

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****[Docket No. NHTSA-99-6009; Notice 2]****W.F. Mickey Body Company, Inc.,  
Grant of Application for Decision of  
Inconsequential Noncompliance**

W.F. Mickey Body Company, Inc. (Mickey Body), a manufacturer of trailers (beverage bodies, van bodies, and vending bodies), is a corporation organized under the laws of the State of North Carolina with its principal place of business located in High Point, North Carolina. Mickey Body has determined that its tire and rim label information, on some units, is 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." Mickey Body 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 16, 1999, in the **Federal Register** (64 FR 44575). 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 on the tire information level in both English and metric units. The standard also shows an example of the prescribed format.

After the requirement went into effect on March 14, 1996, from that date to March 1999, Mickey Body manufactured approximately 2,464 beverage trailers, 4,222 beverage bodies, 5,822 van bodies, and 472 vending bodies that do not meet the requirements stated in the standard. The certification label affixed to these Mickey Body's units pursuant to Part 567 failed to comply with S5.3 of FMVSS No. 120 because of the omission of metric measurements, and Mickey Body did not separately provide the metric measurements on another label, an alternative allowed by FMVSS No. 120. The use of metric measurements is required by FMVSS No. 120, pursuant to Federal Motor Vehicle Safety Standards: Metric Conversion, 50 FR 13639, published on March 14, 1995, and effective on March 14, 1996.

Mickey Body supports its application for inconsequential noncompliance with the following relevant statements:

1. NHTSA has previously granted an exemption for inconsequential noncompliance [to Dorsey Trailers, Inc.] under circumstances virtually identical to [Mickey Body's] present case.

2. The omission of the metric data from Mickey Body's certification label is highly unlikely to have any effect whatsoever on motor vehicle safety.

3. Mickey Body currently includes a certification label that expresses the GVWR and GAWR in both English and metric units.

4. Mickey Body is not aware of any accident that was allegedly caused by the omission of metric measurements from a certification label.

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 S5.3.2 states that each vehicle shall show the appropriate GVWR, GAWR, and the recommended cold inflation pressure 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 Mickey Body 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 without 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 motor vehicle 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).

Issued on: December 6, 1999.

**Stephen R. Kratzke,**

*Acting Associate Administrator for Safety Performance Standards.*

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**BILLING CODE 4910-59-P**

**DEPARTMENT OF THE TREASURY****Office of the Comptroller of the  
Currency****[Docket No. 99-18]****Operating Subsidiary Notice**

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notice and request for public comment on an operating subsidiary application.

**SUMMARY:** The Office of the Comptroller of the Currency (OCC) requests public comment concerning an application filed by First Tennessee Bank, N.A., Memphis, Tennessee (First Tennessee Bank) to expand the activities of its operating subsidiary, First Tennessee Securities Corporation (FTSC), to underwrite and deal in, to a limited extent, all types of debt and equity securities (other than ownership interests in open-end investment companies).

**DATES:** Comments should be submitted by January 10, 2000.

**ADDRESSES:** Written comments regarding the application should be submitted to the Office of the Comptroller of the Currency, Communications Division, Docket No. 99-18, 250 E Street, SW, Washington, DC 20219. In addition, comments may be sent by facsimile transmission to fax number (202) 874-5274 or by internet mail to [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov). A copy of the application and comments received will be available for inspection and copying at the OCC's Public Reference Room, 250 E Street, SW, Washington, DC 20219. Appointments to inspect the application and review any comments received can be made by calling (202) 874-5043.

**FOR FURTHER INFORMATION CONTACT:** Beth Kirby, Senior Attorney, Securities and Corporate Practices Division, (202) 874-5210, or Stephen Lybarger, NBE—

Licensing Expert, Bank Organization and Structure, (202) 874-5060.

