

Dated: January 12, 2004.

Anne Jillson,

Foreign Affairs Officer, Department of State.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. 2001-11213, Notice No. 3]

RIN 2130-AA81

Alcohol and Drug Testing: Determination of Minimum Random Testing Rates for 2004

AGENCY: Federal Railroad
Administration (FRA), DOT.

ACTION: Notice of determination.

SUMMARY: Using data from Management Information System annual reports, FRA has determined that the 2002 rail industry random testing positive rate was 0.79 percent for drugs and 0.19 percent for alcohol. Since the industry-wide random drug testing positive rate continues to be below 1.0 percent, the Federal Railroad Administrator (Administrator) has determined that the minimum annual random drug testing rate for the period January 1, 2004 through December 31, 2004 will remain at 25 percent of covered railroad employees. Since the random alcohol testing violation rate has remained below 0.5 percent for the last two years, the Administrator has determined that the minimum random alcohol testing rate will remain at 10 percent of covered railroad employees for the period January 1, 2004 through December 31, 2004.

DATES: This notice is effective upon publication.

FOR FURTHER INFORMATION CONTACT: Lamar Allen, Alcohol and Drug Program Manager, Office of Safety Enforcement, Mail Stop 25, Federal Railroad Administration, 1120 Vermont Avenue, NW., Washington, DC 20005, (Telephone: (202) 493-6313).

SUPPLEMENTARY INFORMATION:

Administrator's Determination of 2004 Random Drug and Alcohol Testing Rates

In a final rule published on December 2, 1994 (59 FR 62218), FRA announced that it will set future minimum random drug and alcohol testing rates according to the rail industry's overall positive rate, which is determined using annual railroad drug and alcohol program data taken from FRA's Management Information System. Based on this data,

the Administrator publishes a **Federal Register** notice each year, announcing the minimum random drug and alcohol testing rates for the following year (see 49 CFR 219.602, 608).

Under this performance-based system, FRA may lower the minimum random drug testing rate to 25 percent whenever the industry-wide random drug positive rate is less than 1.0 percent for two calendar years while testing at 50 percent. (For both drugs and alcohol, FRA reserves the right to consider other factors, such as the number of positives in its post-accident testing program, before deciding whether to lower annual minimum random testing rates). FRA will return the rate to 50 percent if the industry-wide random drug positive rate is 1.0 percent or higher in any subsequent calendar year.

FRA implemented a parallel performance-based system for random alcohol testing. Under this system, if the industry-wide violation rate is less than 1.0 percent but greater than 0.5 percent, the rate will be 25 percent. FRA will raise the rate to 50 percent if the industry-wide violation rate is 1.0 percent or higher in any subsequent calendar year. FRA may lower the minimum random alcohol testing rate to 10 percent whenever the industry-wide violation rate is less than 0.5 percent for two calendar years while testing at a higher rate.

In this notice, FRA announces that the minimum random drug testing rate will remain at 25 percent of covered railroad employees for the period January 1, 2004 through December 31, 2004, since the industry random drug testing positive rate for 2002 was 0.79 percent. Since the industry-wide violation rate for alcohol has remained below 0.5 percent for the last two years, FRA is maintaining the minimum random alcohol testing rate at 10 percent of covered railroad employees for the period January 1, 2004 through December 31, 2004. Railroads remain free, as always, to conduct random testing at higher rates.

Issued in Washington, DC, on January 12, 2004.

Allan Rutter,

Administrator.

[FR Doc. 04-1060 Filed 1-15-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2001-10044; Notice 3]

Reliance Trailer Co., LLC.; Receipt of Application for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standard No. 224

Reliance Trailer Co., LLC, of Spokane, Washington (Reliance), has applied for a renewal of a temporary exemption of its dump body trailer from Federal Motor Vehicle Safety Standard No. 224, *Rear Impact Protection* (FMVSS No. 224). In accordance with 49 U.S.C. 30113(b)(3)(B)(i), the basis of the request is that compliance would cause substantial economic hardship to a manufacturer that has made a good faith effort to comply with the standard.

We are publishing this notice of receipt of the renewal application in accordance with the requirements of 49 U.S.C. 30113(b)(2). This action does not represent any judgment of the agency on the merits of the application.

On October 22, 2001, NHTSA granted Reliance a two-year hardship exemption from the requirements of FMVSS No. 224.¹ That exemption expired on October 1, 2003. Reliance petitioned for renewal on September 24, 2003. Because Reliance did not apply for a renewal more than 60 days prior to expiration of the original exemption, the petitioner is no longer subject to the October 22, 2001 exemption.²

FMVSS No. 224 requires, effective January 26, 1998, that all trailers with a GVWR of 4536 kg or more, including Reliance's dump body trailers, be fitted with a rear impact guard that conforms to Standard No. 223, *Rear Impact Guards*.

In the original petition, Reliance argued that a rear impact guard prevented its trailers from properly discharging asphalt into paving equipment. According to petitioners, compliance with FMVSS No. 224 rendered their dump body trailers useless for performing their intended function. During the two-year temporary exemption period, Reliance anticipated acquiring the revenue necessary to design a complex retractable rear impact guard that would allow for proper interaction with paving equipment. However, petitioners now state that they have not been able to arrive at a practical, and economic solution for

¹ For background information on the company please see original petition (66 FR 36032).

