from a helicopter (human external cargo (HEC) operations).

How To Get Copies

You may get a copy of the proposed TSO via the Internet at *http://www.faa.gov/certification/aircraft/TSOA.htm,* or by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.**

Issued in Washington, DC, on October 2, 2003.

David W. Hempe,

Manager, Aircraft Engineering Division, Aircraft Certification Service.

[FR Doc. 03–25436 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–13–M

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 favor of relief.

New Jersey Transit Rail Operations

[Docket Number FRA–1999–6356]

The New Jersey Transit Rail Operations (NJTR) requests an extension of time for a previously granted temporary waiver of compliance with the *Passenger Equipment Safety Standards*, 49 CFR part 238.235, for seventy (70) Comet I, low level door passenger coaches. The previously granted waiver requiring that each power operated door that is partitioned from the passenger compartment shall be equipped with a manual override adjacent to that door will expire on December 31, 2003. NJTR expected to retire the 70 cars after receiving 265 new Comet V cars and 160 re-manufactured Comet II cars. NJTR indicates that there have been numerous delays in the delivery of the replacement equipment and requests that the waiver extension be granted until a sufficient number of these cars are delivered to maintain their service.

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–1999–6356) and must be submitted to the Docket Clerk, DOT Central Docket Management Facility, Room Pl-401, Washington, DC 20590. 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 the above facility. 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 19477–78). The Statement may also be found at *http://dms.dot.gov.*

Issued in Washington, DC. on October 7, 2003.

Grady C. Cothen,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 03–25896 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No.: 2002–13234]

Denial of Petition for Rulemaking; Code of Federal Regulations

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

ACTION: Denial of petition for rulemaking.

SUMMARY: This document denies the petition submitted by Bluewater Network, requesting that NHTSA initiate rulemaking to amend testing and calculation procedures and/or correction factors used to determine the fuel economy information relayed to consumers and policy makers, because NHTSA has no statutory authority to take the requested actions. It also denies the request that NHTSA use such amended calculations as the basis for data presented in the agency's annual report on the corporate average fuel economy (CAFE) program.

FOR FURTHER INFORMATION CONTACT: Ms. Henrietta L. Spinner, Office of Planning and Consumer Standards, NHTSA, 400 Seventh Street SW., Washington, DC 20590 at (202) 366–4802, facsimile (202) 493–2290.

SUPPLEMENTARY INFORMATION: In a letter dated June 11, 2002, the Bluewater Network (Bluewater) petitioned the Environmental Protection Agency (EPA) and the Department of Transportation (DOT) to initiate rulemaking to revise the test procedures, calculation methods, and correction factors employed in the calculations used to determine the fuel economy information relayed to consumers and policy makers so that these values more accurately reflect the actual, real-world fuel economy that vehicles achieve on the road. DOT's authority under the CAFE program has been delegated to NHTSA. The petitioner also requested that NHTSA use more accurate fuel economy information in its annual report to Congress titled *Automotive Fuel Economy Program Annual Update.*

The Energy Policy Conservation Act passed by Congress in 1975 added Title V, ''Improving Automotive Efficiency,'' to the Motor Vehicle Information and Cost Savings Act and established the CAFE program, under which CAFE standards are set for passenger cars and light trucks. CAFE is the sales weighted average fuel economy, expressed in miles per gallon (mpg), of a manufacturer's fleet of passenger cars or light trucks with a gross vehicle weight rating (GVWR) of 8,500 lbs. or less, manufactured for sale in the United States, for any given model year.

Both EPA and NHTSA have executive responsibilities for CAFE. The EPA administers the testing program, which generates the fuel economy data and determines the procedures for calculating the fuel economy values for CAFE. It also compiles the production data from manufacturers' reports and furnishes CAFE results to both NHTSA and Department of Energy (DOE).

For CAFE, the test data are adjusted upward to account for the incentives authorized for dual fuel and dedicated alternative fuel vehicles. For passenger cars only, it is also adjusted upward to

account for test procedure changes since the CAFE program was established.

The EPA and DOE annually publish the *Fuel Economy Guide*, listing the fuel efficiencies (in miles per gallon) of new passenger vehicles. The *Fuel Economy Guide* is published and distributed by DOE, based on EPA data. This document lists the city and highway fuel economy estimates that are included on the fuel economy label on new vehicles. Manufacturers are required to place a window sticker containing the city and highway fuel economy (mpg) values on all new cars and light trucks (less than 8,500 GVWR), when they are offered for sale or lease.

NHTSA is responsible for establishing and amending the CAFE standards, promulgating regulations concerning CAFE procedures, definitions, and reports, considering petitions for exemption from standards for low volume manufacturers and establishing unique standards for them; enforcing fuel economy standards and regulations, responding to petitions concerning domestic production by foreign manufacturers and all other aspects of CAFE, including the classification of vehicle lines as either cars or trucks; collecting, recording, and cataloging manufacturers' Pre- and Mid-model year reports, considering carryback credit plans, and providing program incentives such as credits for alternative fueled vehicle lines.

