

FOR FURTHER INFORMATION CONTACT:

Sharon Cassidy, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-5506.

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel VEGA is:

Intended Use: "Provide day and multi-day sail/auxiliary passenger service for up to six passengers."

Geographic Region: "South Central Alaska from Prince William Sound west to include Kenai Fiord, Afornak Island and Kodiak Island."

Dated: June 7, 2005.

By order of the Maritime Administrator.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 05-11757 Filed 6-14-05; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2005-21467]

Two- and Three-Wheeled Vehicles

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

ACTION: Notice of draft interpretation; request for comments.

SUMMARY: This document sets forth a draft interpretation concerning whether certain two- and three-wheeled vehicles are "motor vehicles" and thus subject to the Federal motor vehicle safety standards and to other vehicle safety requirements. Physical characteristics previously relied upon by the agency are no longer reliable determinants of whether a two- or three-wheeled vehicle is a "motor vehicle." Additionally, the vehicles that were the subject of past agency interpretations are no longer representative of the two- and three-wheeled vehicles on the market today. For these reasons, and because vehicle designs continue to change and proliferate, manufacturers, importers, and import specialists from U.S. Customs and Border Protection (Customs) are requesting interpretations from NHTSA as to whether various two- and three-wheeled vehicles are "motor vehicles." This document would address the issues raised in those types of requests.

DATES: You should submit comments early enough to ensure that Docket Management receives them not later than August 15, 2005.

ADDRESSES: You may submit comments (identified by the DOT DMS Docket Number above) by any of the following methods:

- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- Fax: 1-202-493-2251.

• Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-001.

• Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

• Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the agency name and docket number. For detailed instructions on submitting comments, see the Submission of Comments heading under the Supplementary Information section of this document.

Note that all comments received will be posted without change to <http://dms.dot.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.). 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) or you may visit <http://dms.dot.gov>.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Christopher Calamita, Vehicle Safety Rulemaking and Harmonization Division, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, telephone: (202) 366-2992, Fax: (202) 366-3820.

SUPPLEMENTARY INFORMATION:

I. Background

II. Draft Interpretation

- Vehicles with Speed Capabilities of Less than 20 mph
- Off-road Two- and Three-wheeled vehicles

III. Reliance on Draft Interpretation

IV. Submission of Comments

I. Background

Under 49 U.S.C. Chapter 301, NHTSA has authority to establish safety standards for "motor vehicles." "Motor vehicle" is defined at 49 U.S.C. 30102(a) as:

[A] vehicle driven or drawn by mechanical power and manufactured primarily for use on the public streets, roads, and highways, but does not include a vehicle operated only on a rail line.

NHTSA has issued regulations to define various types of motor vehicles, e.g., passenger car, multipurpose passenger vehicle, truck, and motorcycle, recognizing that different types of motor vehicles present different safety problems and that the standards that are reasonable, practicable and appropriate for one type of vehicle may not be for another type (see definitions at 49 CFR 571.3). The agency has relied on these regulatory definitions to ensure that vehicles are correctly classified and made subject to the appropriate set of safety requirements.

The agency has defined the term "motorcycle," as a motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground (49 CFR 571.3). Recognizing that small, low-powered motorcycles should be regulated differently than larger, higher-powered motorcycles, we established a sub-classification of "motorcycle," the "motor-driven cycle."¹ However, in order for a two- or three-wheeled vehicle to be regulated as a motorcycle or a motor-driven cycle, it must still come within the statutory definition of "motor vehicle."

The agency's interpretations of the term "motor vehicle," have centered on the word "primarily" used in the statutory definition. We have generally interpreted "primarily" to mean that a significant portion of a vehicle's use must be on public roads in order for the vehicle to be considered a "motor vehicle." Vehicles that cannot be operated on public roads, such as vehicles with tracks, are not "motor vehicles" and are not regulated by this agency. Conversely, we have held that the ability to operate on public roads is indicative that a vehicle is a motor vehicle.

