#248

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

April 15, 1977

6(b) CLEARED: 3/15/84
~~X~~ No Mfrs Identified
X Excepted
Mfrs Notified
Comments Processed
Part 7 proceeding

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F. J. Trunzo, Jr.
Assistant Counsel
PPG Industries, Inc.
One Gateway Center
Pittsburg, Pennsylvania 15222

Dear Mr. Trunzo:

This letter is in response to your correspondence of February 18, 1977, received by our office on March 2, 1977, in which you seek the views of the Office of the General Counsel in regard to certification under section 14 of the Consumer Product Safety Act (CPSA) as it applies to architectural glazing materials subject to the Commission's Standard for Architectural Glazing Materials (16 CFR 1201).

As you are aware, section 14(a) of the CPSA provides that a manufacturer of a product subject to a consumer product safety standard issued under the CPSA must issue a certificate which certifies that the product conforms to all applicable consumer product safety standards, and that specifies any standard which is applicable. Section 14(a) also specifies that certification shall be on the basis of a test of each product or a reasonable testing program, and that the certificate shall accompany the product or otherwise be furnished to any distributor or retailer to whom the product is delivered. Further, the certificate is required to state the name of the manufacturer or private labeler issuing the certificate, and must include the date and place of manufacture.

You ask whether a permanent label that contains the information specified in section 14(a) and that is on the architectural glazing material itself would, in our view, comport with the certification requirements of section 14(a) until such time as the Commission may adopt regulations with respect to certification and labeling.

It is the view of the Office of the General Counsel that, in the absence of regulations to the contrary, the certification necessary to comply with section 14(a) of the CPSA for the Standard for Architectural Glazing Materials must be in the form of a separate certificate (i.e., a certificate separate from the glazing material, for example, a paper certificate) that accompanies glazing material subject to the standard.

We believe that this interpretation is appropriate in the absence of regulations because one purpose of the certificate is to allow persons in the distribution chain who hold a certificate certifying that glazing material complies with the Commission's standard to rely on that certificate without fear of committing a prohibited act under section 19(a)(1) of the CPSA. Depending on the product involved, the only way these persons may be able to demonstrate that products they receive or distribute comply with a Commission standard is if the certificate is a document separate from the consumer product itself. In the case of architectural glazing materials, for example, if a person in the distribution chain cuts glazing to smaller sizes and thereby destroys the label on the product, that person would be without a separate certificate certifying that the glazing material complies with the Commission's standard and would be without any protection when asked to confirm that such cut glazing complies with the Commission's standard.

In regard to your concern that a paper certificate may be misused, we believe that the certification requirements of section 14(a) would be satisfied by, for example, a certification on an invoice or bill of lading containing the information specified in section 14(a). The legislative history of the CPSA discusses in part the type of certificate that must accompany consumer products subject to a standard. The legislative history makes it clear that a separate certificate need not accompany each individual product.

> "[W]here it is reasonable and appropriate to certify an entire production run, or batch or group of products based upon a reasonable testing program, the certificate may apply to the entire production run, batch or group of products and may be

> furnished to the distributor or retailer together with a bill of lading (or otherwise) at the time the first product from the production run, batch, or group is delivered to the distributor or retailer. For some products it may be possible to certify an entire model year; for others, testing results would be valid for only a single day's production.
>
> The committee understands that an original shipment is frequently divided in the course of its distribution and portions of the shipment will end up in the possession of more than one retailer. In these circumstances, manufacturers, importers, or private labelers would not be expected to issue original certificates to each distributor or retailer. It would satisfy the requirements of this section to deliver a copy of the certification to any party within the distribution chain to whom the product is delivered." H.R. Rep. No. 1153, 92d Cong. 2d Sess. 40 (1972)

A manufacturer, in our view, would not be required, in the absence of regulations, to provide its customers with separate labels to be applied to cut glazing. Moreover, there is nothing to preclude a manufactuter of glazing material from supplementing the certificate it issues with a permanent label placed directly on the glazing material.

In the absence of a Commission rule prescribing a reasonable testing program for architectural glazing materials subject to the Commission's standard, manufacturers of glazing material may develop and implement their own reasonable testing programs for purposes of certifying compliance with the Commission's standard. Records of the reasonable testing program should be maintained for a reasonable period of time. Your proposal to maintain such records for three years after the date of testing appears at this time to be reasonable to us.

You also ask for the Commission's approval for other specific information that you intend to include on the certificate issued in accordance with section 14(a) of the Act. This includes the name of the manufacturer, the place

and date (by week) of manufacture, the type and thickness of glazing, the designation 16 CFR 1201 or "I" or "II", and an identification of the particular tempering furnace or autoclave used.

As long as the certificate issued pursuant to section 14(a) is based on a reasonable testing program, contains a certification that the glazing material conforms to the Standard for Architectural Glazing Materials, specifies the standard that is applicable, states the name of the manufacturer or private labeler issuing the certificate, and includes the date and place of manufacture, it would be in conformance with section 14(a) of the CPSA. Manufacturers are not precluded from including information in addition to that specified above on the certificate. Thus, you could include an identification of the type and thickness of glazing and the particular tempering furnace or autoclave on the certificate.

It is our view that the designation 16 CFR 1201 (I) or 16 CFR 1201(II) or 16 CFR 1201(I), (II), whichever is appropriate, would be an acceptable means of certifying that glazing material conforms to the Commission's standard and an adequate specification of the standard which is applicable. We believe, however, that the designation I or II or I, II by itself would not be an adequate specification that glazing material conforms to the standard and would not be an adequate specification of the standard which is applicable.

In the absence of a regulation to the contrary, we believe manufacturers or private labelers issuing a certificate required by section 14(a)(1) of the CPSA could code the place and date of manufacture, the type and thickness of glazing material and the identification of the particular tempering furnace or autoclave used as you indicate you intend to do. In addition, the certificate could include reference to applicable voluntary standards or certification programs.

We believe that if PPG or other manufacturers of glazing materials issue certificates that comply with the program that we have discussed above, they would be in compliance with section 14(a) of the CPSA.

The Commission anticipates proposing a certification rule for architectural glazing materials under section 14(b) of the CPSA in mid-June. We would welcome your views on the proposed rule when it is published.

This Advisory Opinion has been approved by the Commission.

Sincerely,

David Schmeltzer
Acting General Counsel

PPG INDUSTRIES

PPG INDUSTRIES, INC./ONE GATEWAY CENTER/PITTSBURGH, PENNSYLVANIA 15222/AREA 412/434-2637

F. J. TRUNZO, JR., Assistant Counsel

February 18, 1977

David Schmeltzer, Esq.
Acting General Counsel
Consumer Product Safety Commission
1111 - 18th Street, N.W.
Washington, D.C. 20207

Re: Architectural Glazing Material
Certification and Labeling
Request for Opinion

Dear Mr. Schmeltzer:

Please refer to Section 14 of the Consumer Product Safety Act (the"Act") and 16 CFR 1201.5 - Certification and Labeling.

Section 14 of the Act provides that a product subject to a Standard promulgated by the Commission must be certified as conforming to the Standard and such certification shallbe based on a reasonable testing program. Under Section 14, the Commission also may require a label stating the date and place of manufacture, the identity of the manufacturer, and certification that the product meets the applicable Standard.

The Standard (16 CFR 1201.5) states that certification and labeling shall be in accordance with Section 14 of the Act, and any regulations issued under Section 14 of the Act. The Commission has not issued any regulations under Section 14.

Under current industry practice, the permanent label on the architectural glazing material is the certification that the product meets the Standard. Would you please confirm that a permanent label meeting the information and certification requirements of Section 14 shall constitute the certification as the term is used in Section 14 of the Act until such time as the Commission may adopt regulations with respect to certification and labeling.

Due to problems involving mislabeling or misuse of paper certificates, manufacturers are extremely reluctant to issue such non-permanently affixed labels or certificates. The certification, in the form of a permanent label, avoids these problems of mislabeling and label misuse,

and has the further effect of notifying the consumer of the compliance of the product. In the case of resale of the structure, the permanent label gives assurance to subsequent purchasers that the architectural glazing materials comply with the Standard.

Since the Commission has not issued any Certification and Labeling Regulations under Section 14 of the Act and 1201.5 of the Standard, PPG proposes the following:

1. PPG will develop and implement a reasonable testing program for certification and to determine compliance. Such testing program will be in force until such time as the Commission issues regulations prescribing a mandatory testing program for certification.

2. Records of the reasonable testing for certification shall be retained by PPG, and available for inspection for a period of three years after the date of testing.

3. The permanent label will be our certification that the architectural glazing materials are in compliance with the Standard.

4. The certification, in the form of a permanent label on the architectural glazing material, shall contain, as a minimum, the following:

   a. Name of the manufacturer.

   b. Place* and date* (by week) of manufacture.

   c. Type (i.e., tempered) and thickness*.

   d. 16 CFR 1201 or "I" or "II".

   e. Identification of particular tempering furnace or autoclave.*

   *These may be coded.

The permanent certification label may also contain reference to ANSI Z97.1 SGCC or the Canadian Standard.

PPG intends to implement such program as soon as possible after the Commission's Approval so that PPG's customers, who are fabricators, will have on hand an inventory of certified architectural glazing materials.

Would you also confirm that compliance by PPG with the above program, until the Commission adopts regulations on Certification and Labeling, is not in violation of the Standard or the Act.

Very truly yours,

F. J. Trunzo, Jr.
Assistant Counsel

FJT/mi

cc: Mr. Alan M. Ehrlich

#248a

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

June 28, 1977

6(b) CLEARED: 3/15/84RC

~~No Mfrs. Identified~~

X Proprietary

Mfrs Notified

Comments Processed

Part 6 proceeding

Mr. F. J. Trunzo, Jr.
PPG Industries, Inc.
One Gateway Center
Pittsburgh, Pennsylvania 15222

Dear Mr. Trunzo:

This letter is in reply to your correspondence of May 18, 1977 in which you request that the Office of the General Counsel reconsider Advisory Opinion number 248. In that advisory opinion, the Office of the General Counsel expressed the opinion that, in the absence of regulations, section 14(a)(1) of the CPSA requires that certification that architectural glazing material conforms to the Safety Standard for Architectural Glazing Materials be in the form of a separate certificate that accompanies the product. You suggest that since tempered glass cannot be be cut into smaller pieces without destroying it, there is no need to have a separate certificate accompany the product. You state that certification in the form of a permanent label would not be lost and all parties in the chain of distribution would be able to confirm that the glazing material complies with the Commission's standard.

The Office of the General Counsel believes that Advisory Opinion 248 should not be changed. We continue to believe that in the absence of regulations a separate certificate is required under section 14(a)(1) so that persons in the chain of distribution will have a record that the product they distribute or sell conforms to the Commission's standard.

However, the question of whether certification must be in the form of a separate certificate will be a matter for determination by the Commission as part of the certification regulation under section 14(b) of the CPSA. Your views will be taken into consideration when that regulation is proposed for comment. It is also anticipated that comment on the question of whether a separate certificate should be required to accompany glazing material will be specifically sought when the regulation is proposed. Please do not hesitate to contact me if you have any further questions.

Sincerely,

Theodore J. Garrish
General Counsel

PPG INDUSTRIES

PPG INDUSTRIES, INC./ONE GATEWAY CENTER/PITTSBURGH, PENNSYLVANIA 15222/AREA 412/434-2637

May 18, 1977

F. J. TRUNZO, JR., Assistant Counsel

David Schmeltzer, Esquire
Acting General Counsel
U.S. Consumer Product Safety Commission
Washington, D.C. 20207

Re: Safety Standard
Architectural Glazing Materials
Certification

Dear Mr. Schmeltzer:

Receipt of your letter of April 15, 1977 is acknowledged.

At page 2, second full paragraph of the letter, you state the reason for requiring a Certification of Compliance in the form of a non-permanent separate certificate is to allow persons in the chain of distribution to rely on the certificate without fear of committing a prohibited act under Section 19(a)(1) of the CPSA. You then refer to the possibility of the manufacturer's certification label being lost if a person in the distribution chain cuts the original piece into smaller pieces.

With respect to tempered safety glass, this product cannot be cut into smaller pieces; any attempt to cut or divide the product would destroy the product. Therefore, in the case of tempered safety glass, the Certificate of Compliance in the form of a permanent label would not be lost and all parties in the chain of distribution would have the protection to confirm that the glazing material (tempered safety glass) complied with the Commission's Standard.

You mention that certification on an invoice or bill of lading would meet the requirement of Section 14A of the CPSA. This would be quite a cumbersome approach, as the product shipped or sold may come from several different plants, could be producted on a multitude of dates, and probably would include other products.

In light of the above facts with respect to tempered safety glass, PPG requests that you reconsider your Advisory Opinion and confirm that with respect to tempered safety glass, which cannot be cut to

smaller pieces, a permanent certification label on the glass itself is sufficient for a manufacturer to comply with Section 14(a) of the Consumer Product Safety Act.

Very truly yours,

F. J. Trunzo, Jr.

FJT:mmb

cc: Mr. Alan M. Ehrlich
Mr. F. J. Collin
T. K. Furber, Esquire

#248B

U.S. CONSUMER PRODUCT SAFETY COMMISSION

WASHINGTON, D.C. 20207

July 12, 1977

Mr. James Seale
Process Research Executive
Visador Company
940 Visador Road
P. O. Box 5981
Jasper, Texas 75951

Dear Mr. Seale:

The purpose of this letter is to advise you that the Consumer Product Safety Commission is clarifying advisory opinion 248 as a result of the various problems you have raised in your letter of June 17, 1977 concerning the issuance of certificates of compliance with the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) required by section 14(a) of the Consumer Product Safety Act (CPSA). The relevant portion of section 14(a) states that the "certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered." The advisory opinion stated that the certificate issued under section 14(a) for architectural glazing material must be in the form of a document separate from the glazing material.

In your letter you stated the following:

> "We understand that when CPSC 1201 becomes effective on July 6, 1977, that glass manufacturers will be required to issue Certificates of Compliance to CPSC 1201 with each

> order of glass sent to their customers. Further, we understand that as we purchase glass (tempered) from these glass manufacturers for incorporation into architectural glazing products (Door Lites) for sale we are required to pass the Certificate of Compliance on to our customers." (emphasis added)

The Commission has determined that, until it issues regulations regarding certification of compliance with the Architectural Glazing Materials Standard, a certifying person may issue a single continuing certificate for all complying types of products to be delivered for a specified period of time. Thus, it is not necessary to accompany each order of glass with a certificate.

We note that you have proposed to send letters to all your customers to notify them of the CPSC requirements. Such letter may serve as your certification so long as it contains all of the information required by section 14(a)(1) of the Act. For example, you could advise your customers by letter that all door lites of glass they receive from you had been manufactured by either X, Y or Z manufacturer, that the glass was manufactured in either A, B or C location, and that all such glass has been certified to comply with the Commission's Standard. In regard to the requirement in section 14(a)(1) that the date of manufacture be specified, we believe you could indicate that the certification applies to all products manufactured for a specified or indefinite period of time.

We wish to emphasize that section 14(a) requires manufacturers of products subject to consumer product safety standards to issue certificates, regardless of whether the Commission has issued certification regulations. In addition, under section 14(c)(3) the Commission could, by rule, require that each consumer product subject to a consumer product safety standard be labeled to certify that it meets all applicable standards and to specify the standards that apply.

Several issues regarding the form and content of certification and labeling will be a matter for determination

by the Commission as part of the regulations regarding certification the Commission plans to propose for public comment under section 14. Please do not hesitate to contact me if you have any further questions.

Sincerely,

Margaret A. Freeston
for
Theodore J. Garrish
General Counsel

for flush panel doors
VISADOR
LITES LOUVERS

940 VISADOR ROAD, P. O. BOX 5981, JASPER, TEXAS 75951 • (713) 384-2564 • TELEX 0779420

June 17, 1977

-1

Mr. Allen Brauninger
Division of Enforcement
Consumer Product Safety Commission
Washington, D. C. 20207

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RECEIVED
CPSC
COMPLIANCE & ENFORCEMENT

Mr. Brauninger:

This letter is in response to our phone conversations earlier this week. We understand that when CPSC 1201 becomes effective on July 6, 1977, that glass manufacturers will be required to issue Certificates of Compliance to CPSC 1201 with each order of glass sent to their customers. Further, we understand that as we purchase glass (tempered) from these glass manufacturers for incorporation into architectural glazing products (Door Lites) for sale we are required to pass the Certificate of Compliance on to our customers. The crux of our problem is how best to accomplish this.

We buy on an average [redacted] lites of tempered glass per month from five glass suppliers. We manufacture and ship on an average of [redacted] door lites containing tempered glass per month. These lites are sold each month to [redacted] customers on [redacted] orders containing about [redacted] types of door lites per order. To keep track of which Certificate of Compliance goes with which lite on any order boggles the mind. We would have orders being shipped containing tempered glass purchased from more than one supplier, received at various dates from each supplier, depending upon the product mix ordered. The paper work involved would be tremendous. We would have to duplicate the Certificate of Compliance received with each glass order for each piece of glass in that order and route these certificates through our manufacturing process with the glass. As you can see, it would be extremely difficult for us to administer or pass through a "paper" certification program from our suppliers to our customers.

We have checked with our glass suppliers on the form of their Certificates of Compliance. Only one plans to use his invoice only as a Certificate of Com-

DDB

VISADOR

pliance, i.e. a purely paper certification. The other four plan the following:

1) A letter to the trade explaining the CPSC requirements for a Certificate of Compliance and their procedures therefor.

2) The information required on the Certificate of Compliance will be included on permanent labels etched or sandblasted on each piece of tempered glass.

3) Reference to the above permanent label on invoices to customers.

The permanent label would have the following contents:

1) Name of Manufacturer or his registered trademark or Logo.

2) Code indicating manufacturing plant, if more than one in that company.

3) Date code for date of manufacture.

4) 16 CFR 1201 I or II.

In light of the plans of our suppliers and the difficulty we would have handling a "paper" certification program we propose the following plan:

1) We plan not to purchase glass from a supplier who does not label his product as described above.

2) We will by letter notify all our customers of the CPSC requirements including the allowable use until July 6, 1978, of ANSI Z 97.1 glass made before July 6, 1977, and state that with this exception glass not labeled with 16 CFR 1201 II may not be used in products covered by CPSC 1201. We will

VISADOR

reference permanent labels to be found on each piece of glass.

3) We will reference CPSC 1201 on all our product literature and in our catalogs. (This is complete except for two price lists which will be reprinted by Fall. See sample attached.)

4) If necessary we could include a note on order acknowledgements referencing CPSC 1201, etc. and we could identify Visador on the non glass portion of our products although we would perfer not to do so.

We need to know what to do soon, as July 6, 1977, is rapidly approaching. If you have any questions, call me in Virginia at (703) 783-7251 or Roger Hall in Jasper (713) 384-2564. Also, as I will be out of town unitl July 1st, please reply directly to Roger Hall here in Jasper.

Sincerely,

VISADOR COMPANY

James Seale
Process Research Executive

JS/kh
cc: Roger Hall, General Mgr. Lite Division
cc: Don Hall, Vice-President
cc: Bill Fincannon, Marketing Mgr.

URGENT

UNITED STATES GOVERNMENT

Memorandum

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

TO : The Commission
Through: Richard E. Rapps, Secretary
Through: Margaret A. Freeston, Deputy General Counsel

DATE: July 8, 1977

FROM : Alan H. Schoem, Attorney, OGC

SUBJECT: Draft Modification of Advisory Opinion No. 248

By memorandum dated July 6, 1977, the Office of the General Counsel concurred in a recommendation of the Directorate for Compliance and Enforcement to modify advisory opinion 248. The modification, which was precipitated by a June 17 letter from the Visador Corporation, would allow manufacturers to certify that glazing material complies with the Architectural Glazing Standard by means of a separate certificate or a permanent label on the glazing material. Commissioner Kushner has suggested a somewhat different response that he believes would alleviate the problem raised by Visador and at the same time result in an interpretation of the CPSA that retains the view expressed in advisory opinion 248 that a separate document is required by section 14(a)(1) of the CPSA. We have modified somewhat the language suggested by Commissioner Kushner and have no legal problem with his approach. We believe Commissioner Kushner's approach is consistent with our original advisory opinion and therefore endorse this change.

Allen Brauninger of the Directorate for Compliance and Enforcement advises that CE desires to make compliance with section 14(a)(1) as easy as possible pending issuance of a certification regulation for glazing materials. He points out that CE has few resources to ensure compliance with the certification requirements. He also points out that a separate document used as a certification certificate may be of little practical use in terms of product recall and thus should be as simple as practicable.

Commissioner Kushner suggests the letter to Visador modifying advisory opinion 248 read as follows:

> The purpose of this letter is to advise you that the Consumer Product Safety Commission is clarifying advisory opinion 248 as a result of the various problems you have raised in your letter of June 17, 1977 concerning the issuance

*U.S. GOVERNMENT PRINTING OFFICE: 1974 733-533/1804 1-3

of certificates of compliance with the Safety Standard for Architectural Glazing Materials (16 CFR Part 1201) required by section 14(a) of the Consumer Product Safety Act (CPSA). The relevant portion of section 14(a) states that the "certificate shall accompany the product or shall otherwise be furnished to any distributor or retailer to whom the product is delivered." The advisory opinion stated that the certificate issued under section 14(a) for architectural glazing material must be in the form of a document separate from the glazing material.

In your letter you stated the following:

"We understand that when CPSC 1201 becomes effective on July 6, 1977, that glass manufacturers will be required to issue Certificates of Compliance to CPSC 1201 with each order of glass sent to their customers. Further, we understand that as we purchase glass (tempered) from these glass manufacturers for incorporation into architectural glazing products (Door Lites) for sale we are required to pass the Certificate of Compliance on to our customers." (emphasis added)

The Commission has determined that, until it issues regulations regarding certification of compliance with the Architectural Glazing Materials Standard, a certifying person may issue a single continuing certificate for all complying types of products to be delivered for a specified period of time. Thus, it is not necessary to accompany each order of glass with a certificate.

We note that you have proposed to send letters to all your customers to notify them of the CPSC requirements. Such letter may serve as your certification so long as it contains all of the information required by section 14(a)(1) of the Act. For example, you could advise your customers by letter that all door lites of glass they receive from you had been manufactured by either X, Y or Z manufacturer, that the glass was manufactured in either A, B or C location, and that all such glass has been certified to comply with the Commission's Standard. In regard to the requirement in section 14(a)(1) that the date of manufacture

be specified, we believe you could indicate that the certification applies to all products manufactured for a specified or indefinite period of time.

We wish to emphasize that section 14(a) requires manufacturers of products subject to consumer product safety standards to issue certificates, regardless of whether the Commission has issued certification regulations. In addition, under section 14(a)(3) the Commission could, by rule, require that each consumer product subject to a consumer product safety standard be labeled to certify that it meets all applicable standards and to specify the standards that apply.

Several issues regarding the form and content of certification and labeling will be a matter for determination by the Commission as part of the regulations regarding certification the Commission plans to propose for public comment under section 14. Please do not hesitate to contact me if you have any further questions.

I discussed this clarification to advisory opinion 248 with Mr. Sealy of Visador to see if it would alleviate the practical problem he had raised in his June 17 letter. He indicated that this clarification, while not as desirable from his standpoint as the modification recommended by the Directorate of Compliance and Enforcement, would remedy the practical problem he had raised.

APPROVE MODIFICATION OF ADVISORY OPINION 248 AS RECOMMENDED IN MEMO DATED JULY 6, 1977

_____ _____
(signature) (date)

APPROVE ADVISORY OPINION 248 AS MODIFIED BY COMMISSIONER KUSHNER

_____ _____
(signature) (date)

Comments/Additional Instructions:

UNITED STATES GOVERNMENT

Memorandum

U.S. CONSUMER PRODUCT SAFETY COMMISSION
WASHINGTON, D.C. 20207

TO: To: The Commission
Through: Office of the Secretary
Through: Office of the Executive Director
Through: David Schmeltzer, Assoc. Exec. Dir for Compliance & Enforcement
Through: Office of the General Counsel

DATE:

FROM: Allen F. Brauninger, Attorney, Division of Enforcement

SUBJECT: Advisory Opinion 248, Modification Recommended

In response to an inquiry from PPG industries concerning the appropriate form for the certificate of compliance with the Safety Standard for Architectural Glazing Materials (16 CFR 1201), which is required by Section 14(a) of the Consumer Product Safety Act, the staff prepared an advisory opinion to the effect that in the absence of regulations to the contrary issued by the Commission, the certificate of compliance required by Section 14(a) must be in the form of a document separate from the product, and could not take the form of a permanent label on the product. This opinion was given the number 248. Copies of the opinion and the inquiry to which it responds are attached.

