Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2008-0176; Notice 2]

Adrian Steel Company, Grant of Petition for Decision of Inconsequential Noncompliance

AGENCY: National Highway Traffic Safety Administration, DOT

ACTION: Notice of Petition Grant

SUMMARY: Adrian Steel Company (Adrian), on behalf of Commercial Truck and Van Equipment, Inc. (CTV), determined that certain Model Year 2006-2008 incomplete vehicles that CTV completed as trucks did not fully comply with paragraphs S4.3(a), S4.3(c) and S4.3(d) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 Kilograms (10,000 pounds) or Less*. Adrian has filed an appropriate report dated June 10, 2008 pursuant to 49 CFR Part 573, *Defect and Noncompliance Responsibility and Reports*.

Pursuant to 49 U.S.C. 30118(d) and 30120(h), and 49 CFR Part 556, on June 10, 2008, Adrian submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. 30118 and 30120 on the basis that this noncompliance is inconsequential to motor vehicle safety. NHTSA published a notice of receipt of the petition, with a 30-day public comment

period, on December 10, 2008, in the Federal Register, 73 FR 75171. In response to the petition, NHTSA did not receive any comments. To view the petition and all supporting documents, log onto the Federal Docket Management System (FDMS) Web site at: http://www.regulations.gov/. Then follow the online search instructions to locate docket number "NHTSA-2008-0176."

CONTACT INFORMATION: For further information on this decision, contact Mr. Harry Thompson, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5289, facsimile (202) 366-5930.

RELEVANT REQUIREMENTS OF FMVSS No. 110: Among other things, FMVSS No. 110 requires certain information to be specified on the tire and loading information placard. The required information includes the vehicle capacity weight expressed as "The combined weight of occupants and cargo should never exceed XXX kilograms or XXX pounds", the vehicle manufacturer's recommended cold tire inflation pressure for front, rear, and spare tires, and the tire size designation, including spare tires.

VEHICLES INVOLVED: Affected are approximately 7,761 Model Years 2006-2008 General Motors Chevrolet Cargo Uplander GMT201 platform incomplete vehicles that CTV, as the final stage

manufacturer, completed as trucks. CTV completed these vehicles during the period September 1, 2005 through June 4, 2008.

SUMMARY OF ADRIAN'S PETITION: Adrian explained that several noncompliances with FMVSS No. 110 exist due to errors and omissions on the tire and loading information placard that it affixed to the vehicles. Adrian identified the noncompliances as follows:

1. Paragraph S4.3(a) requires that the vehicle capacity weight be stated on the vehicle tire and loading information placard in Metric and English units. The Metric value (646 kg) is correct but the English conversion value (5797 lb) is not correct.
2. Paragraph S4.3(c) requires that the recommended tire inflation pressures be stated on the vehicle tire and loading information placard for the original tires including the spare tire, and, by the example in FMVSS No. 110 (Figure 1), be stated in both Metric (KPA) and English (PSI) units. The inflation pressures on the vehicle tire and loading information placard appear to be the English value only with no units identified, and no inflation pressure is provided for the spare tire.
3. Paragraph S4.3(d) requires that the original tire sizes (including the spare) be stated on the vehicle tire and loading information placard. The information in the tire size

column is rim size information, rather than the tire size. NHTSA notes that no tire size information is provided for the spare tire.

Furthermore, 49 CFR Part 567, *Certification* requires that the vehicle type classification (e.g., truck, multipurpose passenger vehicle, bus, trailer) be specified on the vehicle certification label. The certification labels specify a vehicle type classification of "Van" which is not a classification type recognized by the agency.

Summary of why Adrian Steel believes that the identified noncompliances are inconsequential to motor vehicle safety:

Adrian Steel believes that the tire and loading information placard is duplicated by the vehicle certification label (required by 49 CFR Part 567) because it also provides the appropriate information for an owner to understand tire inflation pressures, tire size and load ratings. Specifically:

1. 49 CFR Part 571.110, paragraph S4.3(a) requires that the vehicle capacity weight be stated on the tire and loading information placard in Metric and English units. Although the English units had been converted incorrectly (listed at 5797 lbs.), the Metric measure, 646 kg, was correct on the tire and loading information placard. Also, the vehicle certification label correctly identifies the GVWR so that the safe gross vehicle weight rating is clearly identified.