The agency has long recognized that not all two- and three-wheeled, motorized vehicles with on-road capabilities are motor vehicles. In 1969,

¹ "Motor-driven cycle" is defined as "a motorcycle with a motor that produces 5-brake horsepower or less." 49 CFR 571.3.

the agency was asked to reconsider its interpretation that “mini-bikes” were motor vehicles (See 34 FR 15416; October 3, 1969). Manufacturers stated that “mini-bikes” were manufactured for use primarily off-road and should not be classified as “motor vehicles.” In response, the agency concluded that “mini-bikes” did not qualify as “motor vehicles” even though they were capable of operation on public roads. The agency stated that in determining whether a vehicle is manufactured primarily for use on public roads and is therefore a “motor vehicle,” it would defer, in the first instance, to the manufacturer’s judgment. However, we also stated that the decision of the manufacturer would not be conclusive. In excluding “mini-bikes,” we noted that a vast majority of States did not permit or license “mini-bikes” for use on public roads.

In the “mini-bike” notice, the agency also addressed the issue of whether a vehicle with on-road capabilities, but no history of more than incidental use on public roads, is a motor vehicle (e.g., vehicles intended for use almost entirely on industrial sites). In such borderline cases, we stated that a manufacturer’s determination that a vehicle is not a motor vehicle would be accepted if the manufacturer:

(1) Did not equip them with devices and accessories that render them lawful for use and registration on public highways under State and local law;

(2) Did not otherwise participate or assist in making the vehicles lawful for operation on public roads (as by furnishing certificates of origin or other title documents, unless those documents contain a statement that the vehicles were not manufactured for use on public streets, roads, or highways);

(3) Did not advertise or promote them as vehicles suitable for use on public roads;

(4) Did not generally market them through retail dealers of motor vehicles; and

(5) Affixed to them a notice stating in substance that the vehicles are not for use on public streets, roads, or highways.

Since this interpretation was published in 1969, we have identified additional elements for consideration in determining whether vehicles capable of on-road use are motor vehicles.

In a number of interpretation letters, the agency indicated that vehicles were excluded from the definition of “motor vehicle” if they had an “abnormal” configuration and if their maximum speed was 20 miles per hour (mph) or less. Developed initially to deal with large, slow moving vehicles such as

large road maintenance vehicles that stand out from the normal flow of traffic and thus are readily visible to approaching and following drivers, this approach came to be used for vehicles of all sizes.

The agency also indicated that folding handlebars and collapsible or removable seats could indicate that a two-wheeled vehicle was not a “motor vehicle.” At that time, a variety of two- or three-wheeled vehicles were designed to stow in the cargo area of a passenger vehicle, so that these vehicles could be easily transported to off-road areas.² Typically, these vehicles were transported to an off-road location for operation and would not be themselves a means of transport on public roads. Therefore, these vehicles were not motor vehicles. Folding handlebars and collapsible or removable seats were characteristics that demonstrated the portability of these vehicles, and provided a convenient indication of whether a vehicle was designed primarily for off-road use.

In 1997, we announced that we were abandoning the “abnormal” configuration line of interpretation, stating that as it was then being applied, it lacked the necessary clarity to provide adequate guidance.³ While the agency abandoned the “abnormal” configuration test, we continued to rely on a vehicle’s speed capability as an important, although not a conclusive, factor in determining whether a two- or three-wheeled vehicle is a motor vehicle, *i.e.*, a maximum speed capability under 20 mph makes it less likely that a vehicle would be operated on public roads. Speed capability has continued to be considered in conjunction with various physical features of vehicles as being indicative of intended use.

In recent years, there has been a proliferation in the variety of designs of two- and three-wheeled vehicles, including vehicles popularly referred to as pocket bikes, mini-choppers, pocket ninjas, etc. As vehicle designs continue to change and more varieties of two- and three-wheeled vehicles are introduced into the market, characteristics previously relied upon for classification purposes may no longer be reliably indicative of off-road use. For example, vehicle designs previously classified as motorcycles have been modified and manufactured with folding handlebars

and removable seats. However, these changes in design did little to increase the portability of these vehicles. Further, while the mini-bike designs considered in the 1969 notice lacked equipment for on-road use, vehicles with low seating heights now are often equipped with headlights, turn signals, brake lights, and mirrors. The presence of this type of equipment on a low speed vehicle may be intended for ornamental purposes only (*i.e.*, to provide a more realistic “toy”) or it may suggest that a vehicle is intended for on-road use.

