In accordance with 49 U.S.C. 31136(e) and 31315, each renewal exemption will be valid for 2 years unless revoked earlier by FMCSA.

The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: July 21, 2008.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E8–17191 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Notice of Date for Submission of Requests for Confidential Treatment of Certain Early Warning Reporting Data

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice.

SUMMARY: This notice establishes a submission date for those manufacturers that choose to submit requests for confidential treatment of Early Warning Reporting data on incidents involving a death or an injury, property damage claims or light vehicle production to send the requests to NHTSA's Chief Counsel.

DATES: Requests for confidential treatment of previously submitted Early Warning Reporting data on incidents involving a death or an injury, on property damage claims and on light vehicle production must be submitted to NHTSA's Chief Counsel by August 27, 2008.

FOR FURTHER INFORMATION CONTACT: Mr. Andrew J. DiMarsico, NHTSA Office of the Chief Counsel, W41–227, 1200 New Jersey Avenue, SE., Washington, DC 20590 (*Telephone*: 202–366–5263) (*Fax*: 202–366–3820).

SUPPLEMENTARY INFORMATION: The Transportation Recall Enhancement, Accountability, and Documentation (TREAD) Act, which was enacted in 2000, required NHTSA to prescribe rules establishing early warning reporting (EWR) requirements. 49 U.S.C. 30166(m). On July 10, 2002, NHTSA published regulations implementing the early warning reporting provisions. 49 CFR part 579 Subpart C, 67 FR 45822. In general, the EWR regulations require manufacturers of motor vehicles (producing 500 or more vehicles annually), all manufacturers of child restraint systems and manufacturers of tires above a specified volume to report, on a quarterly basis, information on production, incidents involving fatalities and injuries based on claims and notices, claims for property damage, consumer complaints, warranty claims and field reports, and to submit copies of certain field reports. *See* 49 CFR 579.21–26. Manufacturers of motor vehicles that produce less than 500 vehicles annually, and all other equipment manufacturers, do not provide quarterly reports, but are required to report information on incidents involving death(s) based on claims or notices. *See* 49 CFR 579.27. Additionally, manufacturers were required to file initial reports containing historical data. *See* 49 CFR 579.28(c). The EWR rule did not address whether the information submitted by manufacturers would be released to the public.

On July 28, 2003, NHTSA published an appendix to its Confidential Business Information (CBI) rule that addressed the confidentiality of EWR data. *See* 49 CFR part 512 App. C, 68 FR 44209. The rule established class determinations that EWR information on production numbers (except for light vehicles), consumer complaints, warranty claims and field reports (including copies of reports) were confidential. NHTSA subsequently amended the rule to add a class determination that common green tire data are confidential. 69 FR 21409 (April 21, 2004). During the rulemaking, NHTSA declined to adopt a request by commenters that EWR data on deaths and injuries and on property damage claims (collectively, ''EWR claims data'') be accorded confidentiality. Instead, manufacturers could submit individualized requests for confidential treatment of their EWR claims data. If a manufacturer did not submit a request for confidential treatment of its EWR claims data, the agency would be free to disclose it.

Litigation over the provisions in NHTSA's rule on the confidentiality of EWR data was instituted in March of 2004. Public Citizen challenged the class determinations and sought to have them set aside. The Rubber Manufacturers Association (RMA), a trade association that includes tire manufacturers, intervened contending that all EWR information including EWR claims data is exempt from disclosure. This was based on the legal theory that the TREAD Act precluded the disclosure of the data and thus under Exemption 3 of the Freedom of Information Act, 5 U.S.C. 552(b)(3),[1] NHTSA could not release EWR data. In addition, some RMA members submitted requests for confidentiality of EWR claims data, which NHTSA denied. RMA's complaint as an intervenor challenged those denials as well as the rule.

In light of the RMA claim in the lawsuit, NHTSA stayed the processing of requests for confidential treatment of EWR information until the matters in litigation were resolved. The agency further advised manufacturers that until further notice they should not request confidential treatment of EWR information.

In its resolution of the litigation, the District Court issued two opinions. In the first, the Court found that NHTSA had the authority to make the class determinations of confidentiality but had failed to follow proper notice and comment procedures when it did so. It remanded the matter back to NHTSA. *See Public Citizen, Inc.* v. *Mineta,* 427 F.Supp.2d 7 (D.D.C. 2006). In a subsequent decision, the Court rejected RMA's contention that the TREAD Act precluded NHTSA from releasing EWR data. *See Public Citizen, Inc.* v. *Mineta,* 444 F.Supp.2d 12 (D.D.C. 2006). RMA appealed. On July 22, 2008, the U.S. Court of Appeals for the District of Columbia Circuit affirmed the judgment of the District Court on RMA's claim that the TREAD Act precluded the release of all EWR data. *Public Citizen, Inc.,* v. *Rubber Manufacturers Association,* No. 06–5304, _ F.3d _ (DC Cir. 2008).

