

produced during the period of February 4, 2003, through July 9, 2003, with high intensity discharge headlamp assemblies made by Ichikoh Industries, Ltd (Ichikoh). The affected headlamps are equipped with a ballast that is currently registered in Docket No. NHTSA-98-3397. However, Ichikoh used ballast units without all of the label information required in FMVSS No. 108, S7.7 (e) in assembling the complete headlamp assemblies. There were no comments on this notice from the public.

Subaru stated the following three reasons as justification for applying for a decision of inconsequentiality for the noncomplying ballast marking: (1) The ballast (part no.: NZMIC111LAC1000) and ignition module (part no.: NZMIC211LAC1000) used in these headlamp assemblies are the same ones as registered by Matsushita Electric Works, Ltd. according to Part 564, except that they are missing the information label. For this reason, Subaru believes that this noncompliance will not affect the luminous intensity distribution, mechanical performance or any other headlamp performance characteristic required by FMVSS No. 108. (2) The ballast is designed to have high durability during the vehicle's lifetime, and Subaru believes that the ballast, as well as the headlamp assembly, will not need to be replaced from a lack of durability. (3) A properly affixed ballast information label, which is on the bottom surface of the ballast, is not visible unless the headlamp assembly is removed from the vehicle.

NHTSA has reviewed the facts of this application for a decision of inconsequential noncompliance. In this instance, it appears that the ballasts are missing the following required markings: S7.7 (e)(2) ballast part number; S7.7 (e)(3) part number of the light source for which the ballast is designed; S7.7 (e)(4) rated laboratory life; S7.7 (e)(6) ballast output power and; S7.7 (e)(7) the symbol "DOT". While these markings are important for assuring proper application and replacement, especially when ballasts are separately installed parts on a motor vehicle, the fact that the subject ballasts are part of the headlamp assembly when delivered to the customer minimizes the risk of incorrect initial application. While it may not minimize the risk of incorrect replacement if the pertinent information is missing, auto parts supply companies generally offer parts by vehicle make and model as well as by OEM part number. As such the risk of incorrect selection is insignificant.

In consideration of these issues, the agency agrees with Subaru that the noncompliance will not have an impact on the vehicle on which the ballast was originally installed. We believe the ballast will remain with the headlamp unless it is faulty, and then it would likely be replaced with the correct, and correctly marked ballast.

Another issue related to whether inconsequentiality exists, is if an unmarked ballast is removed from a subject vehicle, possibly by a recycler, and inappropriately installed on a different make and model vehicle. Based on the information provided by Subaru, the omission of the ballast marking information is only a portion of the information required by our FMVSS No. 108. Required markings that were provided on the ballast included the ballast manufacturer's name, required by S7.7 (e)(1), and a severe electrical shock warning, required by S7.7 (e)(5). Supplemental markings included are a bar code label and associated number. Given that normal replacement ballasts are marked, the only way an unmarked ballast will end up on a vehicle other than the one on which it was delivered, is if the vehicle is in such a crash that the headlamp did not survive, but the attached ballast did. That would make it available as a part at an auto-recycling yard. Because it would have been associated with the 2004 Subaru Impreza STi and have some manufacturer markings, it is likely that it would be sold as a replacement for that particular make and model vehicle. While it could also be sold as a generic ballast, it is intended to fit and operate a standardized light source type, specifically D2R or either D2S. This should not create lighting performance problems. Further, the existing severe shock-warning label will provide the required risk notification to the installer of potential injury or death.

In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion. The noncompliance with specific portions of FMVSS No. 108, S7.7 (e), regarding the marking of headlamp ballasts is inconsequential to motor vehicle safety. Accordingly, Subaru's application is granted and the company is exempted from providing the notification of the noncompliance that 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: May 12, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

Release of Waybill Data

The Surface Transportation Board has received a request from Harris Ellsworth & Levin on behalf of Trinity Industries, Inc. (WB605-5/5/2005) for permission to use certain data from the Board's 2003 Carload Waybill Sample. A copy of the requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Mac Frampton, (202) 565-1541.

Vernon A. Williams,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34695]

Hainesport Industrial Railroad, LLC— Acquisition and Operation Exemption—Hainesport Industrial Park Railroad Association, Inc.

Hainesport Industrial Railroad, LLC (HIR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 1 mile of rail line owned by Hainesport Industrial Park Railroad Association, Inc. in Burlington County, NJ. The line is located within the Hainesport Industrial Park in the township of Hainesport, and connects with Consolidated Rail Corporation at milepost 12.6 in the South Jersey Conrail Shared Assets Area.

HIR certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier, and that its annual revenues will not exceed \$5 million.