Three different sets of fuel economy values exist: EPA's unadjusted dynamometer values, EPA's adjusted on-road values as reported to consumers, and manufacturer fleet fuel economy values as reported to NHTSA. Unfortunately, confusion also exists, especially regarding the origins of each set and how they are employed. The EPA's unadjusted dynamometer values are calculated from the emissions generated during the testing using a carbon balance equation. EPA knows the amount of carbon in the fuel, so by measuring the carbon compounds expelled in the exhaust they can calculate the fuel economy.

However, calculations using the carbon balance equation, in a controlled laboratory setting, overstate the fuel economy most people will achieve in real-world driving. To account for this, EPA conducted an extensive study in the early 1980s. In 1985, EPA adopted correction factors derived from the study to adjust downward the fuel economy values derived from the carbon balance equation, when the fuel economy would be reported to the public. The city test value measured, using the carbon balance equation, is reduced 10 percent with these correction factors, while the highway test value is reduced 22 percent. This downward adjustment of the fuel economy calculated from the carbon balance equation accounts for the differences between real-world driving and controlled laboratory conditions, and is used to provide more accurate information to prospective vehicle buyers. EPA has long reported its downward adjusted values as the fuel economy values listed in the Department of Energy's Fuel Economy Guide and on new vehicle labels. Thus, all of the fuel economy values that the Federal government uses for consumer information are EPA's downward-adjusted fuel economy levels.

As previously noted, manufacturer fleet fuel economy values are calculated by EPA, using the carbon balance equation and adjusted upward, if necessary, to reflect incentives mandated by law. Reported by EPA to NHTSA, these values are not intended to be used by the public for consumer information, as the government's best estimate of the fuel economy the public will actually achieve. Instead, the manufacturer fleet fuel economy values are used to determine compliance with the applicable average fuel economy standards. Manufacturer performance is reported in NHTSA's *Automotive Fuel Economy Program Annual Update.* Until recently, there was a statutory requirement for NHTSA to submit this annual report to Congress. However, effective May 15, 2000, the reporting requirement was eliminated pursuant to the Federal Reports Elimination and Sunset Act of 1995. Nonetheless, the agency still voluntarily produces the report. The primary purpose of the report is to provide information regarding the status of vehicle manufacturers' compliance with the CAFE standards. Again, this update is not intended as consumer information.

Bluewater petitioned EPA and NHTSA to initiate rulemaking to revise the test procedures, calculation methods, and correction factors employed in the calculations used to determine the fuel economy information relayed to consumers and policy makers so that these values more accurately reflect the actual, real-world fuel economy that vehicles achieve on the road.

Petitioner's Rationale

The petitioner stated that, since the CAFE program's inception in the mid-1970s, motorists have complained that their actual in-use fuel economy was significantly lower than the fuel economy figures reported by EPA. Although 17 years have passed since EPA promulgated correction factors to adjust the city and highway fuel economy values, Bluewater asserts that drivers today continue to complain that they are not achieving the fuel economy displayed on the window sticker when they purchased their vehicle or published in the *Fuel Economy Guide.*

Bluewater cited several recent studies that indicate EPA's real-world fuel economy adjustments should be revised, including a report by Mintz and others,[1] the Energy Information Administration's (EIA) *Annual Energy Outlook 2000* publication,[2] Fred Westbrook and Phil Patterson's 1989 study,[3] and the National Research Council's report.[4]

Bluewater stated that a 1993 study conducted by Mintz, *et al.* analyzed the shortfall experience of all household vehicles on the road in 1985, finding that the fuel economy shortfall was greater than the 15 percent correction factor EPA extrapolated to adjust the combined fuel economy values (55 percent city/45 percent highway): 18.7 percent for cars and 20.1 percent for light trucks.

The petitioner also stated that EIA's *Annual Energy Outlook 2000* indicated that, in 2001, the difference between the EPA's combined fuel economy rating and actual on-road fuel economy was 14.5 percent for cars and 19.3 percent for light trucks. EIA also projected that the on-road fuel economy shortfall will increase to 16.2 percent for cars and 20.9 percent for light trucks by 2020.

Westbrook and Patterson's 1989 study projected that the difference between the EPA's combined fuel economy rating and actual on-road fuel economy would rise above 29.7 percent by 2010.

The National Research Council's recent report stated that most drivers experience lower fuel economy than suggested by EPA's results. Furthermore, it noted that a review of the validity of the test cycles for today's patterns would be appropriate.

Bluewater believes that EPA should revise its on-road fuel economy adjustment factor and NHTSA should use the revised fuel economy values in

[1] Mintz, Marianne, Anant D. Vyas, and Lester A. Conley, ''Differences Between EPA-Test and In-Use Fuel Economy: Are the Correction Factors Correct?'' Transportation Research Record 1416 (1993), 124–130; EPA. Passenger Car Fuel Economy: EPA and Road.

[2] EIA. Assumptions to the Annual Energy Outlook 2000 with Projections to 2020: Transportation Demand Module. DOE/EIA–0554. January 2000.

[3] Westbrook, Fred and Patterson, Phil. ''Changing Driving Patterns and Their Effect on Fuel Economy.'' Presented at the 1989 SAE Government/Industry Meeting, Washington, DC. May 1989.

