

than 2.4 millimeters high, and in the prescribed format. In addition, FMVSS No. 120 requires that the label be affixed to the hinge pillar, the door-latch post, the door edge that meets the latch post, or next to the driver's seating position. If these locations are impractical, the label shall be affixed to the inward-facing surface of the door next to the driver's seating position. However, if all of the preceding locations are not practical, the manufacturer can notify NHTSA, in writing, and request approval for an alternate location in the same general location.

The agency agrees with Mercedes-Benz that the label on these M-class vehicles is likely to achieve the safety purpose of the tire label. First, all the information required by FMVSS No. 120 is correct and contained in the label including recommended tire size, rim size, and cold inflation pressure. Second, per the sample label provided by Mercedes-Benz, the letters can be easily read. Third, a vehicle owner will find the necessary and correct safety information in English units in the owner's manual, and the maximum inflation pressure properly marked on the tire.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, delegations of authority at 49 CFR 1.50 and 501.8).

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James R. Hackney,

Acting Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-98-4209]

Red River Manufacturing, Inc., Grant of Application for Decision of Inconsequential Noncompliance

Red River Manufacturing, Inc. (Red River) of West Fargo, North Dakota, a manufacturer of trailers, has determined that since March 14, 1996, its tire and rim label information was not in full compliance with 49 CFR 571.120,

Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Vehicles Other Than Passenger Cars," and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Red River has also applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on August 12, 1998, in the **Federal Register** (63 FR 43230). NHTSA received no comments on this application during the 30-day comment period.

Paragraph S5.3 of FMVSS No. 120 states that each vehicle shall show the information specified in both metric and English units. The standard also shows an example of the prescribed format.

Since the amendment requiring metric units went into effect on March 14, 1996, Red River manufactured and/or distributed 1,063 trailers that do not meet the requirements stated in the standard. The certification label affixed to Red River's trailers pursuant to 49 CFR Part 567 failed to comply with S5.3 of FMVSS No. 120 because of the omission of metric measurements, and Red River did not separately provide the metric measurements on another label, an alternative allowed by FMVSS No. 120.

Red River supports its application for inconsequential noncompliance with the following statements:

1. "The label contained the correct English unit information."

2. "Red River had been unaware of the metric measurement requirement because Red River interpreted Part 567 as suggesting the use of metric measurements is permissive, not mandatory, and did not understand that FMVSS No. 120 made the use of certain metric measurements mandatory."

3. "FMVSS No. 120's metric measurement requirements were not mandated for safety purposes. Rather, in designating the metric system as the preferred system of weights and measures, Congress was concerned chiefly with the contributions that the metric system could make to the international competitiveness of U.S. industries and to the efficiency of governmental operations."

4. "The dual labeling requirement is to continue until consumers become familiar with metric measurements."

5. "The omission of metric measurements from Red River's FMVSS No. 120 certification label is highly unlikely to have any effect whatsoever on motor vehicle safety, both because the correct English units are used on Red River's labels and because of the small number of trailers involved."

6. As soon as practicable upon learning of its noncompliance, Red River has converted

its labels to metric measurements, in conformity with those requirements.

The purpose of labeling requirements in S5.3, Label information, of FMVSS No. 120 is to provide safe operation of vehicles by ensuring that those vehicles are equipped with tires of appropriate size and load rating; and rims of appropriate size and type designation. Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100-418) makes it the United States policy that the metric system of measurement is the preferred system of weights and measures for U.S. trade and commerce. On March 14, 1995, NHTSA published in the **Federal Register** (60 FR 13693) the final rule that metric measurements be used in S5.3 of FMVSS No. 120. The effective date for this final rule was March 14, 1996.

Paragraph S5.3 states that each vehicle shall show the appropriate tire information (such as: recommended cold inflation pressure) and rim information (such as: size and type designations) in metric and English units. This information must appear either on the certification label or a tire information label, lettered in block capitals and numerals not less than 2.4 millimeters high, and in the prescribed format.

The agency agrees with Red River that the label on these trailers is likely to achieve the safety purpose of the required label. The vehicle user will have the correct safety information sans the metric conversion in the prescribed location. First, all the correct English unit information required by FMVSS No. 120 is provided on the certification label. Second, the information contained on the label is of the correct size. Third, the information contained on the label is in the prescribed format.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its application is granted, and the applicant is exempted from providing the notification of the noncompliance that is required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

(49 U.S.C. 30118, delegations of authority at 49 CFR 1.50 and 501.8).

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