



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0069; Notice 1]

TAP Worldwide, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: TAP Worldwide, LLC, (TAP) has determined that certain model year (MY) 2017-2019 Smittybilt SCOUT Trailer Kits do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less*. TAP filed a noncompliance report dated June 26, 2019. Tap also petitioned NHTSA on July 8, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces receipt of TAP's petition.

DATES: The closing date for comments on the petition is **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket number and notice number cited in the title of this notice and may be submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.

- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except for Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also

be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

SUPPLEMENTARY INFORMATION:

I. Overview: TAP has determined that certain MY 2017-2019 Smittybilt SCOUT Trailer Kits do not fully comply with paragraph S4.3.5 and Figure 1 of FMVSS No. 110, *Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or Less* (49 CFR 571.110).

TAP filed a noncompliance report dated June 26, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. TAP also petitioned NHTSA on July 8, 2019, 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, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt, of TAP's petition, is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercises of judgment concerning the merits of the petition.

II. Trailers Involved: Approximately 176 MY 2017-2019 Smittybilt SCOUT Trailer Kits, manufactured between March 31, 2017, and April 28, 2019, are potentially involved.

III. Noncompliance: TAP explains that the noncompliance is that the vehicle placards on the subject trailer kits, do not fully comply with the formatting and color requirements as required by paragraph S4.3.5 and Figure 1 of FMVSS No. 110.

IV. Rule Requirements: S4.3.5 and Figure 1 of FMVSS No. 110 includes the requirements relevant to this petition. Each trailer, except for incomplete vehicle, must show the information specified in S4.3(c) through (g) and may show the information specified in S4.3 (h) and (j), on a placard permanently affixed proximate to the certification label specified in 49 CFR part 567. The information specified in S4.3(e) shall be shown on both the vehicle placard and on the tire inflation pressure label (if such a label is affixed to provide the information specified in S4.3(c), (d), (h), and (i)) in the format and color scheme set forth in Figures 1 and 2.

V. Summary of TAP's Petition:

TAP described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, TAP submitted the following reasoning:

1. **The subject tire pressure information labels provide all required and correct technical information, and because such information is found in three other locations, there is no safety risk or risk of tire overloading.**
 - a. TAP states that the SCOUT Trailers are equipped with tires that can handle their load carrying capacity, and there is, accordingly, no risk of overloading. The SCOUT Trailer's tires are safe and comply with all applicable standards. The sole noncompliance at issue in this petition relates to formatting, namely the tire information label, not conforming to the formatting and color requirements provided in Figure 1 of FMVSS No. 110. TAP says that because the tire pressure information

labels contain all the information required by FMVSS No. 110 and because such information is accurate, the subject noncompliance will not create a safety risk to any person towing or using a SCOUT Trailer.

- b. Additionally, the correct tire pressure information can be found in three other locations: (1) on the SCOUT Trailer's certification label, as required under 49 CFR Part 565; (2) in the SCOUT Trailer owner's manual; and (3) on the SCOUT Trailer's tire sidewall markings. Accordingly, including the tire pressure information label, there are four separate places where a SCOUT Trailer owner can view the tire size, pressure, and load-carrying capacity information of his/her SCOUT Trailer.
- c. TAP also stated that because the label provides correct information regarding tire size and inflation pressure, TAP's failure to utilize the formatting, provided in Figure 1 of FMVSS No. 110, will not present a motor vehicle safety risk or cause consumers to misunderstand the label.

2. NHTSA has previously granted petitions with inconsequential noncompliances where the noncompliance relates solely to the labeling that does not conform with formatting requirements and where the manufacturer can show that the noncompliance is unlikely to cause consumer misunderstanding.

- a. TAP believes that granting this petition would be consistent with NHTSA's prior decisions on petitions involving label formatting requirements. For example, in connection with a prior petition for inconsequential noncompliance, NHTSA found that deviations in the wording on the label required by FMVSS No. 303 were inconsequential because the rationale and intent of the labeling requirement was nonetheless met, even though the exact, prescribed wording was not used, *See*

IMPCO Technologies; Grant of Petition, 65 FR 14009 (March 15, 2000). Similarly, in another matter, NHTSA concluded that the noncompliance with the seat belt assembly label requirements was inconsequential because although the subject assemblies had the wrong label, the likelihood that a seatbelt would be incorrectly installed as a result was low, *See* TRW, Inc., Grant of Petition, 55 FR 7171, 7172 (February 4, 1993).

Finally, in connection with a petition similar to this one, NHTSA recently found that a tire pressure information label that was not completely legible but provided all of the correct information was an inconsequential noncompliance, *See* Mercedes-Benz USA, LLC, Grant of Petition, 84 FR 25118 (May 30, 2019). With respect to that petition, NHTSA reasoned that the noncompliance was inconsequential because the owners could still find the relevant information in other locations, such as in the owner's manual and on the tire sidewall.

Here, TAP's petition for inconsequential noncompliance meets the criteria that NHTSA has previously held such petitions must meet in order to be granted.

3. NHTSA has also granted petitions for inconsequential noncompliances where tire pressure information labels contained incorrect or missing information.

- a. TAP says that NHTSA has also granted petitions for inconsequential noncompliance relating to the tire pressure information labels when the label contained incorrect information or was missing tire pressure information altogether, *See* General Motors, LLC, Grant of Petition, 84 FR 25117 (May 30, 2019). In so holding, NHTSA reasoned that owners can determine the correct tire pressure information through the owner's manual or other locations. Also, NHTSA recently

granted a petition for inconsequential noncompliance where the tire pressure information label provided tire inflation information for 18-inch tires, even though the vehicle was equipped with 17-inch tires, *See* BMW of North America, LLC, Grant of Petition, 84 FR 26505 (June 6, 2019). NHTSA concluded that there was no risk of underinflating or overloading the tires, and consumers could find the correct tire pressure information in the owner's manual or on the tire sidewall.

Here, not only can the correct tire pressure information for the SCOUT Trailer be found in various other places, but unlike the petitions referenced above, it can also be found on the tire pressure information label itself, as TAP has confirmed that the information listed on the label is accurate.

4. TAP will correct the formatting and color noncompliance on all SCOUT Trailers subsequently sold.

- a. To address the noncompliance referenced in the part 573 Report, TAP has reformatted the SCOUT Trailer tire pressure information label and will utilize the properly formatted label on all SCOUT Trailers sold subsequent to the filing of its June 26, 2019, part 573 Report.

TAP concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to

notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, any decision on this petition only applies to the subject trailers that TAP no longer controlled at the time it determined that the noncompliance existed. However, any decision on this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant trailers under their control after TAP notified them that the subject noncompliance existed.

Authority: (49 U.S.C. 30118, 30120: delegations of authority at 49 CFR 1.95 and 501.8)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

[FR Doc. 2019-20377 Filed: 9/19/2019 8:45 am; Publication Date: 9/20/2019]