated was October 22, 2003 (7 days after filing the notice).

The purpose of the trackage rights is to allow CSXT and NSR to operate more efficiently by instituting a directional running arrangement over each others lines.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in

*Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34418, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Natalie S. Rosenberg, CSX Transportation, Inc., 500 Water St., J150, Jacksonville, FL 32202.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: October 28, 2003.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 03-27592 Filed 11-3-03; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-254 (Sub-No. 7X)]

#### Providence and Worcester Railroad Company—Abandonment Exemption—in Worcester County, MA, and Windham County, CT

Providence and Worcester Railroad Company (P&W) has filed a notice of exemption under 49 CFR 1152 subpart F—*Exempt Abandonments* to abandon a portion of its line of railroad known as the Southbridge Running Track, extending from milepost 0.18, in Webster, MA, to milepost 10.98, in Southbridge, MA, a distance of approximately 10.8 miles, in Worcester County, MA, and Windham County, CT. The line traverses United States Postal Service Zip Codes 01550, 01570, 01571, and 06277.<sup>1</sup>

P&W certified that: (1) No local traffic has moved over the line for at least 2

<sup>1</sup> Pursuant to 49 CFR 1152.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. The applicant initially indicated a proposed consummation date of December 3, 2003, but because the verified notice was filed on October 15, 2003, consummation may not take place prior to December 4, 2003. By facsimile filed on October 22, 2003, applicant's representative confirmed that the consummation date will be after December 4, 2003.