

race-neutral overall goal for Fiscal Year 2006 would be submitted, along with a statement concerning the absence of adequate evidence and a description of plans to conduct a study or other appropriate evidence gathering process, an action plan, and time lines for its completion. The Regional Civil Rights Office review of the annual goal submissions will determine whether evidence of discrimination or its effects has been provided.

Under part 26, any recipient, wherever located, would submit an all race-neutral overall goal if it concluded, based on the information used in the goal-setting process, that it could meet its overall goal without any use of race conscious measures like contract goals. If a recipient in the 9th Circuit presents an analysis making this showing, then the recipient need not submit an action plan for conducting a disparity study or similar evidence gathering effort. However, if a 9th Circuit recipient's Part 26 goal-setting analysis concludes that race conscious measures would be necessary to meet part of its overall goal and that the recipient does not have sufficient evidence to meet the requirements of the *Western States* decision, the recipient would submit a race-neutral overall goal and an action plan for a disparity study or similar evidence gathering effort. In some cases, it may be necessary for grantees who have already submitted Fiscal Year 2006 goals to rework their submissions to address these matters.

## 2. Costs of Disparity Studies

A common thread was noted in comments responding to the second issue concerning funding of disparity studies. Commenters stated that additional targeted funding for disparity studies is needed to avoid reducing the current pressing service-related needs. Commenters also noted the financial limitations of small transit operators with respect to conducting such studies.

*FTA Response:* FTA is aware of the costs involved in conducting disparity studies or availability studies. For recipients in the 9th Circuit states whose goal-setting processes would lead to the use of race conscious means, but for the effects of the *Western States* decision, a disparity study or similar evidence gathering effort is essential, and consistent with DOT's guidance, is a condition of FTA's approval of a race-neutral overall goal. As noted in the General Counsel's DBE guidance, funding of disparity studies is reimbursable from Federal program funds, subject to the availability of those funds and under the FTA statute, this is an eligible capital expense. Recipients

that propose to undertake a study may wish to consider joint studies within their locale or participate in studies that will be undertaken by other transit properties in the local market. The Regional Civil Rights Office will review the overall goal submissions and work with recipients to respond to local circumstances and to achieve compliance with the overall objectives of the DBE program.

FTA also suggests that recipients communicate with the State DOT to determine what preparations are being undertaken for a statewide study and whether participation in the study is feasible. Per the guidance, this is occurring and some recipients are complying with the guidance by submission of a race-neutral overall goal and participation in studies currently underway rather than conducting their own study.

## 3. Group-Specific Goals

One commenter asked about an apparent inconsistency between Part 26 and the DOT guidance concerning group-specific goals.

*FTA Response:* Part 26 prohibits group-specific goals. Following the completion of a disparity study, a recipient might conclude that it had evidence of discrimination with respect to some of the groups presumed to be disadvantaged under the rule. In such a case, the recipient should apply for a program waiver under § 26.15 of the rule. This opportunity is not limited to recipients in the 9th Circuit or to FTA grantees. For example, Colorado DOT applied for and was granted such a waiver on the basis of its disparity study for its Fiscal Year 2000 overall goal.

FTA will continue to work with recipients in the 9th Circuit to meet the requirements of a "narrowly tailored" DBE program in light of the recent developments in case law.

Dated: August 15, 2006.

**Sandra K. Bushue,**

*Deputy Administrator.*

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**BILLING CODE 4910-57-M**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2006-24928; Notice 2]

### Continental Tire North America, Grant of Petition for Decision of Inconsequential Noncompliance

Continental Tire North America (Continental) has determined that

certain tires it produced in 2004 and 2005 do not comply with S5.5(f) of 49 CFR 571.139, Federal Motor Vehicle Safety Standard (FMVSS) No. 139, "New pneumatic radial tires for light vehicles." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Continental 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 June 14, 2006, in the **Federal Register** (71 FR 34414). NHTSA received no comments.

Affected are a total of approximately 2,627 model 235/55R17 99H Conti Pro Contact replacement tires manufactured during 2004 and 2005. S5.5(f) of FMVSS No. 139 requires the actual number of plies in the tread area to be molded on both sidewalls of each tire. The noncompliant tires are marked on the sidewall "*Tread Plies 1 Rayon + 2 Steel + 2 Nylon*" whereas the correct marking should be "*Tread Plies 1 Rayon + 2 Steel + 1 Nylon*." Continental has corrected the problem that caused these errors so that they will not be repeated in future production.

Continental Tire believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Continental Tire states,

All other sidewall identification markings and safety information are correct. This noncompliant sidewall marking does not affect the safety, performance and durability of the tire; the tires were built as designed.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106-414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000 (65 FR 75222).

The agency received more than 20 comments on the tire labeling information required by 49 CFR 571.109 and 119, part 567, part 574, and part 575. In addition, the agency conducted a series of focus groups, as required by the TREAD Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have

concluded that it is likely that few consumers have been influenced by the tire construction information (number of plies and cord material in the sidewall and tread plies) provided on the tire label when deciding to buy a motor vehicle or tire.

Therefore, the agency agrees with Continental's statement that the incorrect markings in this case do not present a serious safety concern.<sup>1</sup> There is no effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. 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 the tire. In addition, the tires are certified to meet all the labeling requirements of FMVSS No. 139 and all other informational markings as required by FMVSS No. 139 are present.

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, Continental'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: August 14, 2006.

**Daniel C. Smith,**

*Associate Administrator for Enforcement.*

[FR Doc. E6-13778 Filed 8-18-06; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-996X]

#### Reading Blue Mountain and Northern Railroad Company—Abandonment Exemption—in Schuylkill County, PA

Reading Blue Mountain and Northern Railroad Company (RBMN) has filed a notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon a 1.2-mile portion of its Minersville Running Track, extending from milepost 7.6 to milepost 8.8, in Norwegian and Cass Townships, in Schuylkill County, PA. The line

<sup>1</sup> This decision is limited to its specific facts. As some commenters on the ANPRM noted, the existence of steel in a tire's sidewall can be relevant to the manner in which it should be repaired or retreaded.

traverses United States Postal Service Zip Code 17954.

RBMN 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 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 September 20, 2006, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>1</sup> formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),<sup>2</sup> and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 31, 2006. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 11, 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 RBMN's representative: Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., Four

<sup>1</sup> 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.

<sup>2</sup> Each OFA must be accompanied by the filing fee, which was increased to \$1,300 effective on April 19, 2006. See *Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2006 Update*, STB Ex Parte No. 542 (Sub-No. 13) (STB served Mar. 20, 2006).

Penn Center, Suite 200, 1600 JFK Blvd., Philadelphia, PA 19103.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

RBMN has filed a combined environmental report and historic report which addresses the effects, if any, of the abandonment on the environment and historic resources. SEA will issue an environmental assessment (EA) by August 25, 2006. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), RBMN shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by RBMN's filing of a notice of consummation by August 21, 2007, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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

Decided: August 14, 2006.

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

**Vernon A. Williams,**

*Secretary.*

[FR Doc. E6-13669 Filed 8-18-06; 8:45 am]

**BILLING CODE 4915-01-P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

August 15, 2006.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed