



Commercial Vehicle Safety Alliance

Improving uniformity in commercial motor vehicle safety and enforcement

December 4, 2019

Docket Services
U.S. Department of Transportation
1200 New Jersey Avenue, SE
West Building, Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: Docket Number: NHTSA-2018-0110
Great Dane, LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

The Commercial Vehicle Safety Alliance (CVSA) respectfully submits the following comments regarding the National Highway Traffic Safety Administration's (NHTSA) notice and request for comments on a petition of inconsequential noncompliance from Great Dane LLC, docket number NHTSA-2018-0110.

CVSA is a nonprofit association comprised of local, state, provincial, territorial and federal commercial motor vehicle safety officials and industry representatives. The Alliance aims to achieve uniformity, compatibility and reciprocity of commercial motor vehicle inspections and enforcement by certified inspectors dedicated to driver and vehicle safety. Our mission is to improve commercial motor vehicle safety and uniformity throughout Canada, Mexico and the United States, by providing guidance and education to enforcement, industry and policy makers.

Great Dane's petition for inconsequential noncompliance states that certain model year 2019 drop deck platform trailers were inadvertently manufactured without the certification label required in Federal Motor Vehicle Safety Standard (FMVSS) § 571.223. In the petition, Great Dane argues that while the trailers do not have the certification label stating that the rear impact guard meets the standards outline in the FMVSS, the rear impact guards were still manufactured to meet the requirements and provide the same safety benefits in the event of a rear in collision as if they had the certification label.

CVSA petitioned NHTSA and the Federal Motor Carrier Safety Administration (FMCSA) in March of 2019 to remove the rear impact guard certification labeling requirement. Rear impact guard certification labels frequently wear, fade or are removed during repair. When this happens, motor carriers are unable to obtain new certification labels from the original trailer manufacturers because they can no longer guarantee that the rear impact guard meets the FMVSS manufacturing standard (even though the component may meet the Federal Motor Carrier Safety Regulation (FMCSR) requirements). This results in motor carriers being cited for a rear impact guard violation for a missing label when the rear impact guard meets all other requirements of

§ 393.86 (the FMCSR related to FMVSS § 571.223). Further, since motor carriers are unable to acquire new certification labels from the original equipment manufacturer, there are no reasonable options to meet the certification requirements outlined in § 571.223 and § 393.86(a)(6), which undermines the integrity and uniformity of the roadside enforcement and inspection program.

CVSA agrees with Great Dane's assessment that a rear impact guard without a certification label, that otherwise meets the requirements outlined in FMVSS § 571.223, is not any less safe than a rear impact guard with a label. As NHTSA is considering this issue, CVSA urges the agency to review and grant CVSA's related petition to remove the certification label requirement.

As mentioned above, CVSA also petitioned FMCSA to remove the labeling requirement outlined in § 393.86(a)(6) to promote uniformity of enforcement and remove a requirement that, in many cases, can't be met by the motor carrier. Eliminating the underlying FMVSS requirement would provide FMCSA with the regulatory foundation to remove the corresponding FMCSR requirement.

The Alliance works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

Respectfully,



Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance



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March 12, 2019

The Honorable Heidi King
Deputy Administrator
National Highway Traffic Safety Administration
1200 New Jersey Avenue, SE
Washington, DC 20590-9898

RE: Petition for Rulemaking – Remove Title 49 CFR § 571.223 S5.3 Labeling Certification Requirement

Dear Deputy Administrator King,

Pursuant to Title 49 Code of Federal Regulations (CFR) § 552.3 the Commercial Vehicle Safety Alliance (CVSA) is petitioning the National Highway Traffic Safety Administration to amend § 571.223, rear impact guards, by removing the certification labeling requirement in S5.3 Labeling from the Federal Motor Vehicle Safety Standards (FMVSS).

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Justification

The FMVSS require that rear impact guards on commercial motor vehicles include a certification label, indicating that the component meets the FMVSS requirements for rear impact guards. Accordingly, § 393.86(a)(6) of the Federal Motor Carrier Safety Regulations (FMCSRs) reflects the requirements outlined in § 571.223, requiring that rear impact guards on commercial motor vehicles have the required label. Commercial motor vehicle inspectors check for this label when inspecting vehicles and a violation is documented when the label is missing or does not meet the requirement. While CVSA understands the intent is to provide verification that the rear impact guard in use meets the FMVSS manufacturing requirements outlined in § 571.223, the enforcement of this regulatory requirement outlined in § 393.86(a)(6) of the FMCSRs is resulting in the citation of rear impact guards that otherwise meet the physical requirements and have no negative impact on safety.

Rear impact guard certification labels frequently wear, fade or are removed during repair. When this happens, motor carriers are unable to obtain new certification labels from the original trailer manufacturers because they can no longer guarantee that the rear impact guard meets the FMVSS manufacturing standard (even though the component may meet the FMCSR requirements). This results in motor carriers being cited for rear impact guard violations when the rear impact guard meets all other requirements of § 393.86. Further, since carriers are unable to acquire new certification labels from the original equipment manufacturer, there are no reasonable options to meet the certification requirements outlined in § 571.223 and § 393.86(a)(6), which undermines the integrity of the roadside inspection program. The removal of the certification label requirement would eliminate confusion and inconsistency in enforcement, which benefits both the motor carrier industry and the enforcement community while not negatively impacting safety as the physical components of the guard will still be inspected to the same standard during a roadside inspection and violations of the condition of the guard will be cited under the appropriate § 393.86 subsection.

CVSA is also petitioning the Federal Motor Carrier Safety Administration to remove the labeling requirement outlined in § 393.86(a)(6) to promote uniformity of enforcement and remove a requirement that, in many cases, can't be met by the carrier. Eliminating the underlying FMVSS requirement would provide FMCSA with the regulatory foundation to remove the corresponding FMCSR requirement.

The Alliance works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

Respectfully,



Collin B. Mooney, MPA, CAE
Executive Director
Commercial Vehicle Safety Alliance



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March 12, 2019

The Honorable Raymond P. Martinez
Administrator
Federal Motor Carrier Safety Administration
1200 New Jersey Avenue, SE
6th Floor, West Building
Washington, DC 20590-9898

RE: Petition for Rulemaking – Remove Title 49 CFR § 393.86(a)(6) Certification and Labeling Requirements for Rear Impact Protection Guards

Dear Administrator Martinez,

Pursuant to Title 49 Code of Federal Regulations (CFR) § 389.31, the Commercial Vehicle Safety Alliance (CVSA) is petitioning the Federal Motor Carrier Safety Administration (FMCSA) to amend § 393.86, Rear impact guards and rear end protection, by removing § 393.86(a)(6) Certification and Labeling Requirements for Rear Impact Protection Guards from the Federal Motor Carrier Safety Regulations (FMCSRs).

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Justification

§ 393.86(a)(6) of the FMCSRs requires that rear impact guards on commercial motor vehicles have a label certifying that they meet the Federal Motor Vehicle Safety Standards (FMVSS) requirements for rear impact guards. While CVSA understands the intent is to provide verification that the rear impact guard in use meets the FMVSS manufacturing requirements, the enforcement of this regulatory requirement is resulting in the citation of rear impact guards that otherwise meet the physical requirements and have no negative impact on safety. The purpose of the certification label is to confirm that the component met the FMVSS manufacturing requirements at the time of production and does not pertain to the maintenance of the component once it is in operation.

Rear impact guard certification labels frequently wear, fade or are removed during repair. When this happens, motor carriers are unable to obtain new certification labels from the original trailer manufacturer because they can no longer guarantee that the rear impact guard meets the FMVSS manufacturing standard. This results in motor carriers being cited for rear impact guard violations when the rear impact guard meets all other requirements of § 393.86. Further, since carriers are unable to acquire new certification labels from the original equipment manufacturer, there are no reasonable options to meet the certification requirement outlined in § 393.86(a)(6), which undermines the integrity of the roadside inspection program. The removal of the certification label requirement outlined in § 393.86(a)(6) would eliminate confusion and inconsistency in enforcement, which benefits both the motor carrier industry and the enforcement community while not negatively impacting safety as the physical components of the guard will still be inspected to the same standard during a roadside inspection and violations of the condition of the guard will be cited under the appropriate § 393.86 subsection.

CVSA is also petitioning the National Highway Traffic Safety Administration to remove the certification labeling requirement outlined in § 571.223 S5.3 of the FMVSS. If that petition is granted, removal of the certification labeling requirement in § 393.86(a)(6) will ensure that the FMCSRs are aligned with the FMVSS.

The Alliance works to closely monitor, evaluate and identify potentially unsafe transportation processes and procedures as well as to help facilitate and implement best practices for enhancing safety on our highways. Commercial motor vehicle safety continues to be a challenge and we need the involvement of all affected parties to help us better understand these issues and put into place practical solutions. We appreciate the agency's commitment to safety and stakeholder involvement.

If you have further questions or comments, please do not hesitate to contact me by phone at 301-830-6149 or by email at collinm@cvsa.org.

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