



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2016-0108; Notice 2]

Reflex & Allen USA, Incorporated, Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of petition.

SUMMARY: Reflex & Allen USA, Incorporated (RAUS), has determined that certain Reflex & Allen air brake tubing products do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. RAUS filed a noncompliance information report dated September 1, 2016, and amended it on September 13, 2016. RAUS also petitioned NHTSA on September 30, 2016, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety.

ADDRESSES: For further information regarding this decision please contact Leroy Angeles, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5304, facsimile (202) 366-3081.

SUPPLEMENTARY INFORMATION:

I. Overview: Reflex & Allen USA, Incorporated (RAUS), has determined that certain Reflex & Allen air brake tubing products

do not fully comply with paragraph S7.2.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. RAUS filed a report dated September 1, 2016, and amended it on September 13, 2016, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. RAUS also petitioned NHTSA on September 30, 2016, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on November 25, 2016, in the Federal Register (81 FR 85323). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<https://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2016-0108."

II. Hoses Involved: Approximately 4,500 Reflex & Allen air brake hose products manufactured between October 16, 2015, and August 30, 2016, are potentially involved.

III. Noncompliance: RAUS explains that the noncompliance is that the subject brake hoses are labeled at intervals ranging from 6.5 inches to 11.5 inches, thereby exceeding 6-inch maximum spacing required by paragraph S7.2.1 of FMVSS No. 106.

IV. Rule Text: Paragraph S7.2.1 of FMVSS No. 106 states:

S7.2.1 Hose. Each air brake hose shall be labeled, or cut from bulk hose 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 hose that is sold as part of a brake hose assembly or a motor vehicle.

V. Summary of RAUS's Petition: RAUS described the subject noncompliance and stated its belief that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, RAUS submitted the following reasoning:

- a) RAUS notified NHTSA in a 573 report in early September of 2016, of a potential noncompliance within a population of air brake tubing products. The report was subsequently amended to correct affected part numbers. As described in RAUS's noncompliance notification, the subject air brake tubing is labeled with the complete and correct identifying data, but due to a production error, the labeling appears at intervals that exceed the 6-inch maximum spacing required by the standard.
- b) RAUS noted that all affected products are labeled in accordance with the requirements of FMVSS No. 106 S7.2.1 except for the print legend spacing.

- c) These products are sold only to one Original Equipment Manufacturer (OEM), Volvo Trucks North America (VTNA), which then paints the complete chassis to include painting over the tubing. These products meet all applicable performance requirements of FMVSS No. 106. These products perform exactly as designed. The safety of the vehicle is uncompromised.
- d) The noncompliant products were produced between October 16, 2015 and August 30, 2016. VTNA first notified RAUS of the noncompliance on August 30, 2016. Immediately on that date, RAUS recalibrated the equipment to ensure compliance on all future tubing products and is conducting initial and secondary quality checks to guarantee compliance prior to shipment to VTNA. VTNA is the only customer that receives these products and is fully aware of the situation. RAUS fully believes that these labeling errors are inconsequential to motor vehicle safety because the tubing is properly identified with all required identifiers and meets the standards in every other way. The only noncompliance is the spacing in which the print legends exceed 6 inch intervals in various measurements ranging from 6.5 inches to 11.5 inches.
- e) This noncompliance does not create an unreasonable risk of death or injury in an accident, nor does it create any

operational issues or safety concerns regarding the vehicle. The Safety Act allows for exemptions for manufacturers from the Safety Act's notice and remedy requirements particularly when the noncompliance does not create an unreasonable risk of death or injury in an accident.

- f) The subject brake tubing was marked correctly with all required identifiers yet the print legends fell beyond the maximum 6 inch intervals. This error is inconsequential to motor vehicle safety. One of the main purposes FMVSS No. 106, S7.2.1 is to identify the manufacturer of the brake tubing in the event of a product recall. If a recall of this air brake tubing were to become necessary in the future, the affected products could still be easily identified by the markings which are conspicuously printed on all of the tubing.
- g) There are several examples of NHTSA granting petitions from the reporting and notification requirements based on determinations of inconsequential noncompliance for similar marking/labeling issues including the granting of the Grote Industries LLC petition on January 23, 2015.

RAUS concluded by expressing the belief that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing

notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

NHTSA DECISION:

NHTSA Analyses: NHTSA has reviewed and accepts RAUS's analysis that the subject noncompliance is inconsequential to motor vehicle safety. Specifically, the labeling interval of the brake hose ranging from 6.5 inches to 11.5 inches poses little if any risk to motor vehicle safety given the fact that every product manufactured by RAUS is labeled with all information required by FMVSS No. 106.

RAUS stated that the subject hoses are sold to only one vehicle manufacturer, Volvo Trucks North America (VTNA) and are marked with all the required identifiers. In addition, RAUS states that the subject hoses meet all FMVSS No. 106 requirements other than the labeling interval. As part of NHTSA's review of RAUS's petition, NHTSA contacted RAUS to verify that every hose produced is in fact labeled. RAUS responded that the subject hoses are manufactured in continuous lengths that are labeled. Then the subject bulk hose is shipped or transported from RAUS's facilities to VTNA on cardboard reels. RAUS stated that VTNA cuts individual hoses from the bulk hose and installs them onto vehicle chassis frames. The chassis

frames and hoses are painted after the brake hoses are installed on the chassis.

NHTSA evaluated if having the required labeling information in intervals of 6.5 to 11.5 inches was inconsequential to safety under these circumstances. NHTSA reiterates the need for brake hose labeling required by paragraph S7.2 of FMVSS No. 106 which can be summarized as: a) the symbol DOT, constituting the manufacturer's certification that the hose conforms to all applicable FMVSS; b) manufacturer's designation; c) date of manufacture; d) nominal inside hose diameter; and e) hose type designation. In this situation, all required labeling was present on every item sold by RAUS to VTNA. The bulk hose was labeled at an interval that ranged from 6.5 to 11.5 inch. NHTSA agrees that the users of the bulk brake hose would have ready access to all required information during handling and processing of the bulk hose. Furthermore, NHTSA agrees with RAUS, that in the event of a recall, RAUS or VTNA would be able to easily identify the subject hoses by the required markings on the bulk hose before the hose is cut or installed in vehicles.

As part of its analysis, NHTSA also considered if the hoses need to be labeled after they are installed on vehicles.

Paragraph S7.2.1 of FMVSS No. 106 states "... The information need not be present on hose that is sold as part of a brake hose assembly or a motor vehicle." The vehicle manufacturer who

installs the subject hoses into their vehicles, in this case VTNA, is required to certify the vehicles they manufacture meet all applicable Federal Motor Vehicle Safety Standards, including FMVSS No. 106. Therefore, VTNA, by cutting and installing the hose on its vehicles takes responsibility for the hose as part of the vehicle. Should there be an issue with the brake hoses installed on VTNA vehicles, VTNA would be responsible for identifying scope and conducting a recall of the vehicles.

RAUS stated that on August 30, 2016, they recalibrated their equipment and implemented quality checks to ensure compliance of all future hoses delivered to VTNA.

NHTSA's Decision: In consideration of the foregoing, NHTSA finds that RAUS has met its burden of persuasion that the subject FMVSS No. 106 noncompliance is inconsequential to motor vehicle safety. Accordingly, NHTSA hereby grants RAUS's petition and RAUS is consequently exempted from the obligation of providing notification of, and a free 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, this decision only applies to the subject hoses that RAUS no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve equipment distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant hoses under their control after RAUS 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,

Director,

Office of Vehicle Safety Compliance.

Billing Code 4910-59-P

[FR Doc. 2017-22993 Filed: 10/23/2017 8:45 am; Publication Date: 10/24/2017]