[4] National Research Council. Effectiveness and Impact of Corporate Average Fuel Economy (CAFE) Standards. July 2001.

its reports because that data would relay to consumers and to Congress a more accurate reflection of today's driving conditions and the in-use fuel economy.

Agency's Analysis

Under 49 U.S.C. 32904 and 32908, EPA is statutorily responsible for conducting fuel economy testing and calculating vehicle fuel economy, determining manufacturers' CAFE performances, and developing fuel economy data to be provided to consumers. Therefore, NHTSA simply does not have the statutory authority to grant the relief sought by the Bluewater petition. EPA is currently reviewing the petition and will address these issues separately.

After analyzing Bluewater's petition, the agency has concluded that it should not change the information it presents in its annual report on the CAFE program. NHTSA is statutorily required to base its CAFE calculations on the data supplied by EPA, resulting from these test procedures. Given that a primary purpose of the annual report is to provide information on the status of manufacturers' compliance with the CAFE standards, we believe that presenting the CAFE values as they are calculated for compliance purposes is the appropriate manner in which to present fuel economy data in the annual report. The report is not intended for consumer information purposes, and the agency is no longer required to submit the report to Congress. Finally, we note the agency's most recent update of the report includes a discussion that thoroughly explains the differences between EPA fuel economy values, on-road values, and the CAFE compliance values.

In light of the above considerations, the agency has reviewed the petition and concluded that it should not be granted. Accordingly, we deny Bluewater's petition. We note that this denial does not affect EPA's response to the petition.

Issued on: October 8, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03–25959 Filed 10–10–03; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2003–16114; Notice 1]

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

Michelin North America, Inc. (MNA) has determined that approximately 31,266 Michelin Pilot Sport/Alpin tires have been imported into the United States with sidewall markings that did not meet the labeling requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 109 *''New Pneumatic Tires.''*

Pursuant to 49 U.S.C. 30118(d) and 30120(h), MNA has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' A copy of the petition may be found in this docket.

This notice of receipt of an application 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 application.

The affected tires whose sidewalls labeling includes a maximum psi inflation pressure marking which rounds from the metric value to the nearest whole number (in this case down), rather than rounding up to the next higher whole number as specified by FMVSS No. 109 S4.3.4 (a). The tires in question meet or exceed all other requirements of FMVSS 109. The regulations applicable to 340 kPa tires require that the psi units be rounded ''to the next higher whole number'' even when the nearest whole number, and most accurate rounding, would require rounding down than up. The correct maximum inflation pressure required by FMVSS No. 109 for these tires is: ''340 kPa (50 psi).'' The noncompliant tires were incorrectly marked: ''340 kPa (49 psi).'' The actual conversion of 340 kPa to psi units yields 49.35 psi before rounding to whole numbers (340 kPa divided by a conversion factor of 6.895 equals 49.35 psi).

MNA states that this noncompliance will have no impact on either the performance of the tire on a motor vehicle, or on motor vehicle safety itself. MNA argues that the National Highway Traffic Safety Administration (NHTSA) has recently studied the impact of tire labeling information on safety in the context of its rulemaking efforts under the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act. This analysis found that sidewall maximum inflation pressure labeling is poorly understood by the general public, and indicated that those consumers that are aware of sidewall maximum inflation pressure labeling commonly misuse this information. A number of commenters on both the Advanced Notice of Proposed Rulemaking and the Notice of Proposed Rulemaking for Tire labeling recommended that the maximum inflation pressure labeling be removed from the sidewall because of its limited safety value and its propensity to confuse consumers. NHTSA ultimately decided to retain maximum inflation pressure labeling requirements as an aid in preventing over-inflation. The mislabeling issue in this case will in no way contribute to the risk of over-inflation because the value actually marked is lower than the value required by the regulations.

Also, MNA believes that, this mislabeling is clearly inconsequential with respect to safety for all of the following stated reasons: (1) The noncompliance is one solely of rounding to the nearest whole number and labeling; (2) The actual labeling is one psi less than that required by the regulation; (3) Rounding 49.35 psi to 49 psi, the nearest whole number, is more accurate in this case than rounding to the next higher whole number (50) as required by the regulations; (4) All performance requirements of FMVSS No. 109 are met or exceeded; (5) These tires are marked with the correct metric maximum inflation pressure (as allowed by FMVSS No. 109 and as shown on pages 1–32 of the 2003 Tire and Rim Association yearbook); (6) Use of the sidewall label as a source of information for the maximum inflation pressure will not increase the risk of over-inflation of the tire because the actual value is lower than both the actual maximum inflation pressure (by 0.35 psi) and lower than the 50 psi value required for these tires by the regulations; (7) Incorrect use of the sidewall label maximum inflation pressure as a source of information for the recommended inflation pressure will not result in an overloading of the tires or reduce the load capacity of the tires because the 49 psi conversion still remains 8 psi greater than that required to carry the maximum load for these tires. In fact, 340 kPa (50psi) is the higher of two alternative choices for the maximum inflation pressure provided for this tire's load rating per The Tire and Rim Association yearbook. Consequently, MNA believes that the foregoing noncompliance will have an