

MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004-17553 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Pub. L. 105-383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR Part 388.

**DATES:** Submit comments on or before May 20, 2004.

**ADDRESSES:** Comments should refer to docket number MARAD-2004-17553. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., e.t., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel *WHISPER* is:

*Intended Use:* "Sailing charters."

*Geographic Region:* "Great Lakes and U.S. inland waters."

Dated: April 14, 2004.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

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**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-17539; Notice 1]

#### Delphi Corporation, Receipt of Petition for Decision of Inconsequential Noncompliance

Delphi Corporation (Delphi), has determined that at least one of the fittings on the ends of certain brake hose assemblies that it produced between January 2001 and February 2004 do not comply with S5.2.4 and S5.2.4.1 of 49 CFR 571.106, Federal Motor Vehicle Safety Standard (FMVSS) No. 106, "Brake hoses." Delphi has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Delphi has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

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

Affected are a total of approximately 1534 aftermarket brake hoses produced between January 2001 and February 2004. S5.2.4 requires that:

Each hydraulic brake hose assembly, except those sold as part of a motor vehicle, shall be labeled by means of a band around the brake hose assembly as specified in this paragraph or, at the option of the manufacturer, by means of labeling as specified in S5.4.1.

S5.4.1 states that:

At least one end fitting of a hydraulic brake hose assembly shall be etched, stamped or embossed with a designation at least one-sixteenth of an inch high that identifies the manufacturer of the hose assembly.

Delphi believes that the noncompliance is inconsequential to motor vehicle safety, and that no corrective action is warranted. Delphi states that the subject brake hose assemblies meet the functional performance requirements of the standard for the hose, the fittings, and the assembly, and therefore will perform exactly as intended in the vehicle and will not in any way affect the safety of the vehicle. Delphi further states that the label on the brake hose fitting is redundant to the label on the brake hose itself when the manufacturer of the hose and the fitting are the same, and in this

case the same manufacturer's logo that should be on the fittings is printed on all of the hose that is part of the same assembly.

Delphi states that, since S5.2.4 allows a band to be placed around the hose as an alternative to embossing the logo on one of the fittings, if the S5.2.4 option had been used, the band would be placed on top of the brake hose which already contains the same logo, which appears to be redundant. Delphi also asserts that, since the brake hose assemblies at issue are only sold by the vehicle manufacturer's parts division, if the vehicle owner desired to know the brake hose assembly manufacturer, the vehicle manufacturer could provide this information. Delphi states that since these brake hoses are specific to a specific vehicle, and are not sold at normal consumer automotive retail outlets, the person desiring to replace the brake hose assembly could only find them at the vehicle manufacturer's authorized outlet.

Delphi also states:

There is precedence [sic] for finding that label requirements that are required by Crash Avoidance Standards (the 100 series) do not rise to the level of an unreasonable risk to motor vehicle safety. For example, in the tire standards it often happens that the tire is either not labeled or even mislabeled. NHTSA has consistently found that knowledgeable mechanics would not be misled in such cases and would install the proper tires even if the tire on the vehicle were mislabeled. In this case the vehicle manufacturer's outlet in most cases \* \* \* is the automotive dealer [who] would look up the part number based on the model, the model year, and perhaps with specific equipment. The identification of the brake hose assembly manufacturer would not even come into play.

The Motor Vehicle Safety Act S30117(b) requires manufacturers of motor vehicles and tires to maintain records of purchasers; however, no such requirement exists for other types of equipment. In those cases where a brake hose is replaced in a dealership, it might be possible to identify the owners of those vehicles; assuming that the vehicle was not sold after the brake hose assembly was replaced. In other cases where someone replaces the brake hose assembly oneself or after the warranty period has expired using a garage or body shop to replace them, it is not likely that the owner could be determined. This means that a percentage of the owners of the total brake hose assemblies replaced could not be identified for a recall.

Delphi also states that it is not aware of any vehicle customer complaints or any vehicle crashes that are a result of the absence of the logo in question.

Interested persons are invited to submit written data, views, and arguments on the petition described above. Comments must refer to the

docket and notice number cited at the beginning of this notice and be submitted by any of the following methods. Mail: Docket Management Facility, U.S. Department of Transportation, Nassif Building, Room PL-401, 400 Seventh Street, SW., Washington, DC 20590-0001. Hand Delivery: Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on "Help" to obtain instructions for filing the document electronically. Comments may be faxed to 1-202-493-2251, or may be submitted to the Federal eRulemaking Portal: go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: May 20, 2004. (Authority: 49 U.S.C. 30118, 30120; delegations of authority at CFR 1.50 and 501.8).