Furthermore, Adrian sent 8076 postcards to the owners of affected vehicles, based on addresses provided by R.L. Polk. The postcards stated that the vehicle capacity weight in English units was 1,425 pounds rather than 5,797 pounds as stated on the placard. Only 26 postcards were returned as undeliverable.

2. 49 CFR Part 571.110, paragraph S4.3(c) requires that the recommended tire inflation pressures be stated on the tire and loading information placard for the original tires, in both Metric and English units. The inflation pressure of "35" was identified on the tire and loading information placard but the unit of measure was not included; however, it is included on the vehicle certification label, which is mounted on the vehicle's B pillar adjacent to the tire and loading information placard. Since the tire inflation pressure is clearly identified on the vehicle certification label, the information is available to the owner.
3. 49 CFR Part 571.110, paragraph S4.3(d) requires that the original tire sizes be stated on the tire and loading information placard. Adrian placed the rim size on the tire and loading information placard, rather than the tire size. However, the tire size is clearly identified on the vehicle certification label along with the rim size. In addition, it

would be impossible to mount a tire on the vehicle using the rim numbers as a tire size.

4. The vehicle certification label which is mounted on the vehicle next to the tire and loading information placard contained the correct English and Metric information for tire size, tire pressure, and GVWR but had a vehicle type identified as "van" rather than "truck". While this classification "van" is not recognized by the agency, Adrian believes that this is inconsequential to motor vehicle safety.

Adrian stated that its Customer Care Center has never received a call or communication of any type with regard to the tire and loading information placard or the vehicle certification label.

Adrian first became aware of the noncompliance when it was contacted by NHTSA in response to a vehicle inspection conducted by NHTSA.

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

In summation, Adrian states that it believes that the described noncompliances of certain Model Year 2006-2008 incomplete vehicles that CTV completed as trucks are inconsequential to motor vehicle safety, and that its petition

to exempt it from providing notification of the noncompliances as required by 49 U.S.C. 30118, and remedying the noncompliances as required by 49 U.S.C. 30120, should be granted.

NHTSA's CONSIDERATION OF ADRIAN'S INCONSEQUENTIALITY PETITION:

General Principles: Federal motor vehicle safety standards are adopted only after the agency has determined, following notice and comment, that the standards are objective and practicable and "meet the need for motor vehicle safety." *See* 49 U.S.C. 30111(a). Thus, there is a general presumption that the failure of a motor vehicle or item of motor vehicle equipment to comply with a FMVSS increases the risk to motor vehicle safety beyond the level deemed appropriate by NHTSA through the rulemaking process. To protect the public from such risks, manufacturers whose products fail to comply with a FMVSS are normally required to conduct a safety recall under which they must notify owners, purchasers, and dealers of the noncompliance and provide a remedy without charge. 49 U.S.C. 30118-30120.

However, Congress has recognized that, under some limited circumstances, a noncompliance could be "inconsequential" to motor vehicle safety. "Inconsequential" is not defined either in the statute or in NHTSA's regulations. Rather, the agency determines whether a particular non-compliance is inconsequential to motor vehicle safety based on the specific facts before it. The key issue in determining inconsequentiality

is whether the noncompliance in question is likely to increase the safety risk to individuals of accidents or to individual occupants who experience the type of injurious event against which the standard was designed to protect. *See General Motors Corp.; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897 (Apr. 14, 2004).

The intent of FMVSS No. 110 is to ensure that vehicles are equipped with tires that are properly inflated to handle maximum vehicle loads and relevant information to prevent overloading. The display of correct information required by paragraphs S4.3(a), S4.3(c) and S4.3(d) of FMVSS No. 110 provides important information to assist owners and operators in determining safe vehicle loading limits, tire and rim combinations and tire inflation pressures. As discussed below, the missing or incorrect information on the tire and loading placard is available on the adjacent certification label and from the sidewall of the spare tire provided with these vehicles. In addition, as noted above, the noncompliant vehicles are trucks manufactured by CVT based on 2006–2008 Chevrolet Uplander incomplete vehicles. They have a driver and a right hand passenger seat and are used for transporting cargo. The commercial operators of these vehicles are unlikely to be confused by the missing or incorrect information on the vehicle placard. Furthermore, NHTSA has not received any consumer

complaints or field reports regarding the subject labels or associated loading issues.

The vehicle capacity weight (S4.3(a)) is directly related to how a motorist might load a vehicle. Vehicle capacity weight is "the rated cargo and luggage load plus 68 kilograms [150 lbs.] times the vehicle's designated seating capacity." 49 CFR 571.110 S3. The metric value for the vehicle capacity weight is correctly specified on the vehicle placard as 646 kg, which equals 1,421 lbs. However, the vehicle capacity weight value stated in pounds as 5,797 lbs. is incorrect, and is much higher than the actual vehicle capacity weight. It is almost the same as the vehicle's gross vehicle weight rating (GVWR) of 5,842 lb., which is correctly identified on the certification label. Accordingly, the English unit vehicle capacity weight value is clearly in error. In the overall context, the agency believes the GVWR value provides sufficient information to the commercial operator such that the vehicles will not be inadvertently overloaded. The subject vehicles are manufactured for commercial use and the agency believes that commercial vehicle operators have a better understanding than non-commercial operators that the certified GVWR values are ratings not to be exceeded. Thus, if the commercial vehicle operator follows the metric vehicle capacity weight value and loads 646 kg of weight into the vehicle the GVWR of the vehicle will not be exceeded.

Furthermore, if the operator utilizes the English units value and begins to load 5,797 pounds of cargo into the vehicle, the GVWR value of 5,842 pounds will be reached after approximately 1,500 pounds of cargo are loaded into the vehicle. This value is calculated based on NHTSA's test vehicle, by subtracting the unloaded vehicle weight 4,039 pounds and 300 pounds for two occupants from the vehicle's GVWR 5,842 pounds equals 1,503 pounds. The operator will understand not to exceed the vehicle's GVWR. In view of the GVWR, the stated vehicle capacity weight in pounds is way beyond a plausible number and is unlikely to be given serious consideration. Since the correct vehicle capacity weight value is provided in metric units on the tire and loading information placard, the adjacent certification label specifies the vehicle's correct GVWR, and these vehicles are meant to be owned and operated by commercial entities, the agency believes it is unlikely the erroneous English unit vehicle capacity weight conversion value stated on the vehicle placard will increase the safety risk to the commercial operators of these vehicles.

Recommended tire inflation pressure (S4.3(c)) must be stated on the tire and loading information placard for the original tires, in both metric and English units. The inflation pressure of "35" was identified on the tire and loading information placard but the unit of measure was not included.

However, the correct pressures both in metric and English units are included on the vehicle certification label, which is mounted on the vehicle's B pillar adjacent to the tire and loading information placard. The agency agrees that since the tire inflation pressure is clearly identified on the vehicle certification label directly adjacent to the tire loading and information placard the inadvertent exclusion of the inflation pressure units on the placard will not likely cause an increased safety risk to individuals.

Tire size designation (S4.3(d))for the tires installed as original equipment on both the front and rear axles is required to be stated on the tire and loading information placard. Adrian inadvertently placed the rim size on the tire and loading information placard, rather than the tire size. Nevertheless, both the correct tire size and corresponding rim size are clearly identified on the adjacent vehicle certification label. Thus, both tire size and rim size are available to the vehicle operator and it would be unlikely for this error to cause an increased safety risk to individuals.

Adrian did not include spare tire size or inflation pressure information required by S4.3(c)and(d))on the vehicle tire and loading information placard. FMVSS No. 110 requires that the spare tire included as original equipment be specified on the placard, or if no spare tire is provided the label should

specify "None." NHTSA's test vehicle was equipped with a spare tire size T135/70R16, but the affixed placard spare tire entry was left blank. In the agency's judgment, this noncompliance will not cause an increased safety risk to individuals. In the event of a flat tire the operator will have a spare tire that is labeled with the proper inflation pressure and has a sufficient load rating for the vehicle's front and rear Gross Axle Weight Ratings.

The erroneous listing of the vehicle type as "van" on the certification label required by 49 CFR Part 567 *Certificatio*n is considered a violation of 49 U.S.C. 30115, *Certification*, which standing alone and without more does not require notification or remedy. Consequently, that portion of Adrian's inconsequentiality petition is moot.

Decision: In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliances described in its petition are inconsequential to motor vehicle safety. Accordingly, Adrian's petition is hereby granted, and the petitioner is not required to 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 1.95 and 501.8)

ISSUED ON:

July 23, 2013

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Claude H. Harris, Director
Office of Vehicle Safety Compliance

BILLING CODE: 4910-59-P

[FR Doc. 2013-18050 Filed 07/26/2013 at 8:45 am; Publication Date: 07/29/2013]