

**Register** (69 FR 25655). NHTSA received one comment.

S6.5(f) of FMVSS No. 119 requires that each tire shall be marked on each sidewall with "the actual number of plies and the composition of the ply cord material in the sidewall." Cooper produced approximately 148 size 11R24.5 Cooper and Mastercraft brand tubeless radial tires during the period from February 29, 2004 through March 6, 2004 that do not comply with FMVSS No. 119, S6.5(f). These tires were marked "tread 5 plies steel; sidewall 1 ply steel," when they should have been marked "tread 4 plies steel; sidewall 1 ply steel."

Cooper stated that the incorrect number of steel tread plies was removed from the molds by buffing and the correct number of steel tread plies inserted; however, prior to the molds being correctly stamped, 148 tires were inadvertently shipped.

Cooper stated that the incorrect number of steel tread plies on each tire does not present a safety issue. Cooper explained:

The involved tires have been redesigned by Cooper, and the fifth steel belt removed. This change was done to improve tread wear resistance and has no effect on the tire's ability to meet all applicable DOT testing standards. The certification data from the redesigned four steel ply construction showed no remarkable difference when compared to the equivalent certification data for the previous five ply steel construction. Both sets of data are well in excess of DOT requirements.

Cooper stated that the involved tires comply with all other requirements of FMVSS No. 119.

One comment was received in response to the notice of receipt. The commenter, Barb Sashaw of Florham Park, NJ, stated:

I do not think there should be any exemption for Cooper Tires. This company violated federal standards. Cooper tried to make money since 5 ply cots [sic] more than 4 ply and Cooper would then make higher profits. It may have been a blatant attempt to steal money because consumers would pay more for an inferior tire.

The issue to be considered in determining whether to grant this petition is the effect of the noncompliance on motor vehicle safety. The comment does not address this issue, and therefore is not persuasive in its argument that the petition should not be granted.

The agency agrees with Cooper's statement that the incorrect designation of 5 plies when there were actually 4 plies in each tire does not present a serious safety concern. The agency believes that the true measure of

inconsequentiality to motor vehicle safety in this case is that there is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted.

Although tire construction affects the strength and durability, neither the agency nor the tire industry provides information relating tire strength and durability to the number of plies and types of ply cord material in the tread and sidewall. Therefore, tire dealers and customers should consider the tire construction information along with other information such as the load capacity, maximum inflation pressure, and tread wear, temperature, and traction ratings, to assess performance capabilities of various tires. In the agency's judgment, the incorrect labeling of the tire construction information will have an inconsequential effect on motor vehicle safety because most consumers do not base tire purchases or vehicle operation parameters on the number of plies in a tire.

In addition, the tires are certified to meet all the performance requirements of FMVSS No. 119. All other informational markings as required by FMVSS No. 119 are present. 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 49 CFR 1.50 and 501.8).

Issued on: July 7, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04-15973 Filed 7-13-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-18556; Notice 1]

#### General Motors Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain 2004 model year Saab 9-3 Sport Sedans and Convertibles do not comply with S4.2(b) of 49 CFR 571.114, Federal Motor Vehicle Safety

Standard (FMVSS) No. 114, "Theft protection." GM has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), GM has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of GM's petition 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 petition.

Within a total of approximately 4032 model year 2004 Saab 9-3 Sport Sedans and Convertibles equipped with a manual transmission, approximately 11 are affected. S4.2(b) of FMVSS No. 114 requires that "[e]ach vehicle shall have a key-locking system which, whenever the key is removed, prevents either steering or forward self-mobility of the vehicle or both." The affected vehicles were produced with an ignition key locking system that contains a center spring plate switch that can bind in the closed position. This switch communicates to certain vehicle systems that the ignition key has been inserted or removed. When this switch binds in the closed position, certain systems will read that the ignition key is still in the ignition switch, even after ignition key removal. One of the systems using the input from this switch is the electronic steering column lock to meet the S4.2 requirement of FMVSS No. 114. If a vehicle has the aforementioned condition, the steering column will not lock upon ignition key removal.

GM believes that the noncompliance is inconsequential to motor vehicle safety for the following reasons stated in its petition:

Continued Theft Protection: FMVSS No. 114 was developed to increase road safety by reducing the risk of traffic accidents resulting from unauthorized vehicle operation. All Saab 9-3 vehicles are equipped with an electronic engine immobilizer system that prevents engine operation in the absence of the vehicle's ignition key from the ignition switch module. The immobilizer remains fully operation[al] on vehicles with the aforementioned condition present. Although a vehicle could be steered with this condition, the engine could not be started, even through hot-wiring or other vehicle manipulation. GM considers the immobilizer system to be at least as effective as a steering column lock in preventing vehicle theft. NHTSA and Highway Loss Data Institute data have also confirmed the effectiveness of passively activated engine immobilizers such as that present on the 9-3.

**Overt Symptoms:** When this condition occurs, the symptoms are very obvious to the customer. Upon key removal the radio/CD player stays on, interior lights will not operate and the remote door locking function will not operate. Additionally, even though the key has been removed, the key warning system will activate when the driver's door is opened. These symptoms will induce the customer to return to the dealer for repairs under the new car warranty.

**Failure Occurs Early and only a Small Percentage of Vehicles are Affected:** If this condition is present, it is most likely to occur very early in the vehicle's life. In an analysis performed by the component supplier (Delphi), it was estimated that of the components affected by this condition, 85 percent would fail within the first month and 99 percent would fail within six months. Most occurrences have been and will be caught prior to retail delivery. \* \* \* It has been estimated by the supplier of the ignition switch assembly that as of the end of April 2004, a maximum of 15 additional vehicles might experience this condition. Saab warranty data show that 4 warranty repairs have been performed since May 1, 2004. Therefore, based on this projection, a maximum of 11 additional units could be expected to be subject to this condition. We would expect any of these additional instances to occur over the next few months.

GM states that the problem has been corrected.

Interested persons are invited to submit written data, views, and arguments on the petition described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL-401, 400 Seventh Street, SW., Washington, DC, 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will

be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

*Comment closing date:* August 13, 2004.

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

Issued on: July 7, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04-15972 Filed 7-13-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34503]

#### **Timber Rock Railroad, Inc.—Lease Exemption—The Burlington Northern and Santa Fe Railway Company**

Timber Rock Railroad, Inc. (TRRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease and to operate approximately 117.82 miles of rail line owned by The Burlington Northern and Santa Fe Railway Company (BNSF): (1) Between milepost 4.5 near Beaumont, TX, and milepost 21.8 near Silsbee, TX; (2) between milepost 52.5 near Dobbin, TX, and milepost 152.56 at Silsbee, TX, and (3) between milepost 0.5 and milepost 0.96 near Kirbyville, TX.<sup>1</sup> TRRR will also acquire incidental overhead trackage rights over 54.72 miles of BNSF's rail line: (1) Between milepost 4.5 near Beaumont, TX, and milepost 2.28 at Beaumont, TX; and (2) between milepost 52.5 near Dobbin, TX, and milepost 144.0 on the BNSF Galveston Subdivision at Somerville, TX, for the purpose of interchanging traffic with BNSF.

TRRR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or a Class I rail carrier. But, because TRRR's projected annual revenues will exceed \$5 million, TRRR has certified to the Board on May 4, 2004, that it sent the required notice of the transaction on May 3, 2004, to the national offices of all labor unions representing employees on the affected lines and posted a copy of the notice at the workplace of the employees on the affected lines on May 2, 2004. See 49 CFR 1150.42(e).

<sup>1</sup> BNSF will retain the right to operate certain overhead trains over the lines being leased by TRRR.

The transaction was scheduled to be consummated on or after July 3, 2004 (which is 60 days or more after TRRR's certification to the Board that it had complied with the Board's rule at 49 CFR 1150.42(e)).

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34503, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. Also, a copy of each pleading must be served on Karl Morell, Ball Janik LLP, Suite 225, 1455 F Street, NW., Washington, DC 20005.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

Decided: July 2, 2004.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**  
*Secretary.*

[FR Doc. 04-15718 Filed 7-13-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-55 (Sub-No. 647X)<sup>1</sup>

#### **CSX Transportation, Inc.—Abandonment Exemption—In Darlington County, SC**

CSX Transportation, Inc. (CSXT) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 1.49-mile line of the Southern Region, Florence Division, Hamlet Subdivision, between milepost SJ 306.13 (V.S. 387+15) and milepost 307.39 (V.S. 465+62.5), in Darlington County, SC. The line traverses United States Postal Service ZIP Code 29550.

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic 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

<sup>1</sup> Due to administrative oversight, this notice was not served and published as scheduled on July 7, 2004. The notice is being served on July 8, 2004, and it will be published in the **Federal Register** as soon as possible.