

OMB receives it within 30 days of publication.

Issued on: November 8, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04-25208 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-19529; Notice 1]

#### Toyota Motor North America, Inc., Receipt of Petition for Decision of Inconsequential Noncompliance

Toyota Motor Corporation has determined that the daytime running lamps (DRLs) on certain vehicles it manufactured in 1998-2005 do not comply with S5.5.11(a) of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, reflective devices, and associated equipment." Toyota Motor North America, Inc. (Toyota), on behalf of Toyota Motor Corporation, 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) and on behalf of Toyota Motor Corporation, Toyota 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 Toyota'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.

A total of approximately 75,355 model year 1998-2005 Lexus LX470 vehicles are affected. S5.5.11(a) of FMVSS No. 108 requires that

\* \* \* each such lamp: (1) Has a luminous intensity not less than 500 candela at test point H-V, nor more than 3,000 candela at any location in the beam, when tested in accordance with Section S11 of this standard, unless it is: \* \* \* (ii) An upper beam headlamp intended to operate as a DRL, whose luminous intensity at test point H-V is not more than 7,000 candela, and which is mounted not higher than 864 mm above the road surface as measured from the center of the lamp with the vehicle at curb weight.

The DRLs on the LX470s are provided by the upper beam headlamps operating at a lower intensity, with each lamp having a maximum luminous intensity of roughly 4,720 candela at the maximum point in the beam. However,

the specification of the height above the road surface as measured from the center of the lamps with the vehicles at curb weight is 895 mm, and therefore the DRLs exceed the maximum luminous intensity specified in S5.5.11(a)(1)(ii) of FMVSS No. 108.

Toyota believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Toyota states the following in its petition.

Toyota conducted subjective evaluations of the glare from the DRLs using 19 contractors for the subject vehicles under various conditions, and confirmed that glare from the subject vehicles is the same or better than vehicles that were modified to meet the maximum DRL luminous intensity permitted by the standard at the height limit of 864 mm. Toyota evaluated the glare from the subject vehicles' DRLs by observing them through the rearview mirror of a small passenger car as well as directly, as from an oncoming vehicle. According to Toyota's evaluation, the subject vehicles received overall ratings above 5 ("lamps are just acceptable"). Accordingly, in the scale, higher numbers indicate less glare.

Toyota indicates in its petition that a rating of 1 indicates "The headlamps are unbearable," while the highest rating of 9 indicates "The headlamps are just noticeable."

Toyota further states,

Toyota calculated the luminous intensity of light from the DRLs striking the rearview mirror of the preceding vehicle mounted 1,120 mm (44 inches) above the ground and 6.1 m (20 feet) in front of the DRL. We also indicated the allowable range of the regulation. \* \* \* The assessment mirror height of 44 inches and distance of 20 feet are the same used in NHTSA's own evaluation as described in the final rule published in the Monday, January 11, 1993 **Federal Register** (58 FR 3500). \* \* \* [W]e can confirm that luminous intensity from the subject vehicle DRL (4,720 candela, 895 mm high) is below the maximum luminous intensity of allowable range up to 864 mm high.

Toyota says in its petition that the subject vehicles meet all requirements of the Canadian motor vehicle standards, and that it has received no customer complaints or reports that allege a crash, injury or fatality due to problems arising from DRL glare by these vehicles.

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 a.m. to 5 p.m. 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: December 13, 2004.

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

Issued on: November 5, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

[FR Doc. 04-25215 Filed 11-10-04; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34600]

#### Progressive Rail, Incorporated—Lease and Operation Exemption—Rail Lines of Wisconsin Central, Ltd.

Progressive Rail, Incorporated (PGR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to lease from Wisconsin Central, Ltd. and operate 23.97 miles of rail line consisting of (1) the Almena-Cameron Branch that extends between milepost 80.88 at or near Almena and milepost 97.80 at or near Cameron, a distance of 16.92 miles in Barron County, WI, and (2) the Rice Lake-Cameron Branch that extends between milepost 49.0 at or near Cameron and milepost 56.05 at or near Rice Lake, a

distance of 7.05 miles in Barron County.<sup>1</sup>

PGR certifies that its projected revenues as a result of this transaction will not result in the creation of a Class II or Class I rail carrier. The transaction was scheduled to be consummated no sooner than October 27, 2004, the effective date of the exemption (7 days after the exemption was filed).

If the verified 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. 34600, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on: Thomas F. McFarland, P.C., 208 South LaSalle St., Suite 1890, Chicago, IL 60604-1112.

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

Decided: November 3, 2004.

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

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

[FR Doc. 04-25054 Filed 11-10-04; 8:45 am]

**BILLING CODE 4915-01-P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[REG-104924-98]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and

other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing notice of proposed rulemaking, REG-104924-98, Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities or Commodities (§§ 1.475(e)-1 and 1.475(f)-2).

**DATES:** Written comments should be received on or before January 11, 2005 to be assured of consideration.

**ADDRESSES:** Direct all written comments to R. Joseph Durbala, Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the regulations should be directed to Carol Savage at Internal Revenue Service, room 6516, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622-3945, or through the Internet at [CAROL.A.SAVAGE@irs.gov](mailto:CAROL.A.SAVAGE@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Mark-to-Market Accounting for Dealers in Commodities and Traders in Securities or Commodities.

*OMB Number:* 1545-1640.

*Regulation Project Number:* REG-104924-98.

*Abstract:* The collection of information in this proposed regulation is required by the Internal Revenue Service to determine whether an exemption from mark-to-market treatment is properly claimed. This information will be used to make that determination upon audit of taxpayers' books and records.

*Current Actions:* There is no change to this existing proposed regulation.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organization and Individuals.

*Estimated Number of Recordkeepers:* 1,000.

*Estimated Time Per Recordkeeper:* 1 hour.

*Estimated Total Annual Burden Recordkeeping Hours:* 1,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

#### Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 3, 2004.

**Carol Savage,**

*Management and Program Analyst.*

[FR Doc. 04-25126 Filed 11-10-04; 8:45 am]

**BILLING CODE 4830-01-P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

[INTL-9-95]

#### Proposed Collection; Comment Request for Regulation Project

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, INTL-9-95 (TD 8702), Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations (§ 1.367(a)-3).

**DATES:** Written comments should be received on or before January 11, 2005 to be assured of consideration.

<sup>1</sup> The rail line in the instant transaction was the subject of a notice of exemption originally filed by Wisconsin Northern Railroad Company, LLC (WNRC), a subsidiary of PGR, and voluntarily withdrawn by WNRC. See *Wisconsin Northern Railroad Company, LLC—Lease and Operation Exemption—Rail Lines of Wisconsin Central Ltd.* STB Finance Docket No. 34596 (STB served Oct. 22, 2004). The rail line in the instant transaction also connects in Barron County, WI, to another PGR rail line recently acquired in *Progressive Rail, Incorporated—Lease and Operation Exemption—Rail Line of Union Pacific Railroad Company*, STB Finance Docket No. 34597 (STB served Oct. 29, 2004).