

*Comment closing date:* December 17, 2008.

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

Issued on: November 10, 2008.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0167; Notice 1]

#### Volvo Cars of North America, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

Volvo Cars of North America, LLC (Volvo), has determined that certain model year 2003-2009 multipurpose passenger vehicles (MPV) did not fully comply with paragraphs S4.4.2(a) and 4.4.2(c) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110 *Tire Selection and Rims for Motor Vehicles With a GVWR of 4,536 Kilograms (10,000 pounds) or Less*. Volvo has filed an appropriate report pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Volvo 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 Volvo'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.

Affected are approximately 201,914 model years 2003-2009 XC90 MPV manufactured from August 5, 2002 through March 28, 2008, and 14,147 model years 2008-2009 XC70 MPV manufactured from May 21, 2007 through March 28, 2008.

Paragraphs S4.4.2(a) and 4.4.2(c) of FMVSS No. 110 require in pertinent part:

S4.4.2. Rim markings for vehicles other than passenger cars. Each rim or, at the option of the manufacturer in the case of a single-piece wheel, each wheel disc shall be marked with the information listed in S4.4.2 (a) through (e), in lettering not less than 3 millimeters in height, impressed to a depth, or at the option of the manufacturer, embossed to a height of not less than 0.125

millimeters. The information listed in S4.4.2 (a) through (c) shall appear on the outward side. In the case of rims of multi piece construction, the information listed in S4.4.2 (a) through (e) shall appear on the rim base and the information listed in S4.4.2 (b) and (d) shall also appear on each other part of the rim.

(a) A designation that indicates the source of the rim's published nominal dimensions, as follows:

(1) "T" indicates The Tire and Rim Association.

(2) "E" indicates The European Tyre and Rim Technical Organization.

(3) "J" indicates Japan Automobile Tire Manufacturers Association, Inc.

(4) "L" indicates ABPA (Brazil), a.k.a. Associacao Latino Americana De Pneus E Aros.

(5) "F" indicates Tire and Rim Engineering Data Committee of South Africa (Tredco).

(6) "S" indicates Scandinavian Tire and Rim Organization (STRO).

(7) "A" indicates The Tyre and Rim Association of Australia.

(8) "I" indicates Indian Tyre Technical Advisory Committee (ITTAC).

(9) "R" indicates Argentine Institute of Rationalization of Materials, a.k.a. Instituto Argentino de Racionalizacion de Materiales, (ARAM).

(10) "N" indicates an independent listing pursuant to S4.1 of Sec. 571.139 or S5.1(a) of Sec. 571.119 \* \* \*

(c) The symbol DOT, constituting a certification by the manufacturer of the rim that the rim complies with all applicable Federal motor vehicle safety standards.

In its petition, Volvo described the noncompliance as the omission of the certification symbol ("DOT") and the designation symbol (in this case "E") which indicates the source of the rims' published nominal dimensions.

Volvo argues that this noncompliance is inconsequential to motor vehicle safety for the following reason: Apart from S4.4.2 (a) and S4.4.2(c), which require the designation of the source of the rims' dimensions, and use of the symbol DOT, respectively the subject rims contain all information required within FMVSS No. 110. The tire and rim of the affected vehicles are properly matched, and are appropriate for the load-carrying characteristics of these vehicles. The information on the wheel provides users with the information necessary to ensure that the wheel is mounted on the appropriate vehicle; the omission of the "DOT-E" stamping will not result in misapplication of the wheels. Also, the rim markings and vehicle placard, which are used to identify the correct replacement rim, both contain the correct and complete size of rims installed on the subject vehicles.

Volvo stated that it is unaware of any accidents or injuries or customer complaints related to the lack of these

markings and that the missing markings do not affect the performance of the wheels or the tire and wheel assemblies.

In addition, Volvo states that it has corrected the problem that caused these errors so that they will not be repeated in future production and that it believes that because the noncompliance is inconsequential to motor vehicle safety that no corrective action is warranted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance.

Interested persons are invited to submit written data, views, and arguments on this petition. 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:

a. By mail addressed to: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.

b. By hand delivery to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.

c. Electronically: By logging onto the Federal Docket Management System (FDMS) Web site at <http://www.regulations.gov/>. Follow the online instructions for submitting comments. Comments may also be faxed to 1-202-493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that your comments were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <http://www.regulations.gov/>, including any personal information provided.

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if

submitted on behalf of an association, business, labor union, etc.). DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

You may view documents submitted to a docket at the address and times given above. You may also view the documents on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets available at that Web site.

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 17, 2008.

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

Issued on: November 10, 2008.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

[FR Doc. E8–27239 Filed 11–14–08; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35187]

#### Grand Elk Railroad, L.L.C.—Lease and Operation Exemption—Norfolk Southern Railway Company

Grand Elk Railroad, L.L.C. (GER), a noncarrier,<sup>1</sup> has filed a verified notice of exemption under 49 CFR 1150.31 to acquire, by lease, and to operate approximately 122.9 miles of Norfolk Southern Railway Company (NS) rail lines in Michigan and Indiana.<sup>2</sup> The lines to be leased and operated are located between: (1) Milepost KH 1.4 at Elkhart, IN, and milepost KH 27.4 at Three Rivers, MI; (2) milepost FB 27.3 at Three Rivers, MI, and milepost FB 102.3 at Grand Rapids, MI; (3) milepost KZ 94.25 and milepost KZ 95.0 (Kalamazoo Industrial Track); (4) milepost OW 66.6 and milepost OW 70.24 (Plainwell Industrial Track); (5)

milepost XH 88.10 and milepost XH 92.40 (Hastings Running Track); (6) milepost CQ 42.8 and milepost CQ 43.9 (CK&S Industrial Track); (7) milepost KY 0.0 and milepost 3.2 (B O Secondary); (8) milepost UP 0.0 and milepost UP 6.7 (Upjohn Secondary); (9) milepost QY 421.2 and milepost QY 421.3 (Quincy Secondary); (10) milepost VW 106.0 and milepost VW 106.9 (Comstock Industrial Track); (11) milepost AZ 69.6 and milepost AZ 70.4 (Airline Extension); and (12) milepost IJ 44.3 and milepost IJ 44.7 (CK&S Industrial Track), along with the yard tracks in Botsford Yard located between milepost MH 141.8 and milepost MH 142.7.

NS will also grant GER incidental trackage rights over approximately 0.43 miles of NS rail line located between milepost 143.03 and milepost 142.6 at Botsford Yard.

This transaction is related to STB Finance Docket No. 35188, *Watco Companies, Inc.—Continuance in Control Exemption—Grand Elk Railroad, L.L.C.* In that proceeding, Watco Companies, Inc. has concurrently filed a verified notice of exemption to continue in control of GER upon GER's becoming a Class III rail carrier.

GER certifies that its projected annual revenues as a result of the transaction will not result in GER's becoming a Class II or Class I rail carrier. Because its projected annual revenues may exceed \$5 million, however, GER states that it is in the process of complying with the 60-day labor notice requirement at 49 CFR 1150.32(e).

GER states that it expects to consummate the transaction some time after the effective date of the exemption. However, the exemption cannot become effective and consummation of this transaction cannot occur until 60 days after GER certifies to the Board that it has satisfied the labor notice requirement.

Pursuant to the Consolidated Appropriations Act, 2008, Pub. L. No. 110–161, § 193, 121 Stat. 1844 (2007), nothing in this decision authorizes the following activities at any solid waste rail transfer facility: collecting, storing or transferring solid waste outside of its original shipping container; or separating or processing solid waste (including baling, crushing, compacting and shredding). The term “solid waste” is defined in section 1004 of the Solid Waste Disposal Act, 42 U.S.C. 6903.

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 effectiveness of the exemption. Petitions for stay must be filed at least 7 days before the exemption becomes effective.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35187, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, 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: November 10, 2008.

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

**Kulunie L. Cannon,**

*Clearance Clerk.*

[FR Doc. E8–27133 Filed 11–14–08; 8:45 am]

**BILLING CODE 4915–01–P**

## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 35188]

#### Watco Companies, Inc.—Continuance in Control Exemption—Grand Elk Railroad, L.L.C.

Watco Companies, Inc. (Watco), a noncarrier, has filed a verified notice of exemption to continue in control of Grand Elk Railroad, L.L.C. (GER), upon GER's becoming a Class III rail carrier.<sup>1</sup>

This transaction is related to a concurrently filed verified notice of exemption in STB Finance Docket No. 35187, *Grand Elk Railroad, L.L.C.—Lease and Operation Exemption—Norfolk Southern Railway Company*. In that proceeding, GER seeks an exemption under 49 CFR 1150.31 to lease from Norfolk Southern Railway Company (NS) and to operate approximately 122.9 miles of rail line between specified points in Michigan and Indiana. NS will also grant GER incidental trackage rights over approximately 0.43 miles of NS rail line located at Botsford Yard.

The parties intend to consummate the transaction after the effective date of the exemption sought in the related filing in STB Finance Docket No. 35187.<sup>2</sup>

Watco currently controls 19 Class III rail carriers: South Kansas and Oklahoma Railroad Company, Palouse River & Coulee City Railroad, Inc.,

<sup>1</sup> Watco owns 100% of the issued and outstanding stock of GER.

<sup>2</sup> That exemption cannot become effective until GER has complied with the 60-day labor notice requirement at 49 CFR 1150.32(e).

<sup>1</sup> GER is a wholly owned subsidiary of Watco Companies, Inc.

<sup>2</sup> GER and NS have entered into a lease agreement. According to GER, the lease agreement does not contain any provision that prohibits GER from interchanging traffic with a third party.