While RMA's appeal was pending, in response to the District Court's remand of the 2003 rule, NHTSA published a rule on the confidentiality of EWR data. *See* 72 FR 59434 (Oct. 19, 2007). The 2007 rule contained class determinations that EWR information on production numbers (except for light vehicles), consumer complaints, warranty claims, field reports (including copies of field reports) and common green tire data are confidential. Significantly, under the 2007 rule, EWR claims data is not covered by any class determinations. Accordingly, manufacturers seeking confidential treatment for EWR claims data may do so by submitting individual requests for

[1] Exemption 3 incorporates the various nondisclosure provisions contained in other Federal statutes. It provides for the withholding of information specifically exempted from disclosure by statute, provided that such statute ''(A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.'' 5 U.S.C. 552(b)(3).

confidential treatment pursuant to 49 CFR part 512.

This notice addresses the timing of submission of requests for confidentiality of EWR claims data and production data for light vehicles. The agency's EWR CBI rule did not resolve the confidentiality of those data. Instead, as noted above, this was left to individual requests for confidentiality, if manufacturers chose to submit them. And, if a manufacturer did not submit a request covering EWR claims data or, for light vehicles, production data, NHTSA was free to release those data submitted by the manufacturer. However, NHTSA issued an administrative stay of the release of the EWR claims data pending the resolution of the litigation and advised manufacturers not to submit requests for confidentiality while the stay was in effect. In view of the decision and judgment by the Court of Appeals, the stay is no longer operative.

NHTSA is providing manufacturers a limited opportunity to request confidentiality for previously submitted EWR claims data (information on incidents involving death or injury or property damage claims) and, for light vehicles, production data. There are two general groups of EWR data at issue. The first is EWR claims data and light vehicle production data previously submitted to the agency pursuant to the EWR rule. NHTSA's naming convention rules for the submission of electronic EWR quarterly reports require manufacturers to denominate their EWR submissions with a ''C'' in the Confidentiality Request Identifier to indicate that the manufacturer contends that the EWR claims data and/or light vehicle production data is confidential. However, the ''C'' in the file naming convention alone does not confer confidential treatment for EWR claims data and light vehicle production data. Manufacturers seeking confidential treatment for this information must submit a request pursuant to 49 CFR part 512 to the Chief Counsel of NHTSA by mail, express courier (e.g., Fed Ex, UPS, DHL), or hand delivery, which is due by August 27, 2008. A request for confidential treatment may be made even if an EWR report was submitted without the ''C'' designation. If a request for confidential treatment is not submitted by the above date, the agency will be free to disclose the data regardless if a ''C'' is included in the file name of the EWR report.

The second group of EWR data at issue is EWR claims data and light vehicle production data submitted in the future. Consistent with 49 CFR part 512, manufacturers choosing to request confidential treatment for such data are required to submit individual requests for confidential treatment to NHTSA's Chief Counsel in connection with their electronic submissions of EWR quarterly reports. While quarterly EWR reports are submitted electronically and require a ''C'' in the file naming convention to indicate a request for confidential treatment, an individualized request under 49 CFR part 512 must also be sent by mail, express courier or hand delivery to the Chief Counsel of NHTSA.

Issued on: July 23, 2008.

Lloyd S. Guerci,

Assistant Chief Counsel for Litigation and Enforcement.

[FR Doc. E8–17237 Filed 7–25–08; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–33 (Sub-No. 269X)]; [STB Docket No. AB–486 (Sub-No. 4X)]

Union Pacific Railroad Company—Abandonment Exemption—in Osborne and Rooks Counties, KS; Kyle Railroad Company—Discontinuance of Service Exemption—in Osborne and Rooks Counties, KS

Union Pacific Railroad Company (UP) and Kyle Railroad Company (Kyle) (collectively, applicants) have jointly filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances of Service* for UP to abandon, and for Kyle to discontinue service over, a 30.13-mile portion of a line of railroad known as the Solomon Branch Line, extending between west of Osborne, KS (milepost 550.5), and west of Stockton, KS, at the end of the line (milepost 580.63), in Osborne and Rooks Counties, KS.[1] The line traverses United States Postal Service Zip Codes 67473, 67474, 67623, 67675, and 67669.

Applicants have certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; (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 (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 these exemptions, any employee adversely affected by the abandonment or discontinuance 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, these exemptions will be effective on August 27, 2008, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by August 7, 2008. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by August 18, 2008,[4] with: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to applicants' representatives: (1) Mack H. Shumate, Jr., Senior General Attorney, Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606; and (2) Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemptions are void *ab initio.*

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[1] Applicants originally filed their verified notice of exemption on July 8, 2008, but filed a supplement to their notice on July 11, 2008, certifying applicants' compliance with the notice requirements of 49 CFR 1105.11.

[2] 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 exemptions' 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 exemptions' effective date.

[3] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. The filing fee for an OFA increased from $1,300 to $1,500, effective July 18, 2008. *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), which amends 49 CFR Part 1002 of the *Code of Federal Regulations.*

[4] Applicants note, however, that they do not believe that the line of railroad is suitable for other public purposes.