

1976, as amended, 16 U.S.C. 1801 et seq., with Essential Fish Habitat requirements at 1855(b)(1)(B)

#### 4. Historic and Cultural Resources

- Section 106 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470(f) et seq.
- 23 U.S.C. 138 and Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303 and implementing regulations at 23 CFR Part 774
- Archeological Resources Protection Act of 1977, 16 U.S.C. 470(aa)–11
- Archeological and Historic Preservation Act of 1966, as amended, 16 U.S.C. 469–469(c)
- Native American Grave Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3001–30131

#### 5. Social and Economic Impacts

- American Indian Religious Freedom Act, 42 U.S.C. 19961
- Farmland Protection Policy Act (FPPA), 7 U.S.C. 4201–4209

#### 6. Water Resources and Wetlands

- Clean Water Act, 33 U.S.C. 1251–1377 – Section 404, Section 401, Section 319
- Coastal Barrier Resources Act, 16 U.S.C. 3501–3510
- Coastal Zone Management Act, 16 U.S.C. 1451–1465
- Safe Drinking Water Act (SDWA), 42 U.S.C. 300f–300j–6
- Section 10 of the Rivers and Harbors Act of 1899, 33 U.S.C. 401–406
- Section 9 of the Rivers and Harbors Act of 1899, (General Bridge Act) Navigability Determinations and Lighting Exemption Waivers
- Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287
- Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931
- TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133 (b)(11)
- Flood Disaster Protection Act, 42 U.S.C. 4001–4128

#### 7. Parklands

- Section 4(f) of the Department of Transportation Act of 1966, 49 U.S.C. 303
- Land and Water Conservation Fund (LWCF) Act, 16 U.S.C. 4601–4

#### 8. Hazardous Materials

- Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9601–9675
- Superfund Amendments and Reauthorization Act of 1986 (SARA)
- Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901–6992k

#### 9. Executive Orders Relating to Highway Projects

- E.O. 11990, Protection of Wetlands
- E.O. 11988, Floodplain Management
- E.O. 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low Income Populations
- E.O. 13112, Invasive Species

The MOU would allow the State to act in the place of the FHWA in carrying out the functions described above, except with respect to government-to-government consultations with federally-recognized Indian tribes. The FHWA will retain responsibility for conducting formal government-to-government consultation with federally recognized Indian tribes, which is required under some of the listed laws and executive orders. The State will continue to handle routine consultations with the tribes and understands that a tribe has the right to direct consultation with the FHWA upon request. The State also may assist the FHWA with formal consultations, with consent of a tribe, but the FHWA remains responsible for the consultation.

A copy of the proposed MOU may be viewed on the DOT DMS Docket, as described above, or may be obtained by contacting the FHWA or the State at the addresses provided above. A copy also may be viewed on the State's Web site at [www.txdot.gov](http://www.txdot.gov).

The FHWA Texas Division, in consultation with FHWA Headquarters, will consider the comments submitted when making its decision on the proposed MOU revision. Any final MOU approved by FHWA may include changes based on comments and consultations relating to the proposed MOU. Once the FHWA makes a decision on the proposed MOU, the FHWA will place in the DOT DMS Docket a statement describing the outcome of the decision-making process and a copy of any final MOU. Copies of those documents also may be obtained by contacting the FHWA or the State at the addresses provided above, or by viewing the documents at the State's Web site at [www.txdot.gov](http://www.txdot.gov). (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

**Authority:** 23 U.S.C. 326; 42 U.S.C. 4331, 4332; 23 CFR 771.117; 40 CFR 1507.3, 1508.4.

Issued on: July 24, 2013.

**Michael T. Leary,**

*Director of Planning and Program Development, FHWA, Austin, Texas.*

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## 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.” **FOR FURTHER INFORMATION CONTACT:** 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 (5,797 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 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 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 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 *Certification* 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.

**Claude H. Harris,**  
*Director, Office of Vehicle Safety Compliance.*  
[FR Doc. 2013–18050 Filed 7–26–13; 8:45 am]

**BILLING CODE 4910–59–P**

## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

July 24, 2013.

The Department of the Treasury will submit the following information collection requests to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.