**SUPPLEMENTARY INFORMATION:** First Tennessee Bank has applied to the OCC, pursuant to 12 CFR 5.34(f), to expand the activities of its operating subsidiary, FTSC, to underwrite and deal in, on a limited basis, all types of debt and equity securities (other than ownership interests in open-end investment companies).

FTSC currently is authorized to underwrite and deal in, to a limited extent, municipal revenue bonds and to engage in certain bank permissible activities, including the following:

(1) Arranging commercial mortgage loans for First Tennessee Bank and outside customers, including long-term, fixed rate commercial real estate loans extended by life insurance companies and securitizing such loans;

(2) Engaging in private placements of corporate debt securities, trust preferred securities, and leases, including structuring, documenting, and placing fixed rate secured and unsecured term debt, fixed rate subordinated debt, and fixed rate mezzanine debt for commercial customers, as well as engaging in large lease transactions and loan syndications and participations;

(3) Providing advisory services in connection with mergers and acquisitions activities, including valuations, acquisitions, and sales such as the acquisition or marketing of branches for financial institutions;

(4) Buying and selling all types of securities on an agency or "riskless principal" basis;

(5) Engaging as principal in investing and trading activities in bank eligible securities;

(6) Advising, structuring, arranging and executing transactions, as agent or

principal, with respect to derivative instruments;

(7) Underwriting, dealing, trading, investing and public finance activities in bank eligible securities, including securities of states and political subdivisions thereof which meet the definition of general obligation securities as defined by the OCC; and

(8) Securitizing and selling pools of consumer-receivable loans, including credit card loans, auto loans, home equity lines of credit, and 1-4 family residential mortgages, and buying and selling securitized assets.

**Decision of the Comptroller of the Currency on the Application of First Tennessee Bank, N.A., Memphis, TN To Establish an Operating Subsidiary (April 12, 1999), OCC Conditional Approval No. 309, Interpretations and Actions, May 1999, Vol. 12, No. 5 ("First Tennessee Decision")**

Under 12 CFR 5.34(f), the OCC may permit a national bank to conduct an activity through its operating subsidiary that is different from that permissible for the parent national bank, subject to the additional requirements specified in 12 CFR 5.34(f), if the OCC concludes that the activity is part of or incidental to the business of banking or is permitted under other statutory authority.

In considering the proposed activity, the OCC will consider the particular activity at issue and will weigh:

(1) The form and specificity of the restriction applicable to the parent bank;

(2) Why the restriction applies to the parent bank; and

(3) Whether it would frustrate the purpose underlying the restriction on the parent bank to permit a subsidiary

of the bank to engage in the particular activity.

The OCC's evaluation of these factors will also take into account the safety and soundness implications of the activity for the operating subsidiary and the parent national bank, the regulatory safeguards that apply to the operating subsidiary and to the activity itself, any conditions that may be imposed in conjunction with an application approval, and any additional undertakings by the bank or the operating subsidiary that address the foregoing factors.

For activities not previously approved by the OCC, the OCC provides public notice and opportunity for comment on the application by publishing notice of the application in the **Federal Register**. In publishing notice of the application, the OCC does not take a position on issues raised by the proposal. Notice is published solely to seek the views of interested persons on the issues presented and does not represent a determination by the OCC that the proposal meets, or is likely to meet, the criteria outlined above. Interested parties are invited to comment on any aspect of the application.<sup>1</sup>

Dated: November 17, 1999.

**John D. Hawke, Jr.,**

*Comptroller of the Currency.*

[FR Doc. 99-31960 Filed 12-8-99; 8:45 am]

**BILLING CODE 4810-33-P**

<sup>1</sup> The OCC notes that the Bank's proposal will be permissible under the standards of the recently enacted Gramm-Leach-Bliley Act ("G-L-B Act"). The Bank meets (and where applicable, all its insured depository institution affiliates meet) the standards set forth in section 121 of the G-L-B Act for a national bank to have a "financial subsidiary" engaged in the types of activities that include those proposed by the Bank. Section 121 of the Act will become effective March 11, 2000.