

Several States do not tax alternative fuels on a per gallon basis. These States typically charge annual alternative-fueled vehicle registration fees, often depending on vehicle weight or distance of travel, and provide for the issuance of decals to these vehicles. While this fee is a highway-related tax, it is not reportable as on-highway motor fuel use. Receipts associated with these decals are reported to the FHWA as State revenue, but no gallons of highway use are reported to the FHWA, or shown in the FHWA consumption and attribution tables.

#### Current Situation

At the Federal level, these fuels pay applicable motor fuel taxes if the fuels are consumed in on-highway vehicles. At the State level, these fuels usually pay applicable motor fuel taxes if consumed in on-highway vehicles, although some States substitute registration fees as discussed above.

The FHWA instructions in the Guide request the States to report gallons of E85 and M85 with State-reported gallons of gasoline. Likewise, CNG and compressed natural gas are to be reported as LPG. The reported amounts of these fuels are therefore used in the attribution process and reported in FHWA statistical tables.

#### Improvements

The FHWA is proposing to revise the method of reporting alternative fuels. The FHWA proposes to instruct States to use standard conversion rates for equating the energy content of alternative fuels to diesel (to ensure all States will use consistent conversion factors), and to report these energy equivalent gallons to the FHWA by each alternative fuel type.

The FHWA also proposes to develop a mechanism for the reporting of motor fuel gallons that pay registration fees in lieu of per unit motor fuel taxes. The FHWA proposes working with the States to develop a common method of estimating gallons consumed in States that have a registration fee in lieu of per gallon taxes on alternative fuels.

#### Implementation

After evaluating the comments, the FHWA will work with States to develop a procedure, provide the opportunity for public comment, and develop appropriate procedures. The FHWA will also revise the Guide to provide instructions for the above improvements. Revised reporting is proposed to begin in calendar year 2002.

#### Issue: Accounting for International Fuel Tax Agreement Procedures

##### Background

The IFTA is a motor fuel accounting process that became mandatory for all States (and Canadian Provinces) on September 31, 1996. Under IFTA, motor carriers report the distances their trucks travel in all States (and Provinces) in which they operate, and pay the motor fuel taxes due in each State in one transaction to their base State (typically the State where the carrier's business headquarters is located). On a quarterly basis, the States adjust the motor carrier tax revenues among themselves to allocate motor fuel taxes to the State in which the travel actually took place.

The FHWA requires State reporting of IFTA gallons on a net basis—that is, adding in credits for gallons (and revenues received) from other States, and subtracting out credits for gallons (and debiting out receipts) sent to other States. To ensure proper crediting in FHWA tables and attribution procedures, State's must correctly report IFTA motor fuel gallons and receipts.

##### Current Situation

The IFTA organizational agreements have procedures to insure that base State reporting responsibilities are properly carried out and that procedures (such as peer reviews) and sanctions are available to remedy deficient conditions.

#### Improvements

To increase the understanding of States on the importance of reporting adjusted IFTA data to the FHWA, the FHWA proposes to review and document State practices in the reporting of IFTA data to the FHWA. This document will describe how States collect IFTA revenue, how States separate out revenues not related to the gallons of motor fuel and direct motor fuel gallon taxes, how they calculate net gallons and revenues, the time required to process IFTA data and report to the FHWA, and will suggest alternatives for IFTA calculations if full data are not available. An abbreviated version of this report will be incorporated as an appendix to Chapter Two of the Guide.

#### Implementation

The FHWA is soliciting comments on IFTA reporting issues, such as, timing of data submissions and processing, difficulties in data handling and processing, difficulties in incorporating revised data, the FHWA's proposed improvements (above), and any other issues related to developing accurate IFTA data. The FHWA proposes to

incorporate these comments into its evaluation of the relation between the IFTA and the FHWA's motor fuel reporting procedures and to develop additional guidance on IFTA reporting.

(Authority: 23 U.S.C. 315; sections 1103 and 1104, Pub. L. 105-178, 112 Stat. 107 (1998); and 49 CFR 1.48.)

Issued on: August 10, 2000.

**Walter L. Sutton, Jr.,**

*Federal Highway Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-99-6021; Notice 2]

#### Explorer Van Company, Grant of Application for Decision of Inconsequential Noncompliance

Explorer Van Company (Explorer), a division of the Bodor Corporation, is a corporation organized under the laws of the State of Indiana and is located in Warsaw, Indiana. Explorer has determined that it manufactured conversion vans that are in noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 120, Tire selection and rims for motor vehicles other than passenger cars, and 49 CFR Part 567, Certification, and has filed a report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Explorer 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 noncompliances are inconsequential to motor vehicle safety.

Notice of receipt of the application was published, with a 30-day comment period, on September 14, 1999, in the **Federal Register** (64 FR 49836). NHTSA received no comments on this application during the 30-day comment period.

