Issued in Washington, DC, on May 25, 2005.

Mary Cheston,

Manager, International Policy Office, Aircraft Certification Service.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–18755; Notice 4]

Coupled Products, Inc., Grant of Appeal of Decision on Inconsequential Noncompliance

Coupled Products, Inc. (Coupled Products) has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) 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. Coupled Products had applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301, ''Motor Vehicle Safety.''

Notice of receipt of the original 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. Coupled Products appealed, and notice of the appeal was published in the **Federal Register** on March 2, 2005 (70 FR 10162). NHTSA received one public comment.

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. Coupled Products had stated in its original petition that because of the specific vehicle application involved (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.

In the notice denying Coupled Products' original petition, NHTSA determined that this was not a persuasive argument. NHTSA 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 original 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 stated 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.

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. Based on the additional data submitted by Coupled Products, NHTSA agrees that the noncompliance is inconsequential to safety. The Agency had a major concern with the possibility of the loss of braking capability when it denied the original petition. However, the petitioner has addressed this issue satisfactorily by comparing the performance of correctly crimped and incorrectly crimped brake hose assemblies. Coupled Products used two types of pressure cycle tests for this purpose.

One type of pressure cycle test purported to simulate the situation of a ''panic stop.'' For this, the petitioner used the maximum pressure level in the trailer (1000 psi) as the upper limit for the pressure cycle (10 seconds at 1000 psi/2 seconds at zero psi), while keeping the brake hoses exposed to 212° F. The brake hoses were exposed to over 10,000 cycles with no failures.

The other type of pressure cycle test conducted by the petitioner (SAE J1401, paragraph 4.2.12 ''Hot Impulse Test'') while exposing the brake hose assemblies to more extreme conditions of temperature (295° F) and pressure (maximum pressure cycle limit of 1600 psi), using a lesser number of cycles (150 cycles), calls for holding 4000 psi for two minutes. All brake hoses tested passed, demonstrating a burst pressure of over 10,000 psi, well over the 4000 psi pressure hold. The performance of the incorrectly crimped brake hose assemblies at the pressure/temperature envelopes covered by Coupled Products' testing satisfactorily addresses NHTSA's concerns that the brake hoses will perform their intended function under operating conditions. Under both types of pressure cycle tests the incorrectly crimped brake hose assemblies performed as well as the correctly crimped assemblies.

NHTSA had additional concerns regarding the effect on the brake hoses of the trailer suspensions reaching their limit of travel, and also with the possibility of interference with the brake hoses during loading/unloading operations. The petitioner submitted a series of photos to address these issues. The photos indicated that there is no effect on the brake hose performance when the trailer's suspensions are in their full jounce (compressed) or rebound conditions, and that there is no possibility of interference with the brake hoses during loading/unloading operations.

The public comment in response to the notice of appeal was from EZ-Loader, Inc., a manufacturer of boat trailers. EZ-Loader stated that it has sold brake hose assemblies manufactured by Coupled Products, and has not had any warranty claims or reports of field incidents related to the brake hose assemblies in question. Therefore, EZ-Loader supports a determination that the noncompliance is inconsequential to motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is

inconsequential to motor vehicle safety. Accordingly, Coupled Products' appeal of NHTSA's decision on inconsequential noncompliance is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

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

Issued on: May 25, 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–2005–21270; Notice 1]

Mercedes-Benz USA LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

Mercedes-Benz USA LLC (Mercedes) has determined that the designated seating capacity placards for certain vehicles that it produced in 2004 do not comply with S4.3(b) of 49 CFR 571.110, Federal Motor Vehicle Safety Standard (FMVSS) No. 110, ''Tire selection and rims.'' Mercedes 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), Mercedes 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 Mercedes' 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 1,576 SLK class vehicles produced between March 24, 2004 and December 15, 2004. S4.3(b) of FMVSS No. 110 requires that a ''placard, permanently affixed to the glove compartment door or an equally accessible location, shall display the * * * [d]esignated seating capacity * * * .'' The noncompliant vehicles have placards stating that the seating capacity is four, when in fact the seating capacity is two.

Mercedes believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Mercedes states:

* * * most, if not all, consumers will look at the number of seats in the vehicle and the number of safety belts to determine its capacity, rather than looking at the tire information placard. Because the SLK Roadster is a two-seater vehicle with no rear seat, it is immediately obvious that the seating capacity is two and not four, and that it is not possible to seat four occupants in the vehicle.

Mercedes further states:

Because it is impossible for the SLK to hold four occupants, the seating capacity labeling error has no impact on the vehicle capacity weight, recommended cold tire inflation pressure and recommended size designation information. All of this information is correct on the tire information placard. Moreover, the purpose of providing seating capacity information is to prevent vehicle overloading. Because the SLK holds only two occupants, it is not possible to overload the vehicle due to reliance on the tire information placard.

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: July 5, 2005.

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

Issued on: May 25, 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 2005–20782; Notice 2]

Porsche Cars North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

Dr. Ing. h.c.F Porsche AG has determined that certain vehicles that it manufactured for model years 2003, 2004 and 2005 do not comply with S4.2.2(a) of 49 CFR 571.114, Federal Motor Vehicle Safety Standard (FMVSS) No. 114, ''Theft protection.'' Pursuant to 49 U.S.C. 30118(d) and 30120(h), on behalf of Dr. Ing. h.c.F Porsche AG, Porsche Cars North America, Inc. (Porsche) has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' Notice of receipt of a petition was published, with a 30-day comment period, on April 11, 2005, in the **Federal Register** (70 FR 18459). NHTSA received no comments.

Approximately 28,949 model year 2003, 2004, and 2005 Porsche Cayenne, Cayenne S and Cayenne Turbo vehicles are affected. S4.2.2(a) of FMVSS No. 114 requires that

* * * provided that steering is prevented upon the key's removal, each vehicle * * * [which has an automatic transmission with a ''park'' position] may permit key removal when electrical failure of this [key-locking] system * * * occurs or may have a device which, when activated, permits key removal.

In the affected vehicles, the steering does not lock when the ignition key is removed from the ignition switch using the optionally provided device that permits key removal in the event of electrical system failure or when the transmission is not in the ''park'' position.

Porsche believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Porsche states the following in its petition: