



U.S. Department
of Transportation
**National Highway
Traffic Safety
Administration**

1200 New Jersey Avenue SE.
Washington, DC 20590

Ms. Lee Ann Sparks
Schetky Bus & Van Sales
148 N. 90th Rd.
Culver, KS 67484

Dear Ms. Sparks:

This responds to your May 7, 2020 email asking about adding “driver shields” to transit buses and vans. You explain that you are developing a driver’s shield assembly to provide to your customers in the transit industry in an effort to protect drivers from the Coronavirus Disease 2019 (COVID-19). You describe the shields as being constructed with plexiglass, stainless tubing and fasteners, with a swing out door to give drivers access to the stepwell entry platform and passenger cabin. You ask about the requirements that would apply when adding these shields to vehicles. We appreciate this opportunity to respond.

Background

By way of background, the National Highway Traffic Safety Administration (NHTSA) is authorized by the National Traffic and Motor Vehicle Safety Act (“Safety Act,” 49 U.S.C. Chapter 301) to issue Federal motor vehicle safety standards (FMVSS) that set performance requirements for new motor vehicles and new items of motor vehicle equipment. NHTSA does not approve motor vehicles or motor vehicle equipment and does not determine whether a product conforms to the FMVSS outside of an agency compliance proceeding. Instead, the Safety Act requires manufacturers to self-certify that their products conform to all applicable FMVSS that are in effect on the date of manufacture. NHTSA also investigates safety-related defects.

Discussion

Our answer below is based on our understanding of the specific information provided in your email and attached documentation. Please note that this interpretation letter does not have the force and effect of law and is not meant to bind the public in any way. NHTSA will make determinations of conformance with the FMVSSs only in the context of an agency enforcement proceeding. This letter is intended only to provide clarity to the public regarding existing requirements under the law, and represents the opinion of the agency on the questions addressed in your email at the time of signature.

After reviewing the information you provided, NHTSA has concluded that the transparent material of the “shield assembly,” located immediately to the right of a driver, is an interior partition composed of motor vehicle “glazing” that must comply with FMVSS No. 205, “Glazing materials.” FMVSS No. 205 establishes minimum performance requirements for glazing materials for use in motor vehicles and motor vehicle equipment and incorporates by reference an industry standard, the American National Standards Institute American National Standard for Safety Glazing Materials for Glazing Motor Vehicles and Motor Vehicle Equipment Operating on Land Highways-Safety Standard (ANSI/SAE Z26.1-1996). FMVSS No. 205 and ANSI/SAE Z26.1 specify performance requirements for various types of glazing (called “Items”), and specify the locations in vehicles in which each item of glazing may be used. FMVSS No. 205 applies to glazing installed in motor vehicles¹ prior to first purchase and to aftermarket glazing for use in motor vehicles.

As motor vehicle glazing, the transparent material of your barrier must meet the requirements of FMVSS No. 205 and be certified as meeting that standard by the prime glazing manufacturer, and, if applicable, the manufacturer or distributor who cuts the glazing into components for use in motor vehicles or items of motor vehicle equipment.² If you, in assembling the barrier, cut the glazing, you must ensure the glazing meets the requirements of FMVSS No. 205, and must certify its compliance pursuant to S6.3 of FMVSS No. 205. On the other hand, if you only assemble the barrier using pre-cut glazing that has been certified by a glazing manufacturer, you are not required to certify the glazing. However, as the manufacturer of the aftermarket barrier, you are responsible for ensuring your product is free from safety-related defects. If you or this agency finds your product to contain a safety-related defect after you market the product, you are responsible for conducting a notice and recall campaign as required under 49 U.S.C. §§ 30118-30120.

As described in your email, the barrier would be located to the right of the driver. In that location, and for every vehicle type, portions of the glazing would be requisite for driving visibility. Any portion of the glazing that the driver would see through in order to view windows requisite for driving visibility would also be considered requisite for driving visibility. For buses and multipurpose passenger vehicles (MPVs), this would include any window to the immediate right or left of the driver and the front windshield.³ (For passenger cars, all windows are considered requisite for driving visibility.)

