

In support of its belief that its antitheft device will be as or more effective in reducing and deterring vehicle theft than the parts-marking requirement, Honda referenced data showing several instances of the effectiveness of its proposed immobilizer device. Honda first installed an immobilizer device as standard equipment on its MY 2002 CR-V vehicles and referenced NHTSA's theft rate data showing a decrease in thefts since the installation of its immobilizer device. NHTSA's theft rates for MYs 2010, 2011, and 2012 are 0.3195, 0.2742 and 0.2953 respectively. Using an average of 3 MYs theft data (2010–2012), the theft rate for the CR-V vehicle line is well below the median at 0.2963.

Honda also referenced a September 2005 Highway Loss Data Institute report showing an overall reduction in theft rates for the Honda CR-V vehicles after introduction of the immobilizer device. Honda stated that the data show that there was an immediate decrease in MY/calendar year 2002 thefts with its immobilizer-installed vehicles but also showed sustained lower theft rates in following years.

Based on the evidence submitted by Honda on its antitheft device, the agency believes that the antitheft device for the CR-V vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard.

Pursuant to 49 U.S.C. 33106 and 49 CFR 543.7(b), the agency grants a petition for exemption from the parts-marking requirements of Part 541 either in whole or in part, if it determines that, based upon substantial evidence, the standard equipment antitheft device is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of Part 541. The agency finds that Honda has provided adequate reasons for its belief that the antitheft device for the Honda CR-V vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard. This conclusion is based on the information Honda provided about its device.

Based on the supporting evidence submitted by Honda on its device, the agency believes that the antitheft device for the CR-V vehicle line is likely to be as effective in reducing and deterring motor vehicle theft as compliance with the parts-marking requirements of the Theft Prevention Standard (49 CFR 541). The agency concludes that the device

will provide the five types of performance listed in § 543.6(a)(3): Promoting activation; attract attention to the efforts of an unauthorized person to enter or move a vehicle by means other than a key; preventing defeat or circumvention of the device by unauthorized persons; preventing operation of the vehicle by unauthorized entrants; and ensuring the reliability and durability of the device.

For the foregoing reasons, the agency hereby grants in full Honda's petition for exemption for the CR-V vehicle line from the parts-marking requirements of 49 CFR part 541, beginning with the 2016 model year vehicles. The agency notes that 49 CFR part 541, Appendix A-1, identifies those lines that are exempted from the Theft Prevention Standard for a given model year. 49 CFR part 543.7(f) contains publication requirements incident to the disposition of all Part 543 petitions. Advanced listing, including the release of future product nameplates, the beginning model year for which the petition is granted and a general description of the antitheft device is necessary in order to notify law enforcement agencies of new vehicle lines exempted from the parts-marking requirements of the Theft Prevention Standard.

If Honda decides not to use the exemption for this line, it must formally notify the agency. If such a decision is made, the line must be fully marked according to the requirements under 49 CFR parts 541.5 and 541.6 (marking of major component parts and replacement parts).

NHTSA notes that if Honda wishes in the future to modify the device on which this exemption is based, the company may have to submit a petition to modify the exemption. Part 543.7(d) states that a Part 543 exemption applies only to vehicles that belong to a line exempted under this part and equipped with the anti-theft device on which the line's exemption is based. Further, Part 543.9(c)(2) provides for the submission of petitions "to modify an exemption to permit the use of an antitheft device similar to but differing from the one specified in that exemption."

The agency wishes to minimize the administrative burden that Part 543.9(c)(2) could place on exempted vehicle manufacturers and itself. The agency did not intend in drafting Part 543 to require the submission of a modification petition for every change to the components or design of an antitheft device. The significance of many such changes could be *de minimis*. Therefore, NHTSA suggests that if the manufacturer contemplates making any changes, the effects of

which might be characterized as *de minimis*, it should consult the agency before preparing and submitting a petition to modify.

Under authority delegated in 49 CFR part 1.95.

**Raymond R. Posten,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA–2014–0093; Notice 2]

#### Grote Industries, LLC, Grant of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of petition.

**SUMMARY:** Grote Industries, LLC (Grote), has determined that certain Grote bulk nylon air brake tubing manufactured during the period December 2013 to March 2014 does not fully comply with paragraph S11.2 of Federal Motor Vehicle Safety Standard (FMVSS) No. 106; *Brake Hoses*. Grote has filed an appropriate report dated June 13, 2014, 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. *Grote's Petition:* Pursuant to 49 U.S.C. 30118(d) and 30120(h) and the rule implementing those provisions at 49 CFR part 556, Grote 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 Grote's petition was published, with a 30-Day public comment period, on September 15, 2014 in the **Federal Register** (79 FR 55066). One comment was received but was removed from the docket because its content was not relevant to the petition. 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–2014–0093.”

II. *Equipment Involved*: Affected are approximately 869 spools of Grote nylon air brake tubing that was manufactured during the period December 2013 to March 2014.