As a result of the evolution of two- and three-wheeled vehicle designs, previous characteristics used in determining whether a vehicle is a “motor vehicle” may no longer be appropriate. The vehicle designs addressed in previous agency interpretation letters are no longer representative of those vehicles being imported and manufactured. This has been evidenced by an increase in the number of importers, manufacturers, and import specialists seeking agency interpretations regarding the proper classification of two- and three-wheeled motor vehicles.

On June 28, 2004, the agency published its intent to propose an amendment to the definition of “motorcycle” in 49 CFR 571.3 to address this issue (69 FR 37917, 37922). However, we have tentatively decided to address this issue through an interpretation. As the main issue is whether certain two- and three wheeled vehicles are motor vehicles, we believe that it is more appropriate to provide an interpretation of the statutory definition of “motor vehicle,” as opposed to amending the definition of motorcycle.

II. Draft Interpretation

The agency continues to adhere to the view that in determining whether a vehicle is a “motor vehicle” under the statute, we must rely primarily on vehicle characteristics to discern whether a vehicle was manufactured primarily for use on public roads. Physical characteristics are more readily discernible than information about vehicle usage. Further, they provide a more objective basis, as opposed to a manufacturer’s subjective intent, for classifying a particular vehicle as a “motor vehicle.” However, as stated above, with the evolution of vehicle designs, not all characteristics previously relied upon are necessarily still indicative of on-or off-road use. Also, while we believe it was necessary to abandon the use of “abnormal configuration” in making interpretations, this may leave a void in

² In this notice, we are using the term “off-road” to mean any non-public area. The term is not limited to unpaved areas and includes parking lots, private roads, and paved trails.

³ See Notice of Proposed Rulemaking, 62 FR 1077, 1079 (January 8, 1997) and the November 20, 1997 letter to Mr. Gary Starr of ZAP Electric Bikes.

determining how some vehicles with low speed capabilities should be classified.

A. Vehicles With Speed Capabilities of Less Than 20 mph

To provide an interpretation that would allow a clearer and easier determination, the agency is considering giving significantly greater value to maximum speed capability as a dividing line between non-motor vehicles and motor vehicles. For the reasons explained below, we have tentatively concluded that the maximum speed of a vehicle with on-road capabilities is largely determinative of whether the vehicle was manufactured to operate on a public road, in normal moving traffic, and therefore a "motor vehicle."

Basing our interpretation primarily on speed would be consistent with Congress' decision to exclude from NHTSA's regulatory authority electric bicycles with a specified maximum speed capability (Pub. L. 107-319, December 4, 2002; codified at 15 U.S.C. 2085; Consumer Product Safety Act). Congress concluded that because low-speed electric bikes "are designed not to exceed the maximum speed of a human-powered bicycle, and they are typically used in the same manner as human-powered bicycles, electric bicycles should be regulated in the same manner and under the same agency (the [Consumer Product Safety Commission (CPSC)]) as human-powered bicycles (id.)."

The Consumer Product Safety Act defines the term "low speed electric bicycle" as a two- or three-wheeled vehicle with fully operable pedals and an electric motor of less than 750 watts (1 horsepower), whose maximum speed on a paved level surface, when powered solely by such a motor while ridden by an operator who weighs 170 pounds, is less than 20 mph (15 U.S.C. 2085(b)).⁴

Consistent with the Congressional definition of low speed electric bicycle, we have tentatively concluded that if a two- or three-wheeled vehicle were to have a maximum speed capability of less than 20 mph (32 km/h), regardless of on-road capabilities, it would not be a "motor vehicle," except in very limited circumstances, as explained below. As with electric bicycles, motorized vehicles with a maximum speed capability of less than 20 mph are designed not to exceed the maximum

speed of human-powered bicycles. Therefore, we have tentatively concluded that vehicles with this low speed capability should not be regulated as "motor vehicles."

This maximum speed capability approach is also consistent with the agency's traditional consideration of a maximum speed capability of 20 mph as one factor to use in distinguishing between motor vehicles and non-motor vehicles. A speed capability of 20 mph or greater makes it much more likely that a vehicle could be operated in normal moving traffic and would be used on the public roadways. The lowest posted maximum speeds for public roads are typically 20 mph or 25 mph. Vehicles with a lower speed capability would have difficulty operating in normal moving traffic and thus would be less likely to be used on public roadways. In fact, States can regulate the operation of these vehicles and prohibit their operation on some or all public roads, as appropriate. Additionally, this 20 mph dividing line would provide a clear, single parameter for determining whether many vehicles are subject to the Federal motor vehicle safety standards (49 CFR Part 571) and the regulations governing notification and remedy for safety-related defects and noncompliance (49 CFR Part 573 and 577).

The agency recognizes that we must be specific as to the meaning of maximum speed capability in order to provide a clear interpretation. For example, the speed of a low-powered, two-wheeled vehicle may vary considerably depending on the weight of the driver. Clarity in this area is of importance for manufacturers and also for individuals attempting to determine a vehicle's speed upon inspection (e.g., Customs officers at a Port of Entry). The agency has tentatively decided to rely on the method that is based on ISO 7116, "Road Vehicles—Measurement Method for the Maximum Speed of Mopeds." This should provide a method with which industry and testing laboratories are already familiar.

A vehicle's maximum speed would be the highest speed attainable in 1 mile (1.6 km) averaged over a distance interval of 328 feet (100 meters). ISO 7116 specifies a distance interval of 656 feet (200 meters), but because battery capacity of electric vehicles may limit the distance over which an absolute top speed can be maintained, we tentatively concluded that half that distance would be appropriate. As such, we have tentatively concluded that a two- or three-wheeled vehicle's maximum speed would be determined as follows:

A vehicle's maximum speed would be the highest speed attainable in 1 mile (1.6 km), averaged over a distance interval of 328 feet (100 m), on a paved level surface, while carrying 170 lb (\pm 5 lb) including the operator. The maximum speed test would be performed in opposite directions over the same track, and the results of the two runs averaged.

In other words, a vehicle's maximum speed would be the speed averaged over a continuous 328-foot (100 m) interval that is within one mile (1.6 km) of the start position. For example, a vehicle could be operated for a total of 492 ft (150 m). The first 164 feet would permit the vehicle to obtain maximum speed, then the following 328 feet (100 m) would be used to obtain a time-over-distance measurement. Under the procedure described above, the initial distance could be any distance less than 1 mile (1.6 km) at which the vehicle reached its top speed and the test was completed within a distance of 1 mile (1.6 km). The test would then be run on the same track in the opposite direction to account for slope in the track and for wind, with the vehicle's maximum speed being the average of the two measurements.

The agency is requesting comment on the appropriateness of relying primarily, and nearly exclusively for lower speed vehicles, on the maximum speed capability when classifying two- and three-wheeled vehicles as motor vehicles or non-motor vehicles and on the appropriateness of using 20 mph as the threshold.

While the speed capability would be given greater weight in excluding low-speed, two- and three-wheeled vehicles from the definition of "motor vehicle," it would not be an absolute consideration. In certain instances, the agency would not rely on a speed capability that is based on the presence of a device used to mechanically limit the maximum speed of a vehicle (a speed governor). In a June 28, 2000 letter to Mr. Thomas E. Dahl, we explained that when determining the maximum speed capability of a high-speed vehicle which is equipped with a speed governor, we would look beyond the speed which might be attained with the governor engaged and consider the underlying speed capability of that vehicle.

The letter to Mr. Dahl was in reference to four-wheeled low-speed vehicles, as defined in 49 CFR 571.3,⁵

⁴ On March 22, 2002, the U.S. Electric Bicycle and Scooter Association petitioned the NHTSA to adopt the then proposed statutory definition of "low speed electric bicycle." See Docket No. 2000-7073-7. Given the adoption of this definition in the legislation enacted by Congress, we find the petition to be moot.

⁵ The agency established "low-speed vehicles" as a separate class of motor vehicles, which are subject to safety standards appropriate given the limited operational capabilities and environments of those vehicles. "Low-speed vehicle" is defined as a "4-wheeled motor vehicle, other than a truck, whose

but this draft interpretation would adopt this rationale for two- and three-wheeled vehicles. If a vehicle's maximum speed were limited by a governor, the agency would consider the vehicle's underlying speed (*i.e.*, without the governor engaged) in determining whether the vehicle is a motor vehicle, unless the governor was installed by the manufacturer and was not easily removable or defeatable. Moreover, regardless of the circumstances, the addition of a governor to an obviously high speed vehicle (*e.g.*, one that travels at speeds of 45 mph or greater) would not turn it into a low speed vehicle.

We request comments on any other factors that should be considered with respect to the underlying speed capability of vehicles, so that our interpretation would not be used inadvertently to classify vehicles with larger power plants as falling outside the definition of "motor vehicle." For example, how should the agency deal with a vehicle whose speed capability can readily be increased to speeds of 20 mph or more through simple adjustments to the vehicle?

A consequence of this interpretation would be that two- and three-wheeled vehicles with a maximum speed capability of less than 20 mph may become subject to the jurisdiction of the CPSC. Under the Consumer Product Safety Act, the CPSC has authority to regulate consumer products (15 U.S.C. 2051(b)). The Consumer Product Safety Act defines a consumer product, in part, as:

[A]ny article, or component part thereof, produced or distributed (i) for sale to a consumer for use in or around a permanent or temporary household or residence, a school, in recreation, or otherwise, or (ii) for the personal use, consumption or enjoyment of a consumer in or around a permanent or temporary household or residence, a school, in recreation, or otherwise; but such term does not include * * *

(C) motor vehicles or motor vehicle equipment (as defined by sections 102(3) and (4) of the National Traffic and Motor Vehicle Safety Act of 1966), [49 U.S.C. 30102(a)(6)–(7).]

(15 U.S.C. 2052(c)). To ensure continued protection of the public, NHTSA is coordinating our interpretation with CPSC.

B. Vehicles With Speed Capabilities Greater Than 20 mph

Under the draft interpretation, two- and three-wheeled vehicles with a speed capability of 20 mph (32 km/h) or

greater would be excluded from the definition of "motor vehicle" if they are manufactured primarily for off-road use (*e.g.*, dirt bikes and motocross bikes). These vehicles are not used primarily on public roads, and therefore are not "motor vehicles." In determining whether a two- or three-wheeled vehicle is an "off-road" vehicle, we would again look to the physical features of the vehicle.

We have tentatively concluded that if a two- or three-wheeled vehicle lacks a vehicle identification number (VIN) as specified in 49 CFR Part 565, *Vehicle Identification Number Requirements*, and lacks mirrors, turn signal lamps, side marker lamps, and stop lamps (on-road equipment), then the vehicle should be considered an "off-road" vehicle. We have tentatively concluded that the lack of a VIN and on-road equipment indicates that a vehicle was not manufactured primarily for use on public roads. Therefore, these vehicles would not be considered "motor vehicles." By contrast, the presence of these items on a two- or three-wheeled vehicle that has a speed capability of 20 mph (32 km/h) or greater indicates that the vehicle is intended for on-road use.

VINs

In a vast majority of circumstances, a VIN is required under State law to register a vehicle for use on public roads. Unless a vehicle is properly registered, most jurisdictions prohibit its operation on public roads, and the operation of an unregistered vehicle on public roads is a matter of State or local enforcement.

We recognize that some States require the registration of off-road vehicles, and that some States require a VIN or VIN-like number for this registration. Previously, the Society of Automotive Engineers was assigning World Manufacturer Identifiers (WMIs), which normally consist of the first 3 characters of a VIN, to manufacturers for assigning identification numbers to off-road vehicles. At the direction of NHTSA, SAE no longer assigns WMIs for this purpose. Therefore, an off-road vehicle should not be assigned an identification number that complies with Part 565. To facilitate the continued State registration of off-road vehicles the SAE VIN/WMI Technical Committee is working to develop an alternative format that would not conflict with Part 565.

