



This document is scheduled to be published in the Federal Register on 01/23/2015 and available online at <http://federalregister.gov/a/2015-01037>, and on FDsys.gov

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0093; Notice 2]

**Grote Industries, LLC, Grant of Petition for Decision of
Inconsequential Noncompliance**

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

ACTION: Grant of petition.

SUMMARY: Grote Industries, LLC (Grote), has determined that certain Grote bulk nylon air brake tubing manufactured during the period December 2013 to March 2014 does not fully comply with paragraph S11.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 106; *Brake Hoses*. Grote has filed an appropriate report dated June 13, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5298, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION

I. Grote's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Grote submitted a petition 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 Grote's petition was published, with a 30-Day public comment period, on September 15, 2014 in the Federal Register (79 FR 55066). One comment was received but was removed from the docket because its content was not relevant to the petition. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at: <http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2014-0093."

II. Equipment Involved: Affected are approximately 869 spools of Grote nylon air brake tubing that was manufactured during the period December 2013 to March 2014.

III. Noncompliance: Grote explains that the noncompliance is that, due to a production error, the affected air brake tubing is not properly marked in accordance with paragraph S11.2.1(a) of FMVSS No. 106, which requires plastic air brake tubing to be marked with a designation that identifies the manufacturer of the tubing. In addition, some of the tubing also does not comply with paragraph S11.2.1(e) of FMVSS No. 106 which requires plastic air brake tubing to be marked with the letter "A" to indicate intended use in air brake systems. Specifically, all of

the subject brake tubing was mismarked with the number "1913" in addition to "GROTE" and some of the tubing was also mismarked with the letter "B," instead of the letter "A."

IV. Rule Text: Paragraph S11.2 of FMVSS No. 106 requires in pertinent part:

S11.2 Labeling.

S11.2.1 Plastic air brake tubing. Plastic air brake tubing shall be labeled, or cut from bulk tubing that is labeled, at intervals of not more than 6 inches, measured from the end of one legend to the beginning of the next, in block capital letters and numerals at least one-eighth of an inch high, with the information listed in paragraphs (a) through (e) of this section. The information need not be present on tubing that is sold as part of a motor vehicle.

(a) The symbol DOT, constituting a certification by the hose manufacturer that the hose conforms to all applicable motor vehicle safety standards. ...

(e) The letter "A" shall indicate intended use in air brake systems.

V. Summary of Grote's Analyses: Grote stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

Grote believes that these labeling noncompliances are inconsequential to motor vehicle safety because both the manufacturer designation and the intended use are otherwise clearly marked on the tubing.

Grote stated its belief that the purpose of the manufacturer identification requirement is to permit identification of products in the event of a product recall. If

a recall of the subject air brake tubing was to become necessary the affected tubing could easily be identified by the GROTE name, which is conspicuously marked on all of the affected tubing.

Grote also stated its belief that the manufacturer associated with the identification number "1913" has not existed since 1977 and are are not aware of any manufacturer currently marketing air brake tubing under the "Samuel Moore" brand¹.

The purpose of the "A" letter designation requirement is to indicate that the product is intended for use in air brake applications. As noted above, some of the products are marked as "SAE J844 Type B" instead of the letter "A." Type B tubing is an SAE J844 designation that identifies reinforced air brake tubing. This designation is widely recognized among truck maintenance and service personnel. Regardless, the subject hose is also clearly and prominently marked with the phrase, "GROTE AIR BRAKE," eliminating any possible confusion or misunderstanding as to the intended application of the product.

In addition, Grote stated its belief that NHTSA has made analogous inconsequentiality determinations in similar situations related to other products where a required label was missing, but the product contained other markings that conveyed

¹ After receiving Grote's petition, based on a submission from Eaton Corporation, NHTSA revised its records to indicate that the brake hose manufacturer identification "1913" ceded to Eaton Corporation due to its acquisition of Moore, Samuel, and Company, Synflex Division.

the same or similar information. See Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 35357 (June 12, 2013); Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 71 FR 4396 (Jan. 26, 2006); and Delphi Corporation, Grant of Petition for Decision of Inconsequential Noncompliance, 69 FR 41331 (July 8, 2004).

Grote also informed NHTSA that it has corrected the noncompliance so that all future production nylon air brake tubing will comply with FMVSS No. 106.

In summation, Grote believes that the described noncompliance of the subject nylon air brake tubing is inconsequential to motor vehicle safety, and that its petition, to exempt Grote from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

NHTSA DECISION

NHTSA Analysis: FMVSS No. 106 specifies labeling and performance requirements for brake hoses and plastic air brake tubing. Paragraph S11.2 of the standard requires, in addition to other labeling requirements, that the manufacturer label air brake tubing with a designation that identifies the manufacturer (this designation is filed in writing with the NHTSA's Office of

Vehicle Safety Compliance,) and the letter "A" to indicate intended use in air brake systems.

Grote states that the affected is marked with the manufacturer's designation "GROTE" along with the digits "1913." In addition, some of the affected tubing is also marked with the letter "B" as opposed to the letter "A" to indicate use in air brake systems.

The purpose of the manufacturer designation label is to identify the manufacturer in the event of safety related issues with the brake hose. In this case the manufacturer's designation, "GROTE" is printed next to the following words "AIR BRAKE TUBING." NHTSA believes that this labeling should make it readily apparent that Grote is the manufacturer of the tubing. Should someone attempt to use the "1913" number to identify the manufacturer of the tubing, the manufacturer identified by that designation in NHTSA's publically available manufacturer database, Eaton Corporation, should be able to verify that it was not the manufacturer of the tubing leaving Grote as the manufacturer to be contacted.

For those brake hoses printed with the letter "B" instead of "A", the words "AIR BRAKE TUBING" printed on the tubing indicates that the tubing is intended for use in air brake systems. In addition, FMVSS No. 106 does not associate any meaning to a "B" marking on brake hoses or tubes.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Grote has met its burden of persuasion that the FMVSS No. 106 noncompliance is inconsequential to motor vehicle safety. Accordingly, Grote's petition is hereby granted and Grote is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

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 air brake tubing that Grote no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve Grote distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant air brake tubing under their control after Grote 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)

Jeffrey M. Giuseppe,
Acting Director,
Office of Vehicle Safety Compliance.

BILLING CODE 4910-59-P

[FR Doc. 2015-01037 Filed 01/22/2015 at 8:45 am; Publication
Date: 01/23/2015]