III. *Noncompliance*: Grote explains that the noncompliance is that, due to a production error, the affected air brake tubing is not properly marked in accordance with paragraph S11.2.1(a) of FMVSS No. 106, which requires plastic air brake tubing to be marked with a designation that identifies the manufacturer of the tubing. In addition, some of the tubing also does not comply with paragraph S11.2.1(e) of FMVSS No. 106 which requires plastic air brake tubing to be marked with the letter “A” to indicate intended use in air brake systems. Specifically, all of the subject brake tubing was mismarked with the number “1913” in addition to “GROTE” and some of the tubing was also mismarked with the letter “B,” instead of the letter “A.”

IV. *Rule Text*: Paragraph S11.2 of FMVSS No. 106 requires in pertinent part:

S11.2 Labeling.

S11.2.1 Plastic air brake tubing. Plastic air brake tubing shall be labeled, or cut from bulk tubing that is labeled, at intervals of not more than 6 inches, measured from the end of one legend to the beginning of the next, in block capital letters and numerals at least one-eighth of an inch high, with the information listed in paragraphs (a) through (e) of this section. The information need not be present on tubing that is sold as part of a motor vehicle.

(a) The symbol DOT, constituting a certification by the hose manufacturer that the hose conforms to all applicable motor vehicle safety standards. . . .

(e) The letter “A” shall indicate intended use in air brake systems.

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

Grote believes that these labeling noncompliances are inconsequential to motor vehicle safety because both the manufacturer designation and the intended use are otherwise clearly marked on the tubing.

Grote stated its belief that the purpose of the manufacturer identification requirement is to permit identification of products in the event of a product recall. If a recall of the subject air brake tubing was to become necessary the affected tubing could easily be identified by the GROTE name, which is conspicuously marked on all of the affected tubing.

Grote also stated its belief that the manufacturer associated with the identification number “1913” has not existed since 1977 and are not aware of any manufacturer currently marketing air brake tubing under the “Samuel Moore” brand.<sup>1</sup>

The purpose of the “A” letter designation requirement is to indicate that the product is intended for use in air brake applications. As noted above, some of the products are marked as “SAE J844 Type B” instead of the letter “A.” Type B tubing is an SAE J844 designation that identifies reinforced air brake tubing. This designation is widely recognized among truck maintenance and service personnel. Regardless, the subject hose is also clearly and prominently marked with the phrase, “GROTE AIR BRAKE,” eliminating any possible confusion or misunderstanding as to the intended application of the product.

In addition, Grote stated its belief that NHTSA has made analogous inconsequentiality determinations in similar situations related to other products where a required label was missing, but the product contained other markings that conveyed the same or similar information. See Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 78 FR 35357 (June 12, 2013); Bridgestone Americas Tire Operations, LLC, Grant of Petition for Decision of Inconsequential Noncompliance, 71 FR 4396 (Jan. 26, 2006); and Delphi Corporation, Grant of Petition for Decision of Inconsequential Noncompliance, 69 FR 41331 (July 8, 2004).

Grote also informed NHTSA that it has corrected the noncompliance so that all future production nylon air brake tubing will comply with FMVSS No. 106.

In summation, Grote believes that the described noncompliance of the subject nylon air brake tubing is inconsequential to motor vehicle safety, and that its petition, to exempt Grote 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. 106 specifies labeling and performance requirements for brake hoses and plastic

air brake tubing. Paragraph S11.2 of the standard requires, in addition to other labeling requirements, that the manufacturer label air brake tubing with a designation that identifies the manufacturer (this designation is filed in writing with the NHTSA’s Office of Vehicle Safety Compliance,) and the letter “A” to indicate intended use in air brake systems.

Grote states that the affected is marked with the manufacturer’s designation “GROTE” along with the digits “1913.” In addition, some of the affected tubing is also marked with the letter “B” as opposed to the letter “A” to indicate use in air brake systems.

The purpose of the manufacturer designation label is to identify the manufacturer in the event of safety related issues with the brake hose. In this case the manufacturer’s designation, “GROTE” is printed next to the following words “AIR BRAKE TUBING.” NHTSA believes that this labeling should make it readily apparent that Grote is the manufacturer of the tubing. Should someone attempt to use the “1913” number to identify the manufacturer of the tubing, the manufacturer identified by that designation in NHTSA’s publically available manufacturer database, Eaton Corporation, should be able to verify that it was not the manufacturer of the tubing leaving Grote as the manufacturer to be contacted.

For those brake hoses printed with the letter “B” instead of “A”, the words “AIR BRAKE TUBING” printed on the tubing indicates that the tubing is intended for use in air brake systems. In addition, FMVSS No. 106 does not associate any meaning to a “B” marking on brake hoses or tubes.

*NHTSA Decision*: In consideration of the foregoing, NHTSA has decided that Grote has met its burden of persuasion that the FMVSS No. 106 noncompliance is inconsequential to motor vehicle safety. Accordingly, Grote’s petition is hereby granted and Grote 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, any decision on this petition only applies to the subject air brake tubing that Grote

<sup>1</sup> After receiving Grote’s petition, based on a submission from Eaton Corporation, NHTSA revised its records to indicate that the brake hose manufacturer identification “1913” ceded to Eaton Corporation due to its acquisition of Moore, Samuel, and Company, Synflex Division.

no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve Grote distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant air brake tubing under their control after Grote 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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## 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) Web site 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