

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2002-13332; Notice 2]

Decision That Nonconforming 1993 Mercedes Benz S Series Passenger Cars Are Eligible for Importation

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

ACTION: Notice of decision by NHTSA that nonconforming 1993 Mercedes Benz S Series passenger cars are eligible for importation.

SUMMARY: This notice announces the decision by NHTSA that 1993 Mercedes Benz S Series 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 vehicles originally manufactured for importation into and sale in the United States and certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 1993 Mercedes Benz S Series), and they are capable of being readily altered to conform to the standards.

DATES: This decision is effective as of the date of its publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Luke Loy, Office of Vehicle Safety Compliance, NHTSA (202-366-5308).

SUPPLEMENTARY INFORMATION:**Background**

Under 49 U.S.C. 30141(a)(1)(A), 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, 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 specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition.

At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Sunshine Car Import L.C. of Cape Coral, Florida (Registered Importer 01-289) petitioned NHTSA to decide whether 1993 Mercedes Benz S Series passenger cars are eligible for importation into the United States. NHTSA published notice of the petition on September 23, 2002 (67 FR 59594) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition. No comments were received in response to the notice of the petition. Based on its review of the information submitted by the petitioner, NHTSA has decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-395 is the vehicle eligibility number assigned to vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that 2003 Mercedes Benz S Series passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards are substantially similar to 2003 Mercedes Benz S Series passenger cars originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: December 17, 2002.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.
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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34267]

Morristown & Erie Railway, Inc.—
Operation Exemption—Somerset
Terminal Railroad Corporation

Morristown & Erie Railway, Inc. (M&E), a Class III rail carrier, has filed an amended verified notice of exemption¹ under 49 CFR 1150.41 to operate over approximately 1.25 miles of rail line located in the Township of Bridgewater and the Borough of Manville, Somerset County, NJ, that is part of a rail line known as the Reading Company New York Branch (also known as the Raritan Valley Connecting Track), and identified as Line Code 0326, between milepost 57.25 at Manville Yard and milepost 58.50 at a junction with New Jersey Transit's commuter line. In the amended notice, M&E states that it proposes to obtain rights from Somerset Terminal Railroad Corporation (STRC), a Class III rail carrier, to operate over this line of railroad that is owned by Joseph C. Horner.²

M&E states that, as provided in an assignment of contracts agreement dated October 1, 2002, between M&E and STRC, STRC proposes to assign M&E rights which will permit M&E to operate the line.³ By letters filed on October 17, 2002, November 20, 2002, and November 26, 2002, Standard Terminal Railroad of New Jersey, Incorporated (Standard), alleged that STRC does not actually possess the rights it seeks to assign to M&E and requested that the exemption be stayed. By decision served on November 27, 2002, in this proceeding, the request for stay was denied.

Publication of this notice and effectiveness of the exemption does not

¹ M&E originally tendered a notice of exemption for filing on October 7, 2002, but additional and corrected information was subsequently filed on November 20, 2002.

² In *Somerset Terminal Railroad Corporation—Operation Exemption—A Line of Railroad Owned by Joseph C. Horner*, STB Finance Docket No. 33999 (STB served Feb. 13, 2001), STRC, then a noncarrier, was granted an exemption under 49 CFR 1150.31 to operate the line pursuant to a perpetual, irrevocable, exclusive and assignable easement.

³ In addition, STRC will assign the right for M&E to operate over a railroad bridge that crosses the Raritan River, which connects the properties on which STRC has its easement. STRC is a party to a Land Use Agreement with Mr. Horner, dated May 1, 2000, and holds an easement to operate over the properties of Mr. Horner. Pursuant to the assignment of contracts agreement, M&E's operating rights will be for a term of 15 years, subject to renewal, extension, and termination. M&E proposes to operate the line to connect with CSX Transportation, Inc., and Norfolk Southern Railway Company.