1,862 of the noncompliant tires are within its control and already remedied, and 2,101 remain in the replacement market in the U.S.

BFNT described the noncompliance as a failure to mark the tires with a complete or partial TIN on the sidewall opposite the sidewall with the full TIN. Thus, BFNT describes the noncompliance as follows:

> Actual stamping is BLANK. (on one sidewall). Correct stamping should be: 7XOUBD4 (on that sidewall).

BFNT argued that the noncompliant tires meet or exceed all performance requirements of FMVSS No. 139, and, that the labeling noncompliance will have no impact on the operational performance or safety of vehicles on which these tires are mounted.

BFNT further claimed that the TIN only becomes important in the event of a safety recall campaign so that the consumer may properly identify the recalled tire(s). The noncompliant tires here are marked in a manner that is sufficient for notice to consumers and compliant with tire labeling requirements prior to the adoption of the new tire marking requirements in 2002. BFNT contends, therefore, that for this noncompliance, any safety recall campaign communication, if necessary, could include in the listing of recalled TINs with a direction to the consumer to read both sidewalls of each tire on the vehicle for the TINs or partial TINs so that the consumer would know that these noncompliant tires are included in any future recall.

BFNT requested that NHTSA consider its petition and grant an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 on the basis that the noncompliance described above is inconsequential as it relates to motor vehicle safety.

NHTSA's Decision

NHTSA does not agree that BFNT's noncompliance with FMVSS No. 139 is inconsequential to motor vehicle safety. As discussed below, the tire markings required by paragraph S5.5.1(a) of FMVSS No. 139 provide valuable information to assist consumers in determining if their tires are the subject of a safety recall.

The Firestone tire recalls in 2000 highlighted the difficulty that consumers experienced when attempting to determine whether a tire is subject to a recall if the tire is mounted so that the sidewall bearing the TIN faces inward, *i.e.*, underneath the vehicle. After a series of congressional hearings about the safety of and experiences regarding the Firestone tires involved in those recalls, Congress passed and the president signed into law the Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act on November 1, 2000. Pub. L. 106–414, 114 Stat. 1800.

One matter addressed by the TREAD Act was tire labeling. Section 11 of the TREAD Act required a rulemaking to improve the labeling of tires to assist consumers in identifying tires that may be the subject of a recall.

In response to the TREAD Act's mandate, NHTSA published a final rule that, among other things, required that the TIN be placed on a sidewall of the tire and a full or partial TIN be placed on the other sidewall. *See* 67 FR 69600, 69628 (November 18, 2002), as amended 69 FR 31306 (June 3, 2004). In the preamble to the 2002 final rule, the agency identified the safety problem which prompted the issuance of the rule. 67 FR at 69602, 69606 and 69610. The agency explained that when tires are mounted so that the TIN appears on the inward facing sidewalls, motorists have three difficult and inconvenient options for locating and recording the TINs. Consumers must either: (1) Slide under the vehicle with a flashlight, pencil and paper and search the inside sidewalls for the TINs; (2) remove each tire, find and record the TIN, and then replace the tire; or (3) enlist the aid of a garage or service station that can perform option 1 or place the vehicle on a vehicle lift so that the TINs can be found and recorded. Without any TIN information on the outside sidewalls of tires, the difficulty and inconvenience of obtaining the TIN by consumers results in the reduction of the number of people who respond to a tire recall campaign and a number of motorists who unknowingly continue to drive vehicles with potentially unsafe tires.

BFNT suggests that a recall of these tires could include an instruction to check the inboard sidewall if the TIN is not found on the outboard sidewall. This approach is inadequate. The noncompliance here is the exact problem that plagued millions of Firestone tire owners in 2000 and one that Congress mandated that NHTSA address. When the TIN is placed on one sidewall of a tire and that sidewall is mounted on the inboard side of a wheel, it is very difficult and inconvenient for the consumer to locate and record the TIN. In such situations, consumers who attempt to determine if a tire is within the scope of a recall may not be able to read the inboard sidewall without taking one of the three inconvenient steps discussed above. The difficulty and inconvenience that locating a TIN under these circumstances poses serious impediments to the successful recall of the noncompliant tire, which may result in motorists continuing to drive their vehicles with potentially unsafe tires.

While NHTSA has determined in the past that in some instances TIN marking omissions were inconsequential to motor vehicle safety, those determinations occurred prior to the adoption of FMVSS No. 139 pursuant to the TREAD Act. Following the enactment of the TREAD Act, NHTSA found that there is a safety need for a full TIN on one sidewall and a full or partial TIN on the other sidewall. As previously discussed, FMVSS No. 139 now requires TIN markings on both sidewalls of a tire so that consumers can readily determine if a tire is subject to a safety recall. Accordingly, the omission of a TIN or partial TIN on either sidewall is now considered to be a serious safety problem.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, BFNT's petition is hereby denied, and the petitioner must notify owners, purchasers and dealers pursuant to 49 U.S.C. 30118 and provide a remedy in accordance with 49 U.S.C. 30120.

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

Issued on: August 14, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E8–19324 Filed 8–19–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2008–0133; Notice 1]

Hyundai Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

Hyundai Motor Company (Hyundai), has determined that certain replacement seat belt assemblies sold for various model and model year Hyundai vehicles, including the 2008 model year vehicles, did not fully comply with paragraphs S4.1(k) and S4.1(l) of 49 CFR 571.209 Federal Motor Vehicle Safety Standards (FMVSS) No. 209 *Seat Belt Assemblies.* Hyundai 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), Hyundai 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 Hyundai'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 an unspecified quantity of seat belt replacement assemblies delivered prior to May 9, 2008.

Paragraphs S4.1(k) and S4.1(l) of FMVSS No. 209 require:

(k) Installation instructions. A seat belt assembly, other than a seat belt assembly installed in a motor vehicle by an automobile manufacturer, shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles, and shall include at least those items specified in SAE Recommended Practice J800c, ''Motor Vehicle Seat Belt Installations,'' November 1973. If the assembly is for use only in specifically stated motor vehicles, the assembly shall either be permanently and legibly marked or labeled with the following statement, or the instruction sheet shall include the following statement:

This seat belt assembly is for use only in [insert specific seating position(s), e.g., ''front right''] in [insert specific vehicle make(s) and model(s)].

(l) Usage and maintenance instructions. A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened. Instructions for a nonlocking retractor shall include a caution that the webbing must be fully extended from the retractor during use of the seat belt assembly unless the retractor is attached to the free end of webbing which is not subjected to any tension during restraint of an occupant by the assembly. Instructions for Type 2a shoulder belt shall include a warning that the shoulder belt is not to be used without a lap belt.

Hyundai explains that the subject replacement seat belt assemblies were sold without the installation, usage, and maintenance instructions required by paragraphs in S4.1(k) and S4.1(l) of FMVSS 209.

Hyundai makes the argument that the replacement seat belt assemblies in question are only made available to Hundai authorized dealerships for their use or subsequent resale and that the Hyundai parts ordering process used by its dealers clearly identifies the correct replacement part required by model year, model, and seating position. Furthermore, Hyundai states that its replacement seat belt assemblies are designed to be installed properly only in their intended application.

Hyundai additionally states that technicians at Hyundai dealerships that replace seat belts have access to the installation instruction information available in workshop manuals. Installers other than Hyundai dealership technicians also have seat belt installation information available because Hyundai workshop manual information, including seat belt replacement information, is made available to the general public on the Hyundai Service Web site (*http://www.hmaservice.com*) which provides free access to every Hyundai Shop Manual, including information about seat belt installation.

Hyundai additionally argues that a significant portion of paragraph S4.1(k) appears to address a concern with proper installation of aftermarket seat belts into vehicles that were not originally equipped with these restraints. Hyundai also notes that SAE J800c which is cited in the regulation involves installation of ''universal type seat belt assemblies,'' particularly where no seat belt had previously been installed, and that these concerns do not apply to replacement seat belts. The vehicles involved in this petition have uniquely designed seat belt components and replacement seat belt assemblies are installed into the identical location from which the original parts were removed.

Hyundai also states that proper seat belt usage instructions are clearly explained in the Owner's Manual that is included with each new vehicle. Information concerning maintenance, periodic inspection for wear and function of the seat belts, as well as for their proper usage is included in the vehicle Owner Manual and this information equally applies to replacement seat belt assemblies.

Hyundai first became aware of the noncompliance when it was contacted by NHTSA in response to a consumer inquiry received by NHTSA.

Hyundai also stated that it has corrected the problem that caused these errors so that they will not be repeated in future production.

In summation, Hyundai states that it believes that because the noncompliances are 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: September 19, 2008.

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

Issued on: August 14, 2008.

Claude H. Harris,

Director, Office of Vehicle Safety Compliance.

[FR Doc. E8–19325 Filed 8–19–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–1020X]

East Penn Railroad, LLC—Abandonment Exemption—in Berks and Montgomery Counties, PA

On July 31, 2008, East Penn Railroad, LLC (ESPN) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an 8.6-mile line of railroad extending from milepost 0.0 at Pottstown to milepost 8.6 at Boyertown, in Berks and Montgomery Counties, PA. The line traverses United States Postal Service Zip Codes 19464 and 19512.[1]

The line does not contain federally granted rights-of-way. Any documentation in ESPN's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 18, 2008.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,500 filing fee. *See* 49 CFR 1002.2(f)(25).[2]

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 9, 2008. Each trail use request must be accompanied by a $200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–1020X, and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Karl Morell, Of Counsel, Ball Janik LLP, 1455 F Street, NW., Suite 225, Washington, DC 20005. Replies to the petition are due on or before September 9, 2008.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Assistance, Governmental Affairs, and Compliance at (202) 245–0238 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

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

Decided: August 11, 2008.

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

Anne K. Quinlan,

Acting Secretary.

[FR Doc. E8–19035 Filed 8–19–08; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 258X)]

Union Pacific Railroad Company—Abandonment Exemption—in Shelby County, TN

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a 2.61-mile line of railroad known as the Memphis Subdivision, extending from milepost 387.0 to milepost 389.61 in Shelby County, TN. The line traverses United States Postal Service Zip Codes 38107 and 38108.

UP has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (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 report), 49 CFR 1105.8 (historic report), 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 19, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental

[1] ESPN's then new owner, Regional Rail, LLC, a noncarrier, discovered that one of ESPN's predecessors, Penn Eastern Rail Lines, Inc., had consummated the acquisition of the subject line in July 2003, but inadvertently failed to obtain prior Board approval for that acquisition. ESPN filed for and obtained such authority. *See East Penn Railroad, LLC—Acquisition Exemption—Berks County, PA*, STB Finance Docket No. 35089 (STB served Nov. 1, 2007).

[2] Effective July 18, 2008, the filing fee for an OFA increased to $1,500. *See Regulations Governing Fees for Services Performed in Connection with Licensing and Related Services—2008 Update*, STB Ex Parte No. 542 (Sub-No. 15) (STB served June 18, 2008).