

“Defect and Noncompliance Reports.” Ford has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—“Motor Vehicle Safety” on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of an application was published, with a 30-day comment period, on December 20, 1999, in the **Federal Register** (64 FR 71181). NHTSA received no comments on this application during the comment period.

Paragraph S5.4.3(b) of FMVSS No. 135 states that the brake fluid warning statement lettering shall be “located so as to be visible by direct view, either on or within 100 mm (3.94 inches) of the brake fluid reservoir filler plug or cap.” Ford manufactured approximately 11,000 model year 2000 Focus vehicles that may not comply with the requirement that the brake fluid label be located within 100 mm of the reservoir filler plug or cap. All Ford Focus vehicles that are potentially in noncompliance with this requirement were manufactured between October 7, 1999 and October 20, 1999. According to Ford, the location of the labels containing the required lettering was not controlled and, while clearly visible by direct view, some labels were located such that the lettering is 120 to 130 mm distance from the reservoir filler cap. Ford believes this condition to be inconsequential to motor vehicle safety.

Ford stated in its application that the noncompliance was precipitated by a production change. Prior to the production change, the labels were affixed by Ford during vehicle assembly. The production change resulted in the brake fluid warning labels being affixed by the supplier of the vehicle component on which the labels are mounted. The supplier was not aware of the importance of the positioning of the brake fluid warning label on the vehicle component. According to Ford, the manufacturing process has been extensively reviewed, the cause of the noncompliance has been isolated, and changes in the manufacturing process have been instituted to prevent any future occurrence of this noncompliance.

Ford’s petition included a brake fluid warning label of the type affixed to the 2000 model year Focus. Ford also provided photographs of an engine compartment in which the label is properly located (approximately 75 mm from the brake fluid reservoir cap) and an engine compartment with an improperly located label. Ford supported its claim that the noncompliance is inconsequential by stating that the subject labels meet all

other federal requirements, and the location of these labels does not present reasonably anticipated risks to motor vehicle safety.

The agency believes that the true measure of inconsequentiality to motor vehicle safety is the effect of the noncompliance on the availability of the brake fluid warning labels for review by the vehicle operators and service technicians. Ford has supplied the agency with photographs which indicate that, although the brake fluid warning labels are not located within the specified distance from the brake fluid reservoir filler cap, the labels are plainly visible by direct view and in close proximity to the reservoir filler cap. In this instance, the agency does not believe the noncompliance is a threat to motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant 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.

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

Issued on: April 28, 2000.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33782]

Entergy Arkansas and Entergy Rail—Construction and Operation Exemption—White Bluff to Pine Bluff, AR

AGENCY: Surface Transportation Board.

ACTION: Notice of exemption.

SUMMARY: Under 49 U.S.C. 10502, the Board conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction and operation by Entergy Rail of an 8.6-mile line of railroad from White Bluff to Pine Bluff, AR.

DATES: The exemption will not become effective until the environmental review process is completed. The Board will then issue a further decision addressing the environmental matters and

establishing an exemption effective date, if appropriate. Petitions to reopen must be filed by May 24, 2000.

ADDRESSES: Send pleadings, referring to STB Finance Docket No. 33782, to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001; and (2) John R. Molm, Troutman Sanders LLP, 1300 I Street, N.W., Suite 500 East, Washington, DC 20005-3314.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565-1613. [TDD for the hearing impaired: 1-800-877-8339.]

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Board’s decision available on our website at “WWW.STB.DOT.GOV.”

Decided: April 25, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33867]

Heart of Georgia Railroad, Inc.—Acquisition and Operation Exemption—State of Georgia and Georgia Southwestern Railroad, Inc.

Heart of Georgia Railroad, Inc. (HOG), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and/or operate four contiguous sections of rail line totaling 177.76 miles between Vidalia, GA, and Mahrt, AL, owned by the State of Georgia, Department of Transportation (State), and the Georgia Southwestern Railroad, Inc. (GSRW), as follows: (1) HOG will lease (by assignment of GSRW’s rights under a lease with State) State’s segment of the rail line between milepost 577.85, at or near Vidalia, and milepost 644.00, at Rochelle, GA, and the .48-mile Abbeville Wye Track, at Abbeville, GA; (2) HOG will acquire the exclusive rail freight easement over GSRW’s segment between milepost 644.00, at Rochelle, and milepost 713.00, at or near Preston, GA; (3) HOG will lease State’s segment between milepost 713.00, at or near Preston, and milepost 753.00, at Omaha, GA; and (4) HOG will acquire the exclusive rail freight easement over GSRW’s segment between milepost 753.00, at Omaha, and milepost 755.13, at Mahrt, AL. All of the segments will be operated by HOG.