¹ Requirements for glazing vary by vehicle type. You state that the barriers will be installed in buses and “vans.” NHTSA does not use the term “van” when classifying motor vehicles for purposes of FMVSS applicability. If the vehicle in which the barriers will be installed carry more than 10 persons, the vehicle would be classified as a bus under NHTSA’s FMVSS. If the vehicle carries 10 or fewer persons, it would be classified as either a multipurpose passenger vehicle (MPV) or passenger car, depending on whether the vehicle is built on a truck chassis or with special features for occasional off-road operation (49 CFR 571.3). Based on your email, we assume that the vehicles in which the barriers would be installed are not passenger cars. Thus, we assume the vehicles are “buses” or “MPVs.” We assume the vehicles are not trucks. This classification is important for determining the application of the glazing standard to the vehicles.

² 49 CFR 571.205, S6.

³ In a letter to Cris Morgan, NHTSA concluded that low-level glazing on doors to the right or left of the driver are considered windows that are requisite for driving visibility. Therefore, glazing through which the driver would view

Glazing for interior partitions in areas requisite for driving visibility must be of one of the following types of glazing: Item 1, Item 2, Item 4, Item 4A, Item 10, Item 11A, Item 11C,⁴ Item 14, Item 15A, or Item 15B. Glazing for interior partitions in areas not requisite for driving visibility must be one of the following types of glazing: Item 1, Item 2, Item 3, Item 4, Item 4A, Item 5, Item 10, Item 11A, Item 11B, Item 11C, Item 12, Item 13, Item 14, Item 15A, Item 15B, Item 16A, or Item 16B.

Please note that there may be additional requirements depending on who installs the barrier. If the barrier is installed prior to first vehicle sale, the installer must ensure that, with the barrier installed, the vehicle complies with FMVSS No. 205 and all other applicable FMVSS, and must certify the vehicle as complying with all applicable FMVSS. If the barrier is installed as aftermarket equipment by a manufacturer, distributor, dealer, rental company, or motor vehicle repair business, that entity would be subject to 49 U.S.C. 30122, which prohibits the entity from knowingly making inoperative any device or element of design installed on or in a motor vehicle or item of motor vehicle equipment in compliance with an applicable FMVSS. In either case, the entity installing the barrier should pay particular attention to ensuring that installation of the barrier does not obstruct the driver's view of the mirrors and/or rearview image required under FMVSS No. 111, "Rear visibility," impact the vehicle's compliance with FMVSS No. 302 "Flammability of interior materials," prevent the driver from readily accessing emergency exits installed in compliance with FMVSS No. 217, "Bus emergency exits and window retention and release," or impede the driver's ability to see through the windows needed for driving visibility.⁵

Apart from requirements that NHTSA administers, the installation of the barrier may be subject to other Federal or State laws or regulations. For example, purchasers or lessees of the vehicles may be subject to the Americans with Disabilities Act (ADA) and the accessibility requirements found at 49 CFR Parts 37 and 38 and may need to ensure that the vehicle they purchase or lease continues to comply with the requirements after the barrier is installed.

these windows would be considered requisite for driving visibility. Letter to Cris Morgan (January 14, 2009), available at <https://isearch.nhtsa.gov/files/08-004149--19%20Nov%2008--sa.htm>.

⁴ If the partition is a bullet-resistant shield constructed using Item 11C glazing, the combined parallel luminous transmittance with perpendicular incidence through both the shield and the permanent vehicle glazing is to be at least 60 %.

⁵ To ensure that installation does not impact the vehicle's compliance with applicable FMVSS, the installer should be familiar with FMVSS requirements for a vehicle of its type and weight. Please note that installation of a safety barrier in vehicles with a GVWR of 4,536 kg (10,000 pounds) or less may require additional considerations as there are different, and often more stringent, requirements for lighter vehicles.

I hope this information is helpful. If you have any further questions, please feel free to contact Callie Roach of my staff at this address or at (202) 366-2992.

Sincerely,

Jonathan C. Morrison
Chief Counsel