This opinion states that a separate document is necessary because some glazing materials which are subject to the standard can be cut to smaller sizes. The opinion states that if the certificate of compliance for materials which can be cut were in the form of a permanent label, and if some party in the chain of distribution cut the material in such a way as to remove the label from a part of the glazing material, subsequent purchasers of that part of the glazing material from which the label had been cut would not be able to receive the certificate of compliance. This opinion was circulated to and approved by the Commission.

PPG Industries has requested reconsideration of this opinion. This firm states that it manufactures tempered glass, which cannot be cut. Any attempt to cut properly tempered glass will cause that material to shatter into tiny pieces. Therefore, PPG contends that a certificate of compliance in the form of a permanent label could never be cut away from a piece of tempered glass.

Visador, a fabricator of products subject to the standard, has written to the staff describing additional problems presented to that firm by Advisory Opinion 248. A copy of Visador's letter is attached.

*U.S. GOVERNMENT PRINTING OFFICE: 1974 733-533/3604 1-3

Visador states that it purchases glazing materials from five firms, and that only one of these firms has stated that it will issue the certificate of compliance in the form of a document. The other four glazing materials manufacturers have announced their intention to put the information required to appear in the certificate of compliance by Section 14(a) in the form of a permanent label etched or sandblasted onto each piece of glazing material.

The letter from Visador states further that even if all five glazing materials manufacturers would issue paper certificates, compliance with a requirement that a paper certificate must accompany the product would be extremely difficult because Visador purchases approximately [redacted] to [redacted] pieces of glazing material each month from its five suppliers, and manufactures approximately [redacted] to [redacted] individiidual products subject to the standard each month. Because Visador would be shipping orders of products containing glazing materials from several manufacturers which were produced at various dates to several hundred customers each month, the firm states that it would encounter serious difficulties matching the certificates received with the various shipments of incoming glazing materials with the outgoing shipments of fabricated products.

Not all manufacturers of materials and products subject to the standard object to the requirement expressed in Advisory Opinion 248 for a documentary certificate. At least one major manfacturer of plastic glazing materials has told the staff that it favors the requirement that the certificate of compliance with the standard take the form of a document which is separate from the product, and would object to a requirement that the certificate must take the form of a label on glazing materials and products subject to the standard.

The Directorate for Compliance and Enforcement finds merit in some of the objections which have been raised to the requirement expressed in Advisory Opinion 248 that the certificate of compliance with the standard for architectural glazing materials must take the form a document, and may not be in the form of a permanent label on materials or products subject to the standard.

In the case of glazing materials which cannot be cut to size, such as tempered glass, and in the case of fabricated products, the possibility that the permanent label would be separated from the product somewhere in the chain of distribution is remote. The difficulties of compliance with a requirement for a documentary certificate of compliance outlined in the letter from Visador appear likely to be experienced by many other fabricators of products subject to the standard. The Directorate for Compliance and Enforcement does not anticipate any major problems in determining compliance by manufacturers of materials and products subject to the standard with the requirements of Section 14 if the certificate of compliance takes the form of a permanent label rather than a separate document.

At the same time, some manufacturers of glazing materials, particularly plastic glazing materials, might encounter difficulty complying with a requirement that the certificate of compliance be in the form of a permanent label on the material or product which is subject to the standard.

Therefore, the Directorate for Compliance and Enforcement proposes that the Commission reconsider the issue of the form which the certificate of compliance required by Section 14(a) must take, and modify Advisory Opinion 248 to state that the certificate of compliance may take the form of either a separate document which accompanies the material or product which is subject to the standard, or a permanent label on the material or product, as long as the document or the label contains all of the information required by Section 14(a)(1); is based on a test of each product or upon a reasonable testing program; and accompanies the product or is otherwise furnished to each distributor and retailer to whom the product is delivered.

A draft of a modification of Advisory Opinion 248 is attached for approval by the Commission , and publication in the Federal Register.

Attachments: