

Issued in Washington, DC on May 6, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### Northeast Illinois Railroad Corporation

(Waiver Petition Docket Number FRA-2008-0019)

The Northeast Illinois Railroad Corporation (Metra), a commuter passenger railroad, seeks a waiver of compliance from the requirements of 49 CFR 223.9 *Requirements for new or rebuilt equipment* for Two highway capable vehicles/locomotives. Specifically, Metra petitioned FRA for a waiver from compliance for two hi-rail locomotive vehicles manufactured by Brandt Road Rail Corporation, numbers 05008 and 05009. These vehicles would be utilized to move stranded passenger trains during a rescue operation.

Metra operates a commuter railroad in the six northeast counties of Illinois, surrounding the city of Chicago. There are approximately 787 daily trains over twelve separate line segments, with a fleet of 142 locomotives, 173 MU locomotives, and 822 cab control/trailer cars.

The petitioner believes that these Brandt hi-rail vehicles/locomotives can be safely operated with the current non-compliant shatter resistant safety-type glazing. If compliant FRA Types II glazing were installed in these vehicles in the drivers and passenger doors, the side facing windows could not roll down when needed, thus becoming stationary. Metra intends to install compliant FRA Type I glazing in the front windshield and rear facing window on these vehicles.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate

scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2008-0019) and may be submitted by any of the following methods:

- *Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., W12-140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC on May 6, 2008.

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*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

#### Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR),

notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance from certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

#### Twin Cities and Western Railroad

(Docket Number FRA-2006-26093)

The Twin Cities and Western Railroad (TC&W) seeks to amend its current waiver of compliance from certain provisions of the *Railroad Safety Appliance Standards*, 49 CFR Part 231, and the *Railroad Power Brakes and Drawbars Regulations*, 49 CFR Part 232, concerning RailRunner® train operations over their system. Specifically, TC&W requests authority to operate RailRunner® equipment behind mixed freight conventional railcars and behind Trailer On Flat Car/ Container On Flat Car (TOFC/COFC) intermodal trains.

The current waiver to operate RailRunner® equipment was granted to TC&W on March 15, 2007. Since the granting of the existing waiver, there have been no accidents, incidents, or injury to personnel reported to the FRA involving TC&W operating RailRunner® equipment. For conventional mixed freight trains, TC&W will restrict RailRunner® units per train to a maximum of 50 with a maximum trailing tonnage of 1,500 tons. For TOFC/COFC trains, TC&W will restrict RailRunner® units per train to a maximum of 50 with a maximum trailing tonnage of 1,000 tons.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2006-26093) and may be submitted by any of the following methods:

*Web site:* <http://www.regulations.gov>. Follow the online instructions for submitting comments.

*Fax:* 202-493-2251.

*Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200

New Jersey Avenue, SE., W12-140, Washington, DC 20590.

**Hand Delivery:** 1200 New Jersey Avenue, SE., Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://www.regulations.gov>.

Anyone is able to search the electronic form of any written communications and 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.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78).

Issued in Washington, DC, on May 6, 2008.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0086; Notice 1]

#### Goodyear Dunlop Tires North America, Ltd., Receipt of Petition for Decision of Inconsequential Noncompliance

Goodyear Dunlop Tires North America, Ltd. (GDTNA), has determined that certain tires that it manufactured during the period beginning January 2003 through July 2004, do not fully comply with paragraph S6.5(f) of 49 CFR 571.119 (Federal Motor Vehicle Safety Standard (FMVSS) No. 119 *New Pneumatic Tires for Motor Vehicles With a GVWR of More than 4,536 Kilograms (10,000 pounds) and Motorcycles*). GDTNA 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), GDTNA 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 GDTNA'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 3,050 150/60R18 Dunlop D251 motorcycle tires produced from January 2003 through July 2004. Paragraph S6.5(f) of 49 CFR 571.119 requires:

S6.5(f) The actual number of piles and the composition of the ply cord material in the sidewall and, if different, in the tread area.

GDTNA explained that the subject tires are marketed with incorrect construction materials information on the sidewalls. The labeling incorrectly lists "TREAD 5 PLIES 2 RAYON + 3 NYLON" and "SIDEWALL: 2 PLIES 2 RAYON" whereas this labeling should be "TREAD 4 PLIES 2 NYLON + 2 NYLON" and "SIDEWALL 2 PLIES 2 NYLON".

GDTNA stated that it believes the noncompliance is inconsequential to motor vehicle safety because most consumers do not base tire purchase or vehicle operation on the construction information listed on the tire sidewalls, the tires meet or exceed all other applicable FMVSS, they were designed, manufactured and tested to the standards and regulations as applicable, and they meet all of the internal and regulatory performance test requirements.

GDTNA also stated that it has corrected the problem with the affected tire mold and that all subsequent production will have the correct material information shown on the sidewall.

GDTNA additionally stated that no customer complaints have been received.

GDTNA requested that NHTSA consider its petition and grant an exemption from the recall requirements of the National Traffic and Motor Vehicle Safety Act on the basis that the noncompliance described above is inconsequential as it relates to motor vehicle safety.

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 am to 5 pm 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.

Documents submitted to a docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <http://www.regulations.gov> by following the online instructions for accessing the dockets. DOT's complete Privacy Act Statement is available for review in the **Federal Register** published on April 11, 2000 (65 FR 19477-78).

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:* June 11, 2008.