² See 49 CFR 555.8(e).

complying with the requirements of FMVSS No. 224.

In addition to their inability to design a practicable rear impact guard, Reliance experienced a significant economic downturn in the past two years. Specifically, petitioner's financial statements show a profit of \$69,284 for the fiscal year 2000; an operating loss of \$1,181,900 for the fiscal year 2001; and an operating loss of \$2,477,700 for the 2002 fiscal year. This represents a cumulative loss for a period of 3 years of \$3,590,316.³ In 2003, Reliance produced only 12 dump body trailers, which is significantly less than the output in the previous two years.

Petitioners contend that the renewal of their exemption would be in the public interest for the following reasons. First, Reliance argues that denial of this petition request would reduce their payroll by 15 to 18 employees. Second, Reliance argues that an exemption would allow the company to continue providing paving equipment needed by road building industry.

Petitioners ask NHTSA to renew their exemption from the requirements of FMVSS No. 224 until February 1, 2006. According to Reliance, they will continue to seek a practicable and financially viable solution that would allow dump body trailers with rear impact guards to functionally interact with paving equipment.

How You May Comment on Reliance Application

We invite you to submit comments on the application described above. You may submit comments [identified by DOT Docket Number NHTSA 2001-10044] by any of the following methods:

- Web Site: <http://dms.dot.gov>. Follow the instructions for submitting comments on the DOT electronic docket site by clicking on "Help and Information" or "Help/Info."

- Fax: 1-202-493-2251.
- Mail: Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590.

- Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

³ To see Reliance petition for renewal of their temporary exemption, please go to <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2001-10044.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Docket: For access to the docket in order to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 am and 5 pm, Monday through Friday, except Federal Holidays.

Privacy Act: 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) or you may visit <http://dms.dot.gov>.

We shall consider all comments received before the close of business on the comment closing date indicated below. To the extent possible, we shall also consider comments filed after the closing date. We shall publish a notice of final action on the application in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: February 17, 2004.

FOR FURTHER INFORMATION CONTACT:

George Feygin in the Office of Chief Counsel, NCC-112, (Phone: 202-366-2992; Fax 202-366-3820; E-mail: GFeygin@nhtsa.dot.gov).

(49 U.S.C. 30113; delegations of authority at 49 CFR 1.50. and 501.8)

Issued on: January 12, 2004.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 04-1061 Filed 1-15-04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34454]

Genesee & Wyoming Inc.—Control Exemption—Chattahoochee Industrial Railroad

Genesee & Wyoming Inc. (GWI), a noncarrier, has filed a notice of exemption to permit GWI to acquire control of Chattahoochee Industrial Railroad (CIRR) by purchase of all of

CIRR's stock from Great Northern Nekoosa Corp., a subsidiary of Georgia Pacific Corporation. CIRR is a Class III carrier operating in Georgia, between Hilton, GA, and Saffold, GA.

The CIRR transaction was scheduled to be consummated on or after December 26, 2003, the effective date of the exemption (7 days after the notice was filed).

GWI directly controls one Class II carrier (Buffalo & Pittsburgh Railroad, Inc., operating in New York and Pennsylvania) and 15 Class III carriers (Allegheny & Eastern Railroad, Inc., operating in Pennsylvania; Bradford Industrial Rail, Inc., operating in Pennsylvania and New York; Corpus Christi Terminal Railroad, Inc., operating in Texas; Dansville and Mount Morris Railroad Company, operating in New York; Genesee & Wyoming Railroad Company, Inc., operating in New York; Golden Isles Terminal Railroad, Inc., operating in Georgia; Illinois & Midland Railroad, Inc., operating in Illinois; Louisiana & Delta Railroad, Inc., operating in Louisiana; Pittsburg & Shawmut Railroad, Inc., operating in Pennsylvania; Portland & Western Railroad, Inc., operating in Oregon; Rochester & Southern Railroad, Inc., operating in New York; Savannah Port Terminal Railroad Inc., operating in Georgia; South Buffalo Railway Company, operating in New York; Utah Railway Company, operating in Colorado and Utah; and Willamette & Pacific Railroad, Inc., operating in Oregon).

GWI indirectly controls eight additional Class III carriers. Through its ownership of noncarrier Rail Link, Inc., GWI indirectly controls two Class III carriers (Commonwealth Railway, Inc., operating in Virginia; and Talleyrand Terminal Railroad, Inc., operating in Florida). Through its ownership of Emons Transportation Group, Inc., which in turn owns Emons Railroad Group, Inc., GWI indirectly controls three Class III carriers (St. Lawrence & Atlantic Railroad Company, operating in Vermont, New Hampshire, and Maine; St. Lawrence & Atlantic Railroad (Quebec) Inc., operating in Vermont; and York Railway Company, operating in Pennsylvania). Through its ownership of Utah Railway Company, GWI indirectly controls one Class III carrier (Salt Lake City Southern Railroad Company, operating in Utah). Finally, through its ownership of Emons Transportation Group, Inc., GWI indirectly controls two non-operating Class III carriers (Maryland and Pennsylvania Railroad, LLC; and Yorkrail, LLC) that separately hold the