

will therefore not be repeated. Virginia has established its own SPE program that is essentially identical to the current FMCSA SPE program to include an application process modeled on the FMCSA process. In addition, State personnel who have completed SPE training identical to that of FMCSA personnel currently administer the SPE program and conduct the skill evaluation according to the same procedures and testing criteria used by FMCSA. If the driver passes the skill evaluation, the State issues the SPE Certificate. Virginia maintains records of applications, testing, and certificates issued, which are available, as required, for periodic review by FMCSA. On behalf of CMV drivers licensed in the Commonwealth of Virginia, the State requested renewal of the exemption from 49 CFR 391.49 concerning FMCSA's SPE Certificate process for drivers who have experienced an impairment or loss of a limb.

## II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that granting this exemption is not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the Virginia DMV exemption.

## III. Basis for Renewing Exemption

The Agency's decision regarding this exemption is based on the fact that Virginia's SPE program is essentially identical to the current FMCSA program. Virginia continues to adhere to the application process modeled on the FMCSA process. State personnel who conduct the skill evaluation complete the same training as FMCSA personnel conducting the test and follow the same procedures and testing criteria used by FMCSA. FMCSA has conducted ongoing monitoring and SPE program reviews and Virginia continues to maintain records of applications, testing, and certificates issued for periodic review by FMCSA. At the time, Virginia DMV submitted its request for exemption renewal to the Agency, it had issued 29 new and 48 renewal SPE Certificates. Based upon FMCSA's analyses of the applications and the program as a whole, FMCSA has determined that no safety vulnerabilities are associated with Virginia's renewal request. The renewal

of the exemption for a 5-year period is granted.

Consequently, FMCSA has concluded that renewing the exemption allows the Virginia SPE program to achieve the level of safety required by 49 U.S.C. 31315.

If a Virginia-licensed driver would prefer not to opt for the streamlined SPE process, the driver may still apply for an FMCSA-issued SPE. However, FMCSA may still exercise its discretion and call upon Virginia DMV to provide assistance in conducting the road evaluation needed to complete an SPE application, depending on the volume of applications.

## IV. Conditions and Requirements:

The FMCSA grants the renewal of the exemption to allow the Virginia DMV to conduct SPE's on drivers who have experienced an impairment or loss of a limb and are licensed in the Commonwealth of Virginia. The following terms and conditions apply to the State and any drivers who receive a State-issued SPE certificate:

- Virginia must establish and maintain its own SPE program that is essentially identical to the current FMCSA program.
- The State must maintain an application process modeled on the FMCSA process and submit information concerning the application process to FMCSA's Medical Programs Division for review, as required.
- State personnel who conduct the skill test must complete SPE training identical to that of FMCSA personnel currently administering the Federal SPE program.
- The skill evaluation and scoring for the SPE must be done using the same procedures and testing criteria used by FMCSA.
- Virginia must maintain records of applications, testing, and certificates issued for periodic review by FMCSA.
- Virginia must submit a monthly report to FMCSA listing the names and license number of each driver tested by the State and the result of the test (pass or fail).
- Each driver who receives a State-issued SPE must carry a copy of the certificate when driving for presentation to authorized Federal, State, or local law enforcement officials.

## V. Preemption

During the period the exemption is in effect; no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption. An exemption granted under the authority of 49 U.S.C. 31315(b) preempts State

laws and regulations that conflict with or are inconsistent with the exemption. The decision to grant Virginia's request amounts to automatic Federal ratification of the State issued SPE Certificate and therefore prohibits other jurisdictions from requiring a separate FMCSA-issued SPE. The State-issued certificate must be treated as if it had been issued by FMCSA. Virginia-licensed drivers who receive the State-issued SPE are allowed to operate CMVs in interstate commerce anywhere in the United States.

## VI. Conclusion

Virginia has consistently maintained the statutory exemption requirements associated with the Skill Performance Evaluation Certificate program. Therefore, in accordance with 49 U.S.C. 31136(e) and 31315, this exemption will be valid for five years unless revoked earlier by FMCSA.

The Agency does not intend its decision to pressure other States to take action to implement State-run SPE programs. Virginia is the first State to submit an application on behalf of its drivers to provide an alternative to the Federal SPE process. Other States are welcome to make similar applications if they believe it is appropriate to do so and they have the resources to meet terms and conditions comparable to those provided in this exemption.

Issued on: July 24, 2018.