First, from February 1, 1998 to May 31, 1998, Explorer manufactured approximately 2,416 conversion vans that do not meet certain requirements of FMVSS No. 120. The certification label affixed to these Explorer units pursuant to Part 567 failed to comply with S5.3 of FMVSS No. 120 because of the omission of metric measurements, and the failure of Explorer to separately provide the metric measurements on another label, an alternative allowed by FMVSS No. 120.

Second, from January 1998 to August 1998, Explorer manufactured

approximately 187 conversion vans whose certification labels specify that the tires on the rear axle have an inflation pressure of 41 psi, while the maximum inflation pressure indicated on the tires is 35 psi. Explorer explained that this occurred due to a programming error. The vans have P255/70R15 tires installed, but the label recommends P235/75R15XL tires. FMVSS No. 120 permits a manufacturer to install tires on a vehicle that do not match the recommended tire size listed on the certification label. NHTSA chose this approach in the mid-70's to assure the public would get information about an appropriate tire size, while accommodating the then-common practice of changing tires and rims after a new vehicle had been shipped to a dealer. However, the label on the 187 explorer vans recommends a rear axle tire inflation pressure of 41 psi, which is more than the P255/70R15 sidewall maximum inflation pressure of 35 psi.

Third, from 1997 to 1999, Explorer manufactured approximately 68 conversion vans that do not meet the requirements stated in Part 567. Section 567.4(g)(3) requires that the Gross Vehicle Weight Rating (GVWR) be not less than the sum of the unloaded vehicle weight, rated cargo load, and 150 pounds times the designated seating capacity. The GVWR on the vehicle was specified to be 7,000 pounds. NHTSA weighed one of the 68 vans with portable scales, and, using calculated full load conditions with the appropriate fuel and occupant loads, found the van's weight to be 7,214 pounds, without including rated cargo load. This weight exceeds the specified GVWR.

Explorer supported its application for inconsequential noncompliance with the following statements:

1. METRIC AND ENGLISH INFORMATION: "All certification labels now in use by Bodor Corporation's Explorer Vans correctly specify the weights and pressures in metric and English, as required. There were a small number of "old style" labels remaining in inventory which were to have been destroyed and were inadvertently used by the production staff during a short period when the error was discovered \* \* \* the language is inconsequential to motor vehicle safety and should be exempted."

2. TIRE PRESSURE INFORMATION: "Due to a programming error, not more than 187 vehicles may potentially have incorrect tire pressure. The tires are each individually clearly marked with the tire pressure information."

3. GVWR LABELING: "Bodor Corporation undertook an materials

weight reduction program, and, further, no longer utilizes the [Ford] E-150 chassis for high-top conversions, favoring instead the E-250 model with an initial higher weight GVWR. The E-250 was previously not made available in [a] large enough quantity by Ford Motor Company for conversion purposes."

The agency has reviewed Explorer's petition and associated arguments. 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. Paragraph S5.3. specifies by example the correct information labeling requirements. 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.

Section 5164 of the Omnibus Trade and Competitiveness Act (Pub. L. 100-418) makes it the policy of the United States 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.

The agency agrees with Explorer that the label on these vans whose only deficiency is the failure to provide metric information is likely to achieve the safety purpose of the required label. The vehicle user will have the correct safety information, but without the metric conversion, in the prescribed location. First, all the correct English unit information required by FMVSS No. 120 is provided on these certification labels. Second, the information contained on the label is of the correct size. Third, the information contained on the label is in the prescribed format, except for metric values.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the metric noncompliance portion of this petition is inconsequential to motor vehicle safety. Accordingly, we grant its petition on this issue.

With respect to the second issue raised by Explorer, the certification labels on the vehicles specify an inflation pressure of 41 psi for the tires on the rear axle, while the maximum inflation pressure indicated on the tires is 35 psi. FMVSS No. 120 requires a

vehicle manufacturer to specify, either on the certification label or on a separate label, the tire size designation (not necessarily for the tires on the vehicle) and the recommended cold inflation pressure for those tires (emphasis added), such that the sum of the load ratings of the tires at the specified pressure is appropriate for the GAWR. Thus, the tire size and inflation pressure operate as a pair in this requirement. The tire size and inflation pressure displayed on the certification labels of the affected vehicles are appropriate for the GAWR. Therefore, Explorer's vehicles meet this requirement. Notwithstanding there is no regulatory requirement, Explorer stated that it intended to display the tire size actually on the vehicle on its certification labels and has subsequently done so voluntarily.

