

in interstate commerce as defined in 49 CFR 391.41. If the NRCME is implemented, the FMCSA would only accept medical examinations conducted by persons listed in the NRCME as proof of the physical qualifications standards for interstate CMV drivers. The meeting is intended to provide a general introduction to the NRCME concept and an opportunity for discussion with subject matter experts.

**DATES:** The meeting will be held on June 22, 2005. The meeting will begin at 9 a.m. and end at 1:15 p.m.

**ADDRESSES:** The meeting will be held at the Crystal City Marriott, 1999 Jefferson Davis Highway, Arlington, VA 22202.

**FOR FURTHER INFORMATION CONTACT:** For information, contact Dr. Mary D. Gunnels, Office of Bus and Truck Standards and Operations, Physical Qualifications Division, 202-366-4001.

#### Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact Ms. Margo Weeks, Axiom Resource Management, Inc., 703-379-0412, ext 456.

#### SUPPLEMENTARY INFORMATION:

##### Background

Interest in certifying medical examiners to evaluate interstate commercial motor vehicle operators dates back to 1978, when the National Highway Traffic Safety Administration commissioned a feasibility study on the issue. This study addressed the primary weakness in the overall system—the lack of medical examiner understanding of the relationship of driver physical condition to the task of operating CMVs interstate. The study found that there were not enough doctors to support a certified medical examiner system. Instead, it recommended certifying a few medical examiners who would determine fitness when there was a conflict between a driver's physician and the motor carrier's physician.

In 1992, the Federal Motor Carrier Safety Regulations were amended to allow physicians' assistants, advanced nurse practitioners, and doctors of chiropractic to perform medical examinations of CMV operators, if permitted by state license (57 FR 33278; July 28, 1992). The number of potential medical examiners grew.

The idea of certification resurfaced during the National Transportation Safety Board's (NTSB) January 21, 2000 public hearing in New Orleans concerning a 1999 crash where it was determined that the CMV operator had

several life-threatening medical conditions. The NTSB concluded that medical examiners might not have the knowledge and information necessary to make appropriate decisions about driver fitness. In its "Highway Accident Report, Motorcoach Run-Off-The-Road Accident, New Orleans, Louisiana, May 9, 1999" (NTSB/HAR-01/01, PB 2001-916201, Notation 7381, August 28, 2001), the NTSB recommended (H-01-017 through H-01-024) that the FMCSA "Develop a comprehensive medical oversight program for interstate commercial drivers\* \* \*" that includes requirements to ensure "Individuals performing medical examinations for drivers are qualified to do so and are educated about occupational issues for drivers."

Most recently, the 107th Congress considered the issue of a National Registry in the Senate version of the Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (S. 1072, Sec. 4228). The legislation included language regarding the physical examinations required of CMV operators by medical examiners who are proficient in physical and medical examination standards and listed on a national registry maintained by the U.S. Department of Transportation.

#### Development and Implementation of the NRCME

Although Congress has not yet enacted legislation to require FMCSA to establish a registry of certified medical examiners, the Agency seeks to provide a general introduction to the NRCME concept and to initiate dialogue on the topic with subject matter experts. Through this dialogue, we also anticipate developing information that would allow us to exercise our current statutory authority under 49 U.S.C. 31316 (the Motor Carrier Safety Act of 1984) and 49 U.S.C. 31502 (the Motor Carrier Act of 1935) to better ensure the physical qualifications of interstate CMV drivers.

The NRCME would be used to identify medical examiners who have demonstrated to FMCSA that they have knowledge of the driver physical qualifications standards and all applicable advisory guidelines for use in determining whether an individual is qualified to operate CMVs in interstate commerce. Medical examiners listed in the NRCME would be trained and certified by FMCSA (or a third party) as being knowledgeable about the Federal driver physical qualifications standards. Medical examiners are not currently required to have specific training or demonstrate any special or unique

understanding of motor carrier operations to medically certify CMV drivers.

The delivery of program services and the ongoing operation of the National Registry would require the participation of private sector organizations that have relevant existing experience. These organizations would include medical associations and societies that provide education and training, as well as organizations that develop, administer and analyze certification examinations. Quality management/quality control (certification, accreditation) for the program would be conducted using accepted existing practices in the private sector.

#### Meeting Participation

All interested parties are encouraged to attend, including medical examiners, representatives of medical associations, certification and accreditation organizations, motor carriers and drivers, state motor carrier enforcement agencies, safety advocates and organizations. View the following Web site for more information: <http://www.nrcme.fmcsa.dot.gov>.

Issued on: May 12, 2005.

Annette M. Sandberg,  
Administrator.

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#### DEPARTMENT OF TRANSPORTATION

##### National Highway Traffic Safety Administration

[Docket No. NHTSA 2003-16066; Notice 2]

#### Subaru of America, Inc., Notice of Grant of Application for Decision of Inconsequential Noncompliance

Subaru of America, Inc. (Subaru) determined that approximately 2,531 model year 2004 Subaru Impreza STi vehicles do not meet the labeling requirements mandated by Federal Motor Vehicle Safety Standard (FMVSS) No. 108, S7.7 (e) on "headlamp ballast."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Subaru 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." A copy of the petition may be found in this docket.