**Raymond P. Martinez,**  
*Administrator.*

[FR Doc. 2018-16225 Filed 7-27-18; 8:45 am]

**BILLING CODE 4910-EX-P**

## DEPARTMENT OF TRANSPORTATION

### Federal Railroad Administration

[Docket Number FRA-2018-0052]

### Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this provides the public notice that by letter dated June 4, 2018, Norfolk Southern Railway (NS) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR part 236. FRA assigned the petition Docket Number FRA-2018-0052.

NS seeks a waiver of compliance from cab signal system requirements found in 49 CFR 236.566, *Locomotive of each train operating in train stop, train control, or cab signal territory; equipped*. Specifically, NS seeks relief to operate non-equipped locomotives in

the following locations: Operations on the Conemaugh Line, Pittsburg Division, from control point (CP) Kiski at milepost (MP)–LC 47.8 near Freeport, PA to CP Pennear near Pittsburgh, PA at MP–LC 77.9, with an absolute block to be established in advance of each non-equipped movement and covering the following operations:

(a) Work Trains, Wreck Trains and Ballast cleaners to and from work.

(b) Engines and rail diesel cars moving to and from shops.

(c) Engines used in switching and transfer service, with or without cars, operating at Restricted Speed not exceeding 15 miles per hour.

NS provides the following justification for relief. First, NS states that “relief is in the public interest,” and is “important to maintaining efficient rail operations in the region.” Second, NS explains exemptions have been granted for the “operation of non-equipped locomotives in cab signal system territory at nearby locations on the NS and the relief requested” is a “consistent extension of those currently granted exceptions.” Moreover, NS states this waiver would update relief previously granted regarding Ex Parte No. 171 by the Interstate Commerce Commission at 286 I. C. C. 709. Finally, NS contends “the requested relief will not have a negative material impact on safety.”

A copy of the petition, as well as any written communications concerning the petition, is available for review online at [www.regulations.gov](http://www.regulations.gov) and in person at the U.S. Department of Transportation’s Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

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 and may be submitted by any of the following methods:

- *Website:* <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 by September 13, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can 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 document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at [www.dottransportation.gov/privacy](http://www.dottransportation.gov/privacy). See also <http://www.regulations.gov/#!privacyNotice> for the privacy notice of [www.regulations.gov](http://www.regulations.gov).

**Robert C. Lauby,**

*Associate Administrator for Safety, Chief Safety Officer.*

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**BILLING CODE 4910–06–P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2017–0040; Notice 2]

#### Continental Tire the Americas, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of petition.

**SUMMARY:** Continental Tire the Americas, LLC (CTA), has determined that certain Continental brand tires do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 139, *New Pneumatic Radial Tires for Light Vehicles*. CTA filed a noncompliance report dated March 31, 2017, and later revised it on February 23, 2018. CTA also petitioned NHTSA on April 27, 2017, and amended it on June 28, 2017, for a decision that the

subject noncompliance is inconsequential as it relates to motor vehicle safety.

**FOR FURTHER INFORMATION CONTACT:** Abraham Diaz, Office of Vehicle Safety Compliance, NHTSA, telephone (202) 366–5310, facsimile (202) 366–5930.

#### SUPPLEMENTARY INFORMATION:

*1. Overview:* CTA has determined that certain Continental brand tires do not fully comply with paragraphs S5.5(e) and S5.5(f) of FMVSS No. 139, *New Pneumatic Radial Tires for Light Vehicles* (49 CFR 571.139). CTA filed a noncompliance report dated March 31, 2017, and later revised it on February 23, 2018, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. CTA also petitioned NHTSA on April 27, 2017, and amended it on June 28, 2017, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on September 29, 2017, in the **Federal Register** (82 FR 45661). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number “NHTSA–2017–0040.”

*II. Tires Involved:* Approximately 111,500 of the following Continental brand tires, manufactured between December 2, 2012, and March 25, 2017, are potentially involved:

- XL Continental CrossContact UHP size 255/55R18 109Y
- Barum Brillantis 2 size 175/70R13 82T
- Continental ContiTrac size P225/70R15 100S
- XL General Grabber UHP size 275/55R20 117V
- Continental ExtremeContact DWS size 285/30ZR20 99W XL
- Continental CrossContact LX20 size 245/55R19 103S
- XL Continental CrossContact LX20 size 285/45R 114H
- General Altimax RT43 size 215/45R17 87V

*III. Noncompliance:* CTA states that the noncompliance is due to mold errors, and that as a result, the number of tread plies indicated on the sidewall of the subject tires do not match the actual number of plies in the tire construction and in one tire model the