We note that the inflation pressure specified for the tire size listed by Explorer (but not on the vehicles), 41 psi, is greater than the maximum inflation pressure that the tire manufacturer recommends for the tires that Explorer actually installed on the vehicles, 35 psi, which is molded into the tire sidewall. While the difference between the pressure specified on the label and the maximum pressure specified on the tire could lead to overinflation, which could have adverse safety consequences, it does not constitute a noncompliance with a Federal motor vehicle safety standard. Therefore, Explorer is not statutorily required to conduct a recall campaign, and its petition for an inconsequentiality exemption is moot.

NHTSA contacted Explorer to share our safety concerns with the manufacturer. In a June 28, 2000 letter to the agency, Explorer agreed to voluntarily provide certification labels with correct tire inflation pressure for the 187 vehicles in question.

With respect to the third issue raised by Explorer, Section 567.4(g)(3), requires that the Gross Vehicle Weight Rating (GVWR) of a vehicle shall not be less than the sum of the unloaded vehicle weight, the rated cargo load, and 150 pounds times the designated seating capacity. The GVWR for the Explorer van inspected by NHTSA was 7,000 pounds. With the additional 150 pounds for each of the seven designated seating positions and 183 pounds of gasoline to fill the fuel tank, the estimated weight of the van was 7,214 pounds, which exceeds the GVWR by 214 pounds, even without any cargo. While this overweight condition violates Part 567, it does not create a noncompliance with any Federal motor vehicle safety standard. Therefore, Explorer is not

required by statute to conduct a recall campaign, and its petition for an inconsequentiality exemption is moot.

However, overloading does raise safety concerns, since it can result in premature failures, many times without warning. Components that can be affected by overloading include tires, rims, frame, axle, hubs, steering linkage, brakes, and other suspension parts. Therefore, this matter will be referred to NHTSA's Office of Defects Investigation for further review and for whatever action is deemed appropriate. In addition, the matter will be referred to the Office of Chief Counsel for consideration of possible civil penalty action.

According to Explorer, the manufacturing and labeling processes have been extensively reviewed, the causes of these issues have been isolated, and changes in the processes have been instituted to prevent any future occurrences. In addition, the noncompliances are limited to the vehicles addressed in this notice, and Explorer must ensure that all of its future products comply with the requirements of FMVSS No. 120.

In summary, Explorer's petition is granted in part and dismissed in part. Explorer is exempted from the duty to conduct a notification and remedy campaign with respect to its failure to provide Metric and English information. With respect to the other two issues, the petition is dismissed on the basis that the actions of Explorer, while raising potential safety concerns, did not create noncompliances with Federal motor vehicle safety standards.

(49 U.S.C. 30118, 30120, delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: August 14, 2000.

**Stephen R. Kratzke,**

Associate Administrator for Safety Performance Standards.

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 208X)]

**The Cincinnati, New Orleans and Texas Pacific Railway Company—Abandonment Exemption—in Cumberland and Roane Counties, TN**

On July 28, 2000, The Cincinnati, New Orleans and Texas Pacific Railway Company (CNOTP), a wholly owned subsidiary of Norfolk Southern Railway Company, filed with the Surface

Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903-05 to abandon a line of railroad known as the Crab Orchard Line, between milepost 141.5-H at Crab Orchard and milepost 156.9-H at Rockwood, a distance of 15.4 miles in Cumberland and Roane Counties, TN. The line traverses U.S. Postal Service Zip Codes 37723, 37842, and 37854, and includes the stations of Crab Orchard, Daysville, Ozone, and Rockwood.

In addition to an exemption from 49 U.S.C. 10903, petitioner seeks exemption from 49 U.S.C. 10904 (offer of financial assistance procedures) and 49 U.S.C. 10905 (public use conditions). In support, CNOTP contends that exemption from these provisions is necessary to permit conveyance of the line to the sole shipper on the line, Franklin Industries, for continued operation as a private industrial lead track. CNOTP also requests expedited effectiveness of the exemption on service of the final decision. CNOTP avers that expedited effectiveness is needed here so that ownership of the line may be promptly transferred to the shipper for necessary maintenance and rehabilitation of the right-of-way. These requests will be addressed in the final decision.

The line does not contain federally granted rights-of-way. Any documentation in CNOTP's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by November 15, 2000.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer must be accompanied by a \$1,000 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 6, 2000. Each trail use request must be accompanied by a \$150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB-290 (Sub-No. 208X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001, and (2) James R. Paschall, Norfolk Southern Railway Company, Three Commercial Place, Norfolk, VA 23510-2191. Replies to the CNOTP petition are due on or before September 6, 2000.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565-1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565-1545. [TDD for the hearing impaired is available at 1-800-877-8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: August 10, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

**Vernon A. Williams,**

Secretary.

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## DEPARTMENT OF THE TREASURY

### Customs Service

[T.D. 00-53]

### Retraction of Revocation Notice

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** General notice.

**SUMMARY:** The following Customs broker license numbers were erroneously included in a published list of revoked Customs brokers licenses in the **Federal Register**.