On-Road Equipment

In order for a two- and three-wheeled vehicle to be safely operated on a public road it requires mirrors, turn signal lamps, side marker lamps, and stop

lamps⁶. The agency has tentatively concluded that a lack of these features would demonstrate that a vehicle was not intended for on-road use. This is consistent with our past interpretation letters in which we have stated that the presence of mirrors, turn signal lamps, side marker lamps, or a stop lamp suggests that a vehicle is intended for on-road use.

Additionally, the agency reviewed the current off-road vehicle market in order to identify the appropriate equipment to identify vehicles manufactured for on-road use. However, the agency does not have the same level of experience with off-road vehicles as we do with on-road vehicles. Further, we recognize that there may be some value to safety in equipping off-road vehicles with one or more of these items. Therefore, we request comment on the appropriateness of the on-road equipment chosen to distinguish off-road vehicles with maximum speed capabilities 20 mph or greater from on-road vehicles.

- Are there currently off-road vehicles that would be classified as on-road vehicles based on the "on-road equipment" guidelines?
- If so, which vehicles?
- If we were to adopt guidelines as discussed above, what would be the impact to off-road vehicle manufacturers?
- Are there other vehicle characteristics that may better distinguish on-road two- and three-wheeled vehicles from off-road two- and three-wheeled vehicles?

III. Reliance on Draft Interpretation

We are inviting public comments on our draft interpretation and, after reviewing the comments plan to publish a final interpretation in the **Federal Register**. We recognize that, in the meantime, manufacturers, importers, and import specialists must make determinations as to whether various two- and three-wheeled vehicles are "motor vehicles" and thus subject to the Federal motor vehicle safety standards and to other vehicle safety requirements. Until we publish a final interpretation, these and other parties may rely on our draft interpretation with regard to vehicles with maximum speed capabilities less than 20 mph.

⁶ A stop lamp is a lamp that gives a steady light to the rear of a vehicle to indicate the intention of the vehicle operator to stop or reduce speed through braking.

speed attainable in 1.6 km (1 mile) is more than 32 kilometers per hour (20 miles per hour) and not more than 40 kilometers per hour (25 miles per hour) on a paved level surface" (49 CFR 571.3).

IV. Submission of Comments

How Do I Prepare and Submit Comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**. Comments may also be submitted to the docket electronically by logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on "Help & Information" or AHelp/Info@ to obtain instructions for filing the document electronically.

How Can I Be Sure That My Comments Were Received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How Do I Submit Confidential Business Information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the Agency Consider Late Comments?

We will consider all comments that Docket Management receives before the

close of business on the comment closing date indicated above under DATES. To the extent possible, we will also consider comments that Docket Management receives after that date.

How Can I Read the Comments Submitted by Other People?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

- (1) Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov/>).
- (2) On that page, click on "search."
- (3) On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."

- (4) On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. However, since the comments are imaged documents, instead of word processing documents, the downloaded comments are not word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

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.). 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) or you may visit <http://dms.dot.gov>.

Issued on June 8, 2005.

Jacqueline Glassman,
Chief Counsel.

[FR Doc. 05-11764 Filed 6-14-05; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34711]

Union Pacific Railroad Company— Trackage Rights Exemption—Illinois Central Railroad Company D/B/A Canadian National Railway Company

Illinois Central Railroad Company d/b/a Canadian National Railway Company (CN) has agreed to grant overhead trackage rights to Union Pacific Railroad Company (UP) over CN's line of railroad between CN's connection with UP at CN milepost 228.9, near Kinmundy, IL, and the north end of Laclede Siding at CN milepost 214.6, near Laclede, IL, a distance of approximately 14.3 miles.

The transaction is scheduled to be consummated on the June 8, 2005 effective date of the exemption.

The purpose of the trackage rights is to permit UP to operate over the CN trackage to interchange with CN at an alternate location when interchange at Salem, IL, is precluded.

As a condition to this exemption, any employees affected by the acquisition of the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If it 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 transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34711 must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Robert T. Opal, Union Pacific Railroad Company, 1400 Douglas Street, Mail Stop 1580, Omaha, NE 68179.

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

Decided: June 3, 2005.

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

Vernon A. Williams,
Secretary.

[FR Doc. 05-11731 Filed 6-14-05; 8:45 am]

BILLING CODE 4915-01-P