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Manager, Orlando Airports District Office  
Southern Region.

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## National Highway Traffic Safety Administration

[Docket No. 94-48; Notice 2]

### John Russo Industrial, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance

John Russo Industrial, Inc. (Russo) of San Jose, California, determined that some of its trucks failed to comply with requirements of several Federal motor vehicle safety standards (FMVSS) in 49 CFR Part 571. These are FMVSS No. 113, "Hood Latch Systems," FMVSS No. 120, "Tire Selection and Rims for Motor Vehicles other than Passenger Cars," FMVSS No. 205, "Glazing Materials," and FMVSS No. 207, "Seating Systems." All these noncompliances were discovered on July 13, 1993 during inspection of vehicles by NHTSA's Office of Vehicle Safety Compliance (File NCI 3288). Russo filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Russo also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) (now 49 U.S.C. 30118 and 30120) on the basis that the noncompliances were inconsequential as they relate to motor vehicle safety. This notice grants the petition.

Notice of receipt of the petition was published on June 9, 1994 (59 FR 29861), and an opportunity afforded for comment. Comments on the petition were received from Donald W. Beams (Fleet Manager, Vehicle Maintenance Division, Department of General Services, City of San Jose); R. A. Gaffney (a senior member of the board of the California Fire Chief's Mechanics Education Committee); and Darlene E. Skelton. These commenters recommended that the petition be denied. Comments on the safety issues were also received from the Fire Marshal of the State of California, Ronny J. Coleman.

#### 1. FMVSS No. 113, "Hood Latch Systems"

In 1991, Russo completed two vehicles which do not comply with the hood latching requirements in S4.2 of FMVSS No. 113, in that panels opening on the front were not provided with a

second latch position on the hood latch system or with a second hood latch system. With respect to this noncompliance, Russo argued:

[49 CFR 571.113 S3] definition, "Hood means any movable exterior body panel forward of the windshield that is used to cover [an] engine, luggage, storage, or battery compartment." The forward face panels on our vehicles are below the windshield, and are not used as compartment, storage, or any criteria to classify it as a hood.

Paragraph S4.2 of standard 113 states: "A front opening hood which, in any open position partially or completely obstructs a driver's forward view through the windshield must be provided with a second latch position on the hood latch system or with a second hood latch system."

The access panels in question are not classified as a hood mechanism, therefore [they] do not need to follow these guidelines. If the panel were left open it would not obstruct the driver's view enough to cause a driving hazard.

Our testing of this design consisted of the air flow testing of up to 78 mph with a head wind of 14 mph that brought the total air speed to 92 mph. Air flow only holds the access panel down more securely. The panel cannot fly up as a result of the air flow.

Panels of similar design are easily found on hundreds of thousands of on-road vehicles including GMC Astro 9500, Chevrolet Titan 90, Ford CLT 9000, Freight Liner cab overs, and many other vehicles \* \* \*.

The Hazmat and Command vehicles are built with windshields which are much larger than those of typical van or cab over engine type vehicles. This large windshield is provided partially as a styling feature and partly to provide exceptional visibility in low speed maneuvering situations. The small area of windshield which would be blocked if the access panel could physically be lifted up by air flow, would not even be in the field of view on typical vehicles in this class.

The City of San Jose disputes Russo's contention that the panel is not a hood, saying that the front compartment "has some storage capacity." Commenters expressed concern that the panel could rise and strike the windshield. The Fire Marshal asks whether a standard has been developed for air flow tests; if no standard exists, the panel's performance in Russo's tests is an inadequate justification for granting the petition.

NHTSA has reviewed Russo's arguments and the comments received. The agency accepts the manufacturer's position that the panels do not cover the engine, luggage or storage space, or battery compartment. The panel, therefore, would not appear to be a "hood" within the meaning of the standard's definition. Even if it were a hood, Russo's 92 mph wind tests provide a measure of assurance that the airflow increases the pressure on the panels, making it unlikely that the wind could blow the panels open. Even if the

panels do blow open, any obstruction to the operator's view is minor and affects visibility only through the lowest portion of the windshield.

#### 2. FMVSS No. 120, "Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars"

Seventeen vehicles completed or modified by Russo from 1989 through 1991 do not have the label required by S5.3 of FMVSS No. 120, which includes the size designation of the tires, the size designation of the rims, and the cold inflation pressure of the tires. According to Russo, the noncompliances are due to removal of labels after the purchaser took delivery of the vehicles. It commented that

Without waiving this petition for exemption due to inconsequential non-compliance, we will notify the Deputy Chief of the San Jose Fire Dept. of our offer to supply and install new decals if they wish in a coordinated verifiable supervised manner. We shall document it for NHTSA and send NHTSA all copies of the labels.

The City of San Jose comments that it has no records that the labels were installed or removed. Darlene E. Skelton says that the same noncompliance can be found on Russo vehicles provided to fire departments other than those of San Jose. The Fire Marshal notes that Russo has offered to provide the labels.

Russo's provision of the labels is the same remedy that other manufacturers with similar noncompliances have performed in the absence of an inconsequentiality petition. Thus, this action moots the petition for relief from remedy. Russo's notification letter to the Fire Department does not contain all the information required by 49 CFR Part 577, but the omissions (safety warnings, DOT address, etc.) are not critical in this case where there is only one owner, who is aware of the problem and who has contacted NHTSA already with comments on it.

#### 3. FMVSS No. 205, "Glazing Materials"

In 1991, Russo completed two vehicles that do not comply with the glazing materials marking requirements in Section 6 of FMVSS No. 205, which state that windshields must be marked AS-1 and windows to the right and left of the driver's position must be marked AS-2. The subject vehicles have no marking on the windshields, and the markings on the windows to the right and left of the driver's position are AS-3, not AS-2. Russo provided a photocopy of a purchase order for AS-1 windshield glass which it claims were used for the windshields. Russo further provided a copy of a letter from the supplier of the cockpit side windows

stating that the windows in question were marked AS-3. Russo argued:

The windshields that were installed in these vehicles were labeled AS-1.

The [installers] had shown us the windshield label on the windshield stock plate before the installation and fitting process. The San Jose Fire Dept.'s Battalion Chief Master Mechanic was also shown the label at this time and he said this to Mr. Shifflet [of NHTSA's Office of Vehicle Safety Compliance] during his visit.

We have a sample of the label that the glass company that supplies the Fire Dept. And all of California had supplied(sic) to show DOT.

The windshield that was supplied to us by San Jose Glass contained this label:

Laminated  
16 CFR 1201 M550  
CATT II AS-1  
DOT 273

\* \* \* \* \*

The labeling on the driver's and passenger's window is also inconsequential to vehicle safety as shown by supporting data that the glass manufacturer uses all the same AS 2 glass except for a very slight insignificant light transmission in AS-certified configuration.

The City of San Jose notes that the side windows are AS-3 rather than AS-2. Darlene E. Skelton and the Fire Marshal note that the noncompliance is easily remedied by the installation of new glass. The Fire Marshal also believes that the windshield should be marked to bring it into full compliance with Standard No. 205.

Because all windshields are required to be AS-1 glazing, NHTSA is confident that, if the unmarked windshields have to be replaced, the replacement windshield will be AS-1 glazing. The agency does not concur with Russo's characterization of the substitution of AS-3 glazing for AS-2 glazing as resulting in "a very slight insignificant light transmission", but it does conclude that, because the noncompliance exists in only two vehicles, it will have an inconsequential effect on safety.

#### 4. FMVSS No. 207, "Seating Systems"

In April 1991, Russo produced one Command/Communications van (1989 Gillig chassis) with an 18,000 pound gross vehicle weight rating. The vehicle is a specially configured portable meeting room for use at the scene of disasters. It is a closed, straight body van-type vehicle consisting essentially of a cab for vehicle operation and a cargo area which Russo converted into a conference room.

Section 4.4 of FMVSS No. 207 requires that all seats not designed to be occupied while the vehicle is in motion are to be conspicuously labeled to that effect. The seats located in the meeting

room area of this vehicle are not designed to be occupied while the vehicle is being operated, but are not labeled as such.

Subsequent to its petition, Russo agreed to provide the labels for the seats in question. This moots its penalty for exemption from the statutory remedial requirements. Any failures to comply with the letter of the notification requirements of Part 577 are less significant in the case where notification is to be provided a single owner who is aware of the noncompliance and has commented to NHTSA on it.

Accordingly, in consideration of the foregoing, it is hereby found that the petitioner has met its burden of persuasion that the noncompliances herein described are inconsequential to motor vehicle safety, and its petition is granted.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 18, 1995.

**Barry Felrice,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Privacy Act of 1974; Computer Matching Programs

**AGENCY:** Internal Revenue Service; Treasury Department.

**ACTION:** Notice.

**SUMMARY:** Pursuant to Section 552a(e)(12) of the Privacy Act of 1974, as amended, and the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs, notice is hereby given of the conduct of Internal Revenue Service computer matching programs.

In accordance with various provisions of section 6103 of the Internal Revenue Code (IRC) of 1986, the computer matching programs provide Federal, State, and local agencies with tax information from IRS records to assist them in administering the programs and activities described hereafter. The purpose of these programs is to prevent or reduce fraud and abuse in certain Federally assisted benefit programs and facilitate the settlement of government claims while protecting the privacy interest of the subjects of the match. The matches are conducted on an on-going basis in accordance with the terms of the Computer Matching Agreement in

effect with each participant as approved by the Data Integrity Boards of both agencies, and for the period of time specified in such Agreement. Members of the public desiring specific information concerning an on-going matching activity may request a copy of the agreement at the address provided below.

**EFFECTIVE DATE:** June 5, 1995.

**ADDRESSES:** Inquiries may be mailed to Director, Office of Disclosure, Internal Revenue Service, P.O. Box 795, Washington, DC 20044.

**FOR FURTHER INFORMATION CONTACT:** Gwen Collins, Program Manager, Privacy Act and Education Branch, Internal Revenue Service, (202) 622-6240.

**SUPPLEMENTARY INFORMATION:** The nature, purposes, and authorities for IRS computer matching programs are as follows:

#### Matches Conducted Pursuant to IRC 6103(1)(7)

The Service is required, upon written request, to disclose current information from returns with respect to unearned income to any Federal, State, or local agency administering federally-assisted benefit programs which provide:

(a) Aid to Families with Dependent Children (AFDC) under a State Plan approved under Part A of Title IV of the Social Security Act;

(b) Medical assistance under a State plan approved under Title XIX of the Social Security Act;

(c) Supplemental Security Income benefits under Title XVI of the Social Security Act, and federally administered supplementary payments of the type described in section 1616(a) of such Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93-66, 87 Stat. 155);

(d) Any benefits under a State plan approved under Titles I, X, XIV or XVI of the Social Security Act (as those titles apply to Puerto Rico, Guam and the Virgin Islands);

(e) Unemployment Compensation under a State law as described in section 3304 of the Internal Revenue Code;

(f) Assistance under the Food Stamp Act of 1977; and

(g) State-administered supplementary payments of the type described in section 1616(a) of the Social Security Act (including payments pursuant to an agreement entered into under section 212(a) of Pub. L. 93-66);

(h) Needs-based pensions under United States Code (USC) Title 38, Chapter 15 or under any other law administered by the Secretary of Veterans Affairs;