



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2013-0124; Notice 2]

**Custom Glass Solutions Upper Sandusky Corporation, Grant of
Petition for Decision of Inconsequential Noncompliance**

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

ACTION: Grant of petition.

SUMMARY: Custom Glass Solutions Upper Sandusky Corporation (Custom Glass), a subsidiary of Guardian Industries Corporation, has determined that certain laminated glass panes, other than windscreens, do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. FMVSS 205, *Glazing Materials*. Custom Glass has filed an appropriate report dated September 17, 2013, 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, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5298, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Custom Glass's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provision at 49 CFR part 556, Custom Glass 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 the petition was published, with a 30-day public comment period, on September 25, 2014 in the Federal Register (79 FR 57654). No comments were received. 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-2013-0124."

II. Glazing Involved: Approximately 160 laminated glass panes, other than windscreens, intended for the cabs of approximately twenty mining vehicles being manufactured by Atlas Copco in Australia. The panes consist of two 4.0 mm tempered panes manufactured by Auto Temp, Inc. (ATI) that were bonded together with a 0.76 mm PVB layer by Custom Glass and then shipped to Angus Palm, Watertown, South Dakota between August 1, 2013 and September 4, 2013.

III. Noncompliance: Custom Glass explains that the noncompliance is that the labeling on the subject laminated glass panes does not fully meet the requirements of paragraph S6

of FMVSS No. 205. The panes were labeled with the incorrect manufacturer's code mark, incorrect manufacturer's trademark, and incorrect manufacturer's model number, and were incorrectly marked as Tempered.

IV. Rule Text: Refer to the entire text of Paragraph S6 of FMVSS No. 205 for requirements and contextual restrictions.

V. Summary of Custom Glass's Analyses: Custom Glass stated its belief that the subject noncompliance is inconsequential to motor vehicle safety based on the following reasoning:

The parts are incorrectly labeled with the manufacturer's code mark and manufacturer's trademark belonging to the tempered glazing supplier, ATI. The correct manufacturer's code mark, which should have been affixed to the parts at issue, is DOT 22. The correct manufacturer's model number is M85L2 (which identifies laminated glass construction with an 8.5 mm nominal thickness, from which Guardian fabricates automotive parts for use anywhere in a motor vehicle except windshields). The panes are marked with the correct item-of-glazing number.

Although the subject laminated glass panes are affixed with the incorrect manufacturer's code mark, manufacturer's model number and manufacturer's trademark, the laminated glass parts were fabricated in full compliance with the technical requirements of FMVSS No. 205 that currently apply to laminated

glass for use anywhere in a motor vehicle except windshields (item-of-glazing number "2," i.e., "AS-2")

Custom Glass also asserts that the subject noncompliance could not result in the wrong part being used in an OEM or ARG application given that the part would be ordered by its unique part number and not the manufacturer's model number (which corresponds to the glass construction from which the part is fabricated). The parts are also easily traceable back to Custom Glass since they are the only glazing supplier for this particular vehicle.

Custom Glass has additionally informed NHTSA that it has corrected the noncompliance so that all future production vehicles delivered with laminated glass will comply with FMVSS No. 205.

In summation, Custom Glass believes that the described noncompliance of the subject laminated glass parts is inconsequential to motor vehicle safety, and that its petition, to exempt 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. 205 specifies labeling and performance requirements for automotive glazing. Paragraph S6 of FMVSS No. 205 requires glazing material manufacturers to

certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies. A prime glazing material manufacturer certifies its glazing by adding to the marks required in Section 7 of ANSI Z26.1 (1996), the symbol "DOT" and a manufacturer's code mark assigned by the NHTSA's Office of Vehicle Safety Compliance. Section 7 of ANSI Z26.1 (1996) requires manufacturers to mark automotive glazing with the item of glazing number, e.g., "AS-1", the manufacturer's distinctive designation or trademark, and a model number that will identify the type of construction of the glazing material. Section 7 of ANSI Z26.1 (1996) states that the item of glazing number is to be placed in close proximity to other required markings.

In its petition Custom Glass stated that labeling on the affected glazing that did meet all applicable requirements of FMVSS No. 205 and ANSI Z26.1 (1996). Specifically, the glazing was marked with the incorrect manufacturer's code mark, incorrect manufacturer's trademark, and incorrect manufacturer's model number (i.e., M number). The glazing was also incorrectly marked "Tempered" as opposed to "Laminated". The noncompliance is limited to laminated glass panes, other than windscreens, to be used in the cabs of approximately twenty mining vehicles manufactured by Atlas Copco in Australia.

NHTSA believes that the subject labeling errors are inconsequential to motor vehicle safety because; the marking of glazing as "Tempered" or "Laminated" is not required by FMVSS No. 205, the probability of anyone in the United States obtaining the subject incorrectly marked glazing as replacement glazing is very unlikely since the affected glazing is specifically designed for use in mining vehicles manufactured by Atlas Copco in Australia. In addition, there is no concern that the wrong model number on the subject glazing would result in an incorrect replacement part being used because replacement parts are ordered by referring to the glazing part number or by identifying the vehicle for which the replacement glazing is intended. Custom Glass is the only glazing supplier for the vehicles and any replacement glazing acquired from Custom Glass in the future is expected to be marked correctly, and the subject glazing appears to comply with all other applicable requirements of FMVSS No. 205.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that Custom Glass has met its burden of persuasion that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Custom Glass's petition is hereby granted and Custom Glass 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, this decision only applies to the subject laminated glass parts that Custom Glass 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 motor laminated glass parts under their control after Custom Glass 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.

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