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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0078; Notice 2]

AGC Flat Glass North America, Inc., Grant of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Grant of Petition.

SUMMARY: AGC Flat Glass North America, Inc., dba AGC Automotive Americas Co. (AGC) has determined that certain glazing that it manufactured as replacement equipment for model year 2003-2008 Toyota Matrix vehicles, do not fully comply with paragraph S5.1 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. AGC has filed an appropriate report dated May 23, 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, National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5298, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION

I. AGC's Petition: Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR Part 556,

AGC 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 AGC's petition was published, with a 30-Day public comment period, on August 14, 2014 in the Federal Register (79 FR 47722). One comment was received from Toyota Motor Engineering & Manufacturing North America, Inc. (Toyota). To view the petition, comment and 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-2014-0078."

II. Replacement Equipment Involved: Affected are approximately 1,435 replacement back windows (backlites) for model year 2003-2008 Toyota Matrix vehicles that AGC manufactured on February 28, 2012. The subject glazing is labeled "AGC Automotive, DOT-376 M2H5 AS2, 30B, Temperlite."

In the associated Defect and Noncompliance Report that AGC submitted to NHTSA pursuant to 49 CFR Part 573, AGC indicated that, as of May 23, 2014, approximately 941 of the affected 1,435 backlites have already been removed from the stream of commerce, leaving 494 of the backlites subject to notification and recall.

III. Noncompliance: AGC explains that the noncompliance is that the affected glazing does not fully comply with Paragraph S5.1 of FMVSS No. 205 because some portions of the glass located in the wing area of the affected backlites may not fragment into pieces that are small enough to meet the standard set forth in Section 5.7 of ANSI Z26.1-1996 (fragment must weigh less than 4.25 g).

IV. Rule Text: Paragraph S5.1 of FMVSS No. 205 incorporates by reference ANSI Z26.1-1996 and other industry standards. Specifically, Section S5.7 (Fracture Test) of ANSI Z26.1-1996 requires that no individual fragment free of cracks and obtained within 3 minutes subsequent to testing shall weigh more than 4.25 g (0.15 oz.).

V. Summary of AGC's Analyses: AGC stated its belief that the noncompliance exhibited by some glass fragments breaking into pieces that weighing more than 4.25 g does not create a risk to motor vehicle safety for the following reasons:

1. AGC testing demonstrates that the noncompliant fragments have no adverse impact on the characteristics of the glass performing as tempered glass.
2. The design of the 2003-2008 Toyota Matrix leaves it unlikely to cause any safety risks to any vehicle occupant if the ARG backlite breaks.

3. AGC's destructive testing confirmed all noncompliant fragments do not impact the safety of the vehicle or its occupants.

AGC stated that while it recognizes that its tests were static and that the actual results in a crash might be somewhat different. For example, AGC stated its belief that in a rear or partial rear collision, if the glass breaks, most of that glass will fall and remain in the general area of the breakage since the remainder of the vehicle will be propelled forward in the later phases of the crash. This makes it even less likely that any glass will enter or be propelled forward enough to reach the passenger compartment of a vehicle. ARG expects that the subject backlites will react no differently.

Refer to AGC's petition for more detailed descriptions of the data and analyses that it provided in support of its reasoning.

AGC has additionally informed NHTSA that it has corrected the noncompliance so that all future production of the subject glazing will fully comply with FMVSS No. 205.

In summation, AGC believes that the described noncompliance of the subject glazing is inconsequential to motor vehicle safety, and that its petition, to exempt AGC 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. As related to the subject noncompliance, FMVSS No. 205 incorporates ANSI Z26.1 (1996) and other industry standards by reference (S.5.1). Paragraph 4.1 of ANSI Z26.1 (1996) specifies the grouping of tests applicable to each item of glazing. The groupings are also summarized in Table I. Fracture, Test No. 7 (par. 5.7), is part of a grouping of tests specified for item of glazing 2 (AS-2). The purpose of the fracture test is to ensure that resulting fragments are light enough to minimize risk of injury after a glazing fracture. Six production glazing items must be tested (paragraph 3.2.1(3) of ANSI Z26.1 (1996)) and upon fracture no individual piece is to weigh more than 4.25 g (paragraph 5.7.4 of ANSI Z26.1 (1996)).

In the subject petition AGC states that it was alerted to a possible noncompliance by a customer concerning replacement backlites that it manufactured for 2003 – 2008 Toyota Matrix vehicles. In response, AGC conducted fracture testing in accordance with paragraph 5.7 of ANSI Z26.1 (1996) and other testing. The fracture testing produced fragments weighting over the maximum allowed 4.25 g.

AGC stated its belief that the backlites "broke like tempered safety glass and exhibited all the characteristics of safety glazing material required in ANSI Z26.1." The fact that there were fragments that weigh over the required 4.25 g and some fragments weighing over 10 g contradicts AGC's statement. A variation in the size of the fragmented material points to tempering that is not completely consistent with the intent of Test No. 7, "verify that the fragments produced by fracture of safety glazing materials are such as to minimize risk of injury." As stated in ANSI Z26.1 this minimization of risk is afforded by fragments weighing 4.25 g or less.

AGC also explains that the failures are constrained to the winged side edges of the backlites and that 90% of the glass meets the 4.25 g requirement. In addition, AGC claims that since "virtually all" of the black ceramic painted portion of the winged side edges is covered by the door frame and on the exterior of the car this portion of the backlite curves out towards the sides of the vehicle, and that the chances of passengers being injured by broken glass during a crash are small.

NHTSA also reviewed Toyota's comment that it submitted to the docket in response to the publication of the notice of petition. In summary, Toyota states that it does not believe that the noncompliance poses an unreasonable risk to safety due

to the small number of vehicles with the noncompliant glazing installed and because 90% of each backlite complies with the fracture test requirements.

The agency does not agree with Toyota's reasoning. The purpose of FMVSS No. 205 is to "reduce injuries" without regard to the number of vehicles involved. However, AGC has shown that the noncompliance is limited to the winged black ceramic area of the backlite. In the vehicle's interior this area sits on top of the frame and is not exposed to passengers, and in the outside it faces away from the vehicle. Therefore, NHTSA concludes that in this specific case, due to the location of the noncompliant winged section of the backlite in conjunction with the shape of the subject vehicle, there is a low probability that fragments would be propelled to the inside of the vehicle in the event of a glazing fracture.

NHTSA Decision: In consideration of the foregoing, NHTSA has decided that AGC has met its burden of persuasion that the subject FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, AGC's petition is hereby granted and AGC 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 noncompliant glazing that AGC no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant glazing under their control after AGC 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)

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Jeffrey M. Giuseppe, Acting Director,
Office of Vehicle Safety Compliance.

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