A notice of receipt of an application was published in the **Federal Register** on September 30, 2003, with a thirty-day comment period (68 FR 56376). In summary, the affected vehicles were

produced during the period of February 4, 2003, through July 9, 2003, with high intensity discharge headlamp assemblies made by Ichikoh Industries, Ltd (Ichikoh). The affected headlamps are equipped with a ballast that is currently registered in Docket No. NHTSA-98-3397. However, Ichikoh used ballast units without all of the label information required in FMVSS No. 108, S7.7 (e) in assembling the complete headlamp assemblies. There were no comments on this notice from the public.

Subaru stated the following three reasons as justification for applying for a decision of inconsequentiality for the noncomplying ballast marking: (1) The ballast (part no.: NZMIC111LAC1000) and ignition module (part no.: NZMIC211LAC1000) used in these headlamp assemblies are the same ones as registered by Matsushita Electric Works, Ltd. according to Part 564, except that they are missing the information label. For this reason, Subaru believes that this noncompliance will not affect the luminous intensity distribution, mechanical performance or any other headlamp performance characteristic required by FMVSS No. 108. (2) The ballast is designed to have high durability during the vehicle's lifetime, and Subaru believes that the ballast, as well as the headlamp assembly, will not need to be replaced from a lack of durability. (3) A properly affixed ballast information label, which is on the bottom surface of the ballast, is not visible unless the headlamp assembly is removed from the vehicle.

NHTSA has reviewed the facts of this application for a decision of inconsequential noncompliance. In this instance, it appears that the ballasts are missing the following required markings: S7.7 (e)(2) ballast part number; S7.7 (e)(3) part number of the light source for which the ballast is designed; S7.7 (e)(4) rated laboratory life; S7.7 (e)(6) ballast output power and; S7.7 (e)(7) the symbol "DOT". While these markings are important for assuring proper application and replacement, especially when ballasts are separately installed parts on a motor vehicle, the fact that the subject ballasts are part of the headlamp assembly when delivered to the customer minimizes the risk of incorrect initial application. While it may not minimize the risk of incorrect replacement if the pertinent information is missing, auto parts supply companies generally offer parts by vehicle make and model as well as by OEM part number. As such the risk of incorrect selection is insignificant.

In consideration of these issues, the agency agrees with Subaru that the noncompliance will not have an impact on the vehicle on which the ballast was originally installed. We believe the ballast will remain with the headlamp unless it is faulty, and then it would likely be replaced with the correct, and correctly marked ballast.

Another issue related to whether inconsequentiality exists, is if an unmarked ballast is removed from a subject vehicle, possibly by a recycler, and inappropriately installed on a different make and model vehicle. Based on the information provided by Subaru, the omission of the ballast marking information is only a portion of the information required by our FMVSS No. 108. Required markings that were provided on the ballast included the ballast manufacturer's name, required by S7.7 (e)(1), and a severe electrical shock warning, required by S7.7 (e)(5). Supplemental markings included are a bar code label and associated number. Given that normal replacement ballasts are marked, the only way an unmarked ballast will end up on a vehicle other than the one on which it was delivered, is if the vehicle is in such a crash that the headlamp did not survive, but the attached ballast did. That would make it available as a part at an auto-recycling yard. Because it would have been associated with the 2004 Subaru Impreza STi and have some manufacturer markings, it is likely that it would be sold as a replacement for that particular make and model vehicle. While it could also be sold as a generic ballast, it is intended to fit and operate a standardized light source type, specifically D2R or either D2S. This should not create lighting performance problems. Further, the existing severe shock-warning label will provide the required risk notification to the installer of potential injury or death.

In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion. The noncompliance with specific portions of FMVSS No. 108, S7.7 (e), regarding the marking of headlamp ballasts is inconsequential to motor vehicle safety. Accordingly, Subaru's application is granted and the company is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

**Authority:** 49 U.S.C. 30118, 301120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 12, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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**BILLING CODE 4910-59-P**

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

#### Release of Waybill Data

The Surface Transportation Board has received a request from Harris Ellsworth & Levin on behalf of Trinity Industries, Inc. (WB605-5/5/2005) for permission to use certain data from the Board's 2003 Carload Waybill Sample. A copy of the requests may be obtained from the Office of Economics, Environmental Analysis, and Administration.

The waybill sample contains confidential railroad and shipper data; therefore, if any parties object to these requests, they should file their objections with the Director of the Board's Office of Economics, Environmental Analysis, and Administration within 14 calendar days of the date of this notice. The rules for release of waybill data are codified at 49 CFR 1244.9.

Contact: Mac Frampton, (202) 565-1541.

**Vernon A. Williams,**

*Secretary.*

[FR Doc. 05-9773 Filed 5-17-05; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Finance Docket No. 34695]

#### **Hainesport Industrial Railroad, LLC— Acquisition and Operation Exemption—Hainesport Industrial Park Railroad Association, Inc.**

Hainesport Industrial Railroad, LLC (HIR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire and operate approximately 1 mile of rail line owned by Hainesport Industrial Park Railroad Association, Inc. in Burlington County, NJ. The line is located within the Hainesport Industrial Park in the township of Hainesport, and connects with Consolidated Rail Corporation at milepost 12.6 in the South Jersey Conrail Shared Assets Area.

HIR certifies that its projected revenues will not exceed those that would qualify it as a Class III rail carrier, and that its annual revenues will not exceed \$5 million.