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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2015-0126; Notice 2]

Supreme 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: Supreme Corporation (Supreme), has determined that certain model year (MY) 2015-2016 Supreme Classic American Trolley buses manufactured between October 1, 2014 and November 2, 2015, do not fully comply with paragraph S6 of Federal Motor Vehicle Safety Standard (FMVSS) No. 205, *Glazing Materials*. Supreme filed a report dated November 20, 2015, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. Supreme then petitioned NHTSA under 49 CFR part 556 requesting a decision that the subject noncompliance is inconsequential to motor vehicle safety.

ADDRESSES: For further information on this decision contact Luis Figueroa, Office of Vehicles Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5298, facsimile (202) 366-5930.

SUPPLEMENTARY INFORMATION:

I. Overview: Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Supreme 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 March 3, 2016, in the **Federal Register** (81 FR 11358). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) Web site at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2015-0126."

II. Buses Involved: Affected are approximately 21 MY 2015-2016 Supreme Classic American Trolley buses manufactured between October 1, 2014 and November 2, 2015.

III. Noncompliance: Supreme explains that the noncompliance is that the windshields on the subject Trolleys do not contain the "AS1" markings as required by paragraph S6 of FMVSS No. 205.

IV. Rule Text: Paragraph S6 of FMVSS No. 205 requires in pertinent part:

S6. Certification and marking.

S6.1 A prime glazing material manufacturer, must certify, in accordance with 49 U.S.C. 30115, each piece of glazing material to which this standard applies that is designed-

(a) As a component of any specific motor vehicle or camper;
or

(b) To be cut into components for use in motor vehicles or items of motor vehicle equipment.

S6.2 A prime glazing manufacturer certifies its glazing by adding to the marks required by section 7 of ANSI/SAE Z26.1-1996, in letters and numerals of the same size, the symbol "DOT" and a manufacturer's code mark that NHTSA assigns to the manufacturer. NHTSA will assign a code mark to a manufacturer after the manufacturer submits a written request to the Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The request must include the company name, address, and a statement from the manufacturer certifying its status as a prime glazing manufacturer as defined in S4. ...

In addition, paragraph S5.1 of FMVSS No. 205 incorporates by reference ANSI Z26.1-1996 and other industry standards. Specifically, Section 7 (Marking of Safety Glazing Materials) of ANSI Z26.1-1996 requires that:

In addition to any other markings required by law, ordinance, or regulation, all safety glazing materials manufactured for use in accordance with this standard shall be legibly and permanently marked in letters and numerals... with the words American National Standard or the characters AS and... In addition to the preceding markings and immediately adjacent to the words American National Standard or the characters AS, each piece of glazing material shall further be marked... if complying with the requirements of Section 4, Application of Tests, Item 1 with the numeral 1; ...

V. Summary of Supreme's Analyses: Supreme stated its belief that the subject noncompliance is inconsequential to motor vehicle safety for the following reasons:

- (1) Supreme stated that the subject windshields meet all performance and other requirements of FMVSS No. 205 with the exception of the subject noncompliance.
- (2) Supreme stated its belief that repair services for the subject windshields will not be affected because replacement windshields are typically obtained through Supreme distributors who have the correct and compliant replacement glazing.
- (3) Supreme also stated that they have not received any consumer complaints, claims, or warranty claims related to this noncompliance.
- (4) Supreme additionally made mention of similar inconsequential noncompliance petitions that were granted by the agency relating noncompliances that Supreme believes are similar to the subject FMVSS No. 205 noncompliance.

Supreme has informed NHTSA that for all affected vehicles that remain in Supreme's inventory and the inventory of Supreme's distributors, permanent markings in compliance with FMVSS No. 205 will be added to the vehicle windshields before delivery under a sale or lease.

In summation, Supreme believes that the described noncompliance of the subject windshields is inconsequential to motor vehicle safety, and that its petition, to exempt Supreme

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's Analysis: The petition pertains to a population of approximately 21 model year 2015 and 2016 "Classic American Trolley" vehicles, built by Supreme Corporation, that do not have the required "AS1" marking on their windshields. NHTSA has reviewed Supreme Corporation's arguments and has decided that the subject FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety.

There is no effect of the noncompliance on the operational safety of the subject vehicles because the installed windshields meet all other labeling and performance requirements of FMVSS No. 205. Also, there is no possibility that a noncompliant windshield will be installed on a production vehicle or ordered as a replacement part since vehicles in inventory will have compliant windshields before sold or lease, and replacement windshields are obtained through Supreme Corporation.

NHTSA's Decision: In consideration of the foregoing analysis, NHTSA has decided that Supreme has met its burden of demonstrating that the FMVSS No. 205 noncompliance is inconsequential to motor vehicle safety. Accordingly, Supreme's petition is hereby granted and Supreme is exempted from the

obligation of providing notification of, and a remedy for, the subject 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 buses that Supreme 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 buses under their control after Supreme 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, Director
Office of Vehicle Safety Compliance

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