

facilitate notifying consumers in the event of a recall. Cooper says that if it was required to notify purchasers, "the subject tires could be easily identified." Cooper points out that the correct tire size is stamped on the sidewall, and the tires meet all other requirements of FMVSS No. 109 and 49 CFR 574.5.

NHTSA agrees with Cooper that the noncompliance is inconsequential to motor vehicle safety. As Cooper points out, the tires do not have sidewall markings which provide the correct size for the user of this information. In addition, the incorrect marking does not affect the ability to identify the tires in the event of recall. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

(Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on January 20, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.
[FR Doc. 06-731 Filed 1-25-06; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2005-23168; Notice 2]

Cooper Tire & Rubber Company, Grant of Petition for Decision of Inconsequential Noncompliance

Cooper Tire & Rubber Company (Cooper) has determined that certain tires that it produced in 2005 do not comply with S4.3(a) of 49 CFR 571.109, Federal Motor Vehicle Safety Standard (FMVSS) No. 109, "New pneumatic tires" and with 49 CFR 574.5, "Tire Identification Requirements." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Cooper 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." Notice of receipt of a petition was published, with a 30-day comment period, on December 9, 2005 in the

Federal Register (70 FR 73324). NHTSA received no comments.

Affected are a total of approximately 488 size 225/70R15 tires produced during the period January 30, 2005 through April 16, 2005. S4.3(a) and Part 574.5(b) require a tire identification number (TIN) on the tire which includes a size designation. The noncompliant tires were molded with the letters "X5" as the size designation. The correct stamping should have been "35."

Cooper believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Cooper states that the purpose of the tire identification number is to facilitate notifying consumers in the event of a recall. Cooper says that if it was required to notify purchasers, "the subject tires could be easily identified." Cooper points out that the correct tire size appears elsewhere on the tire, including twice on each sidewall, and the tires meet all other requirements of FMVSS No. 109 and 49 CFR 574.5.

NHTSA agrees with Cooper that the noncompliance is inconsequential to motor vehicle safety. As Cooper points out, the tires do have sidewall markings which provide the correct size for the user of this information. In addition, the incorrect marking does not affect the ability to identify the tires in the event of recall. Cooper has corrected the problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, Cooper's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

Authority: (49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8)

Issued on: January 20, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.
[FR Doc. E6-959 Filed 1-25-06; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-6 (Sub-No. 432X)]

BNSF Railway Company—Abandonment Exemption—in Walsh County, ND

BNSF Railway Company (BNSF) has filed a notice of exemption under 49

CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 7.12-mile line of railroad between milepost 144.21 at Grafton, and milepost 137.09, near Voss, in Walsh County, ND. The line traverses United States Postal Service Zip Codes 58237 and 58261.

BNSF has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line that would have to be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on February 25, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by February 3, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by February 15, 2006, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to BNSF's representative: Sidney L. Strickland, Jr.,

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each OFA must be accompanied by the filing fee, which is currently set at \$1,200. See 49 CFR 1002.2(f)(25).