Issued on: April 14, 2004.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2004-17440; Notice 1]

#### Hyundai Motor Company, Receipt of Petition for Decision of Inconsequential Noncompliance

Hyundai Motor Company (Hyundai) has determined that certain vehicles that it produced do not comply with S5.3.5(a) of Federal Motor Vehicle Safety Standard (FMVSS) No. 105, "Hydraulic and electric brake systems"; and S5.5.5 of FMVSS No. 135, "Passenger car brake systems". Hyundai has filed an appropriate report pursuant

to 49 CFR Part 573, "Defect and Noncompliance Reports."

Pursuant to 49 U.S.C. 30118(d) and 30120(h), Hyundai has petitioned for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

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

S5.3.5 of FMVSS No. 105 requires that "Each indicator lamp shall display word, words or abbreviation \* \* \* which shall have letters not less than 1/8-inch high." S5.5.5 of FMVSS No. 135 requires that "Each visual indicator shall display a word or words \* \* \* [which] shall have letters not less than 3.2 mm (1/8 inch) high."

Approximately 237,994 vehicles are affected. Approximately 142,667 vehicles do not meet the letter height requirement for the abbreviation "ABS," where the letter height varies from 2.5 mm to 3.1 mm. These include MY 1998-2004 Accents, MY 1998-2004 Elantras, MY 2002-2004 Tiburons, MY 1999-2004 Sonatas, MY 2001-2004 XGs, and MY 2001-2004 Santa Fes. Approximately 95,327 vehicles do not meet the letter height requirements for the word "brake," where the letter height varies from 2.9 mm to 3.1 mm. These include MY 1998-1999 Accents and MY 1998-2001 Tiburons.

Hyundai believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Hyundai states that the International Organization for Standardization (ISO) symbol for the ABS and the "ABS" lettering are part of the same ABS warning indicator, and both are simultaneously illuminated in yellow by the same lighting source. Hyundai explains that both identifications illuminate simultaneously during the instrument cluster warning lamp operation check, and also if an ABS malfunction occurs. Hyundai further states that although the ABS lettering that appears within the ISO symbol is slightly smaller than 3.2 mm in height, the overall height of the ABS warning lamp word/symbol combination significantly exceeds the standard on each of the affected models.

Hyundai says that on the two models where the "brake" lettering is slightly smaller than 3.2 mm in height, the ISO symbol for the brake system and the parking brake ISO symbol are part of the same brake warning indicator. Hyundai

states that both the lettering and symbol identifications illuminate simultaneously in red during the instrument cluster warning lamp operation check, every time the parking brake is applied, and also if a brake system malfunction occurs. Hyundai further points out that although the "brake" lettering that appears below the ISO symbols is slightly smaller than 3.2 mm in height, the overall height of the "brake" warning lamp word and symbols combination exceeds the standard.

Hyundai asserts that this noncompliance is inconsequential as it relates to motor vehicle safety for the following five reasons:

1. The visual indicators in the vehicles are visible to the driver under all driving conditions and therefore meet the requirements of S5.3.4(a) of FMVSS No. 101, "Controls and displays."

2. Unlike FMVSS Nos. 105 and 135, other FMVSSs do not have specific height dimensions for the display such as FMVSS No. 108, "Lamps, reflective devices and associated equipment"; FMVSS No. 121, "Air brake systems"; and FMVSS No. 208, "Occupant crash protection." The requirement in these standards is that the indicator or telltale be clearly visible, recognizable, or discernible, or that the telltale is an indicator to the driver. Hyundai states that the visual indicators in the subject Hyundai vehicles are in full compliance with these requirements.

3. NHTSA issued a notice of proposed rulemaking (NPRM) on September 23, 2003, to update and expand FMVSS No. 101. In this NPRM, NHTSA proposed a new definition of "telltale," as well as specific requirements for such telltales. Specifically, the telltale must be visible to the driver under certain conditions, must have certain illumination characteristics, must have certain color characteristics, and must be located in a specific place. The subject vehicles have visual indicators (telltale) that are in full compliance with these proposed requirements.

4. The owner's manual for each model contain graphic depictions of the indicators, both lettering and ISO symbols, as they appear in the vehicles with descriptions of their operations.

5. Hyundai is not aware of any consumer complaints, crashes, or injuries associated with the size or visibility of the affected visual indicators in the subject vehicles.

Hyundai asserts that the measure of inconsequentiality is whether there is any effect of the noncompliance on operational safety, and given the above five factors, Hyundai states the subject