noncompliant tires were incorrectly marked: ''340 kPa (49 psi).'' The actual conversion of 340 kPa to psi units yields 49.35 psi before rounding to whole numbers (340 kPa divided by a conversion factor of 6.895 equals 49.35 psi).

The labeling requirements of FMVSS No. 109 *New Pneumatic Tire* S4.3.4 (a) mandate that each tire have permanently molded into or onto both sidewalls the maximum permissible inflation pressure in pounds per inch (psi) rounded to the next higher whole number.

MNA argues that this noncompliance will have no impact on either the performance of the tire on a motor vehicle, or on motor vehicle safety itself. MNA argues that NHTSA has recently studied the impact of tire labeling information on safety in the context of its rulemaking efforts under the Transportation Recall Enhancement, Accountability and Documentation (TREAD) Act. This analysis found that sidewall maximum inflation pressure labeling is poorly understood by the general public, and indicated that those consumers that are aware of sidewall maximum inflation pressure labeling commonly misuse this information. A number of commenters on both the Advanced Notice of Proposed Rulemaking and the Notice of Proposed Rulemaking for tire labeling recommended that the maximum inflation pressure labeling be removed from the sidewall because of its limited safety value and its propensity to confuse consumers. NHTSA ultimately decided to retain maximum inflation pressure labeling requirements as an aid in preventing over-inflation. The mislabeling issue in this case will in no way contribute to the risk of over-inflation because the value actually marked is lower than the value required by the regulations.

Also, MNA states that, this mislabeling is clearly inconsequential with respect to safety for all of the following stated reasons: (1) The noncompliance is one solely of rounding to the nearest whole number and labeling; (2) The actual labeling is one psi less than that required by the regulation; (3) Rounding 49.35 psi to 49 psi, the nearest whole number, is more accurate in this case than rounding to the next higher whole number (50) as required by the regulations; (4) All performance requirements of FMVSS No. 109 are met or exceeded; (5) These tires are marked with the correct metric maximum inflation pressure (as allowed by FMVSS No. 109 and as shown on pages 1–32 of the 2003 Tire and Rim Association yearbook); (6) Use of the sidewall label as a source of information for the maximum inflation pressure will not increase the risk of over-inflation of the tire because the actual value is lower than both the actual maximum inflation pressure (by 0.35 psi) and lower than the 50 psi value required for these tires by the regulations; (7) Incorrect use of the sidewall label maximum inflation pressure as a source of information for the recommended inflation pressure will not result in an overloading of the tires or reduce the load capacity of the tires because the 49 psi conversion still remains 8 psi greater than that required to carry the maximum load for these tires. In fact, 340 kPa (50psi) is the higher of two alternative choices for the maximum inflation pressure provided for this tire's load rating per The Tire and Rim Association yearbook. Consequently, MNA believes that the foregoing noncompliance will have an inconsequential impact on motor vehicle safety.

NHTSA believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. In this case, MNA selected the lower inflation pressure provided for this tire's load rating per The Tire and Rim Association yearbook. Except for the one psi understated maximum permissible inflation pressure on the sidewall, the subject tires are properly labeled and constructed in accordance with FMVSS No. 109. This labeling noncompliance has no effect on the performance of the subject tires.

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

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

Issued on: February 18, 2005.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–18755; Notice 3]

Coupled Products, Inc., Notice of Appeal of Denial of Petition for Decision of Inconsequential Noncompliance

Coupled Products, Inc. (Coupled Products) has appealed a decision by the National Highway Traffic Safety Administration that denied its petition for a determination that its noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 106, ''Brake hoses,'' is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published on August 5, 2004, in the **Federal Register** (69 FR 47484). On December 24, 2004, NHTSA published a notice in the **Federal Register** denying Coupled Products' petition (69 FR 76520), stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of Coupled Products' appeal is published in accordance with NHTSA's regulations (49 CFR 556.7 and 556.8) and does not represent any agency decision or other exercise of judgment concerning the merits of the appeal.

Coupled Products determined that certain hydraulic brake hose assemblies that it produced do not comply with S5.3.4 of 49 CFR 571.106, FMVSS No. 106. S5.3.4 of FMVSS No. 106, tensile strength, requires that ''a hydraulic brake hose assembly shall withstand a pull of 325 pounds without separation of the hose from its end fittings.'' A total of approximately 24,622 brake hose assemblies, consisting of 3,092 assemblies bearing Part Number 5478 and 21,530 assemblies bearing Part Number 5480 may not comply with S5.3.4. The potentially affected hoses were manufactured using a ''straight cup'' procedure rather than the appropriate ''step cup'' procedure. Compliance testing by the petitioner of eight sample hose assemblies from two separate manufacturing lots of these hoses revealed that seven of the eight samples experienced hose separation from the end fittings at loads from 224 to 317 pounds. Coupled Products asserted that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted.

NHTSA reviewed the petition and determined that the noncompliance is not inconsequential to motor vehicle

safety. Coupled Products had stated in its petition that because of the specific vehicle application involved, since the hoses are used in specific boat trailer applications of a single trailer manufacturer, the hoses are installed in such a manner as to make it unlikely that the hose assembly would be subject to the type of forces to which the tensile strength test is directed.

However, NHTSA determined that this was not a persuasive argument, since it is also true of many automobile brake hose applications. NHTSA also pointed out that the tensile strength test is a worst case test, subjecting the crimped joint to a separation pull. The purpose of the tensile strength test is to test only the crimped area in a brake hose. A test conducted at an angle to the end fitting centerline, such as conducted by the Coupled Products, would not measure the strength of the crimped area by itself but also the interaction of the end fitting with the interior wall of the brake hose. This would result in a more lenient test for the crimped area.

In its petition, Coupled Products had also asserted that because the braking system on the trailer is independent of the towing vehicle's braking system, a failure of the hose assembly on the trailer would not result in a loss of braking capability of the towing vehicle, and the driver would be able to stop both vehicles. In response, NHTSA determined that in the event that the failure of the hose assembly occurred, the driver of the towing vehicle would be faced with a potentially serious safety situation due to the reduced stopping capability of the vehicle combination.

The compliance testing by Coupled Products resulted in seven of eight sample hose assemblies experiencing hose separation from the end fittings at loads from 224 to 317 pounds. This represents a noncompliance margin of from 45 percent to 2 percent, respectively, compared to the requirement of 325 pounds, over a total population of 24,622 hose assemblies. NHTSA stated that a noncompliance margin of up to 45 percent presents a serious safety concern.

In consideration of the foregoing, NHTSA decided that the petitioner did not meet its burden of persuasion that the noncompliance it described is inconsequential to motor vehicle safety. Accordingly, its petition was denied.

In its appeal from NHTSA's denial, Coupled Products provided new data. It performed new testing on the noncompliant hoses using a hot impulse test modeled in accordance with SAE J1401, which is to be incorporated into FMVSS No. 106 in 2006 (69 FR 76298, 76324). This test was conducted using both properly crimped and incorrectly crimped brake hoses. The hoses passed the test without failures. In addition, Coupled Products conducted life cycle impulse testing based on SAE J1401, using the maximum brake pressure level (1000 psi) of the trailer for 10,000 cycles, equivalent to two panic stops a day—every day—for ten years, to assess the potential of catastrophic failure or leakage. This test was conducted using correctly and incorrectly crimped brake hoses. Couple Products states that there was no deterioration of hose assembly integrity. Coupled Products' appeal submission containing the specific data can be found in the NHTSA Docket for this petition.

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: April 1, 2005.

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

Issued on: February 22, 2005.

Ronald L. Medford,

Senior Associate Administrator for Vehicle Safety.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–19792; Notice 2]

Unified Marine, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

Unified Marine, Inc. (Unified Marine) has determined that certain combination lamps it distributed for sale, which were produced in 2002 through 2004, do not comply with 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, ''Lamps, reflective devices, and associated equipment.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), Unified Marine 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. Notice of receipt of Unified Marine's petition was published, with a 30 day comment period, on December 15, 2004, in the **Federal Register** (69 FR 75106). NHTSA received two comments.

Approximately 52,665 combination lamps and combination lamp kits produced between December 2002 and July 2004 and marketed as ''Road Warrior by SeaSense'' are affected. These include the following combination lamps: 1,624 model 50080272 (right hand), 1,001 model 50080274 (left hand), 1,612 model 80272, and 1,947 model 80274, as well as 46,481 model 50080270 combination lamp kits that consist of two lamps per kit.

The subject rear combination lamps contain taillamps, stop lamps, turn signal lamps, rear reflex reflectors, and side marker lamps. In addition, the combination lamps designated for the left (driver's) side of the vehicle contain license plate lamps. FMVSS No. 108, S5.8.1, requires that each lamp, reflective device, or item of associated equipment manufactured to replace any lamp, reflective device, or item of associated equipment on any vehicle to which this standard applies, be designed to conform to the standard. As such, in order to comply with S5.8.1, the combination lamps must be designed to conform to the photometry, color, and other requirements specific to