

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. Coupled 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

the devices incorporated into the lamp combination.

Unified Marine's noncompliance report indicates that the lamps may have incorrectly positioned circuit boards that, consequently, cause insufficient light output to meet the minimum color and photometry requirements of the standard.

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

\* \* \* our light has some deficiencies that are only detectable by highly sensitive testing equipment and not by visual means in actual use and therefore is not a safety issue. Upon review and extensive research, we have found out that the variations are not perceivable to the naked eye, and they are indeed inconsequential as they may only be seen in the laboratory environment. The lights are in no way unsafe in our opinion, and in fact much safer than the millions of conventional lights currently used in the marketplace.

NHTSA has reviewed the petition and has determined that the noncompliance is not inconsequential to motor vehicle safety. In our review, we considered the two comments to the **Federal Register** notice, both of which favored denying this petition. One comment was from the Transportation Safety Equipment Institute (TSEI), a non-profit trade association representing North American manufacturers of vehicle safety equipment including vehicle lighting equipment. TSEI stated, "the noncompliance appears to be systemic, pervasive and substantial, thereby creating a significant safety risk to the motoring public." TSEI offered the following as the basis for its assertions:

Unified Marine has failed to provide specific data demonstrating that, with respect to each of the lamp functions that do not meet the photometric requirements, the reduced photometric output at the specified test points and zones [is inconsequential to motor vehicle safety]. \* \* \* Unified Marine suggests that the sealed design of the subject products and the use of LEDs, rather than conventional lights, make its product safer than a fully compliant lamp. \* \* \* [T]he fact that the noncompliant lamps used LED rather than conventional bulbs does not excuse Unified Marine from the photometric and other requirements of FMVSS No. 108. \* \* \* [In addition,] without providing test results or any other supporting documentation or data, Unified Marine argues that its product "has some deficiencies that are only detectable by highly sensitive testing equipment and not by visual means in actual use." \* \* \* TSEI testing of the petitioner's product—using the same "highly-sensitive," industry-standard equipment apparently used by Unified Marine—reveals that it deviates substantially from the photometric

requirements of FMVSS No. 108. \* \* \* TSEI's own testing data reveal that the subject products overwhelmingly fail the photometric requirements specified in FMVSS No. 108.

The second comment was from Peterson Manufacturing Company (Peterson), a manufacturer of safety lighting equipment for all size vehicles. Peterson provided the following rationale for denial of the petition:

Unified Marine states that the deficiencies are only detectable by "highly sensitive testing equipment" and not by visual means in actual use and therefore is not a safety issue. The photometric testing equipment referred to is common in the lighting industry as most manufacturers rely upon it for consistency, quality and reliability. \* \* \* Unified Marine does not offer supporting test data to substantiate its claim of inconsequential noncompliance. Comparative test data show failures in 5 functions of the 5-function light and 6 functions of the 6-function light. The reflex readings were barely detectable and certainly discernable as failures to the naked eye. The side marker lamp failed 6 of 9 test points (67% failure rate) and the stop and turn function failed 4 of 5 zones (80% failure rate). These are not inconsequential.

NHTSA agrees with the rationale presented by the two commenters. Unified Marine admits that the noncompliances are detectable by testing equipment, and as stated by TSEI and Peterson, this test equipment is the standard used by the lighting industry for consistency, quality and reliability.

Additionally, NHTSA conducted its own testing<sup>1</sup> of two UMI model 50080270 kits (4 lamps) and found numerous photometry failures for this lamp model. For instance, all four stop lamps failed to meet the minimum required photometry for 3 of 5 required zones with failures ranging from 35% to 49% below the minimum required values. Further, all four stop lamps failed to meet the minimum taillamp/stop lamp intensity ratio at all four test points that require a stop lamp intensity of at least 5 times the taillamp intensity. The intensity ratio failures were in the range of 22% to 28% below the required minimum. When tested with an observation angle of 0.2 degrees, all four reflex reflectors exhibited failures at every test point ranging from 92% to 100% below the minimum required values. Further, all four side marker lamps exhibited failures at 45 degree test points with failures ranging from 12% to 76% below the required minimums. Finally, of the two combination lamps that included license plate lamps, both license plate

<sup>1</sup> Calcoast Report No. 108-CCITL-04-1 may be found Docket No. NHTSA-2004-19792.

lamps failed to meet the minimum requirements at the same four (out of eight) required zones. These failures were all more than 73% below the required minimum values. These data show that these lamp models deviate substantially from the photometric requirements specified in FMVSS No. 108.

Unified Marine has not provided convincing objective data regarding the inconsequentiality of its noncompliance. NHTSA believes that the noncompliance margins described above represent a substantial reduction in performance below a minimally compliant device and this reduction is consequential to motor vehicle safety.

In consideration of the foregoing, NHTSA has decided that the petitioner has not met its burden of persuasion that the noncompliance it describes is inconsequential to safety. Accordingly, its petition is hereby denied. Unified Marine must now fulfill its obligation to notify and remedy under 49 U.S.C. 30118(d) and 30120(h).

**Authority:** 49 U.S.C. 30118(d) and 30120(h); 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-2005-20274; Notice 1]

#### Workhorse Custom Chassis, Receipt of Petition for Decision of Inconsequential Noncompliance

Workhorse Custom Chassis (Workhorse) has determined that certain incomplete motor home chassis it produced in 2000 through 2004 do not comply with S3.1.4.1 of 49 CFR 571.102, Federal Motor Vehicle Safety Standard (FMVSS) No. 102, "Transmission shift lever sequence, starter interlock, and transmission braking effect." Workhorse 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), Workhorse 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.