

feet, with a chord bearing of South 82°42'47" West, and a chord length of 764.00 feet, to a point;

2. North 03°45'18" East, a distance of 31.60 feet, to a point;

3. North 86°06'35" West, a distance of 435.21 feet, to a point;

4. South 03°53'24" West, a distance of 18.20 feet, to a point at the northwesterly corner of a 1.433 acre tract conveyed to South Central Power Company by deed of record in Official Record 34399 E11;

5. South 04°16'55" West, a distance of 261.65 feet, to a point in a curve;

6. Along a curve to the left having a central angle of 11°24'43", a radius of 1979.86 feet, with an arc length of 394.34 feet, with a chord bearing of South 51°17'48" West, a chord length of 393.69 feet, to a point of tangency;

7. South 45°35'27" West, a distance of 2212.72 feet, to a point of curvature;

8. Along a curve to the left having a central angle of 76°06'34", a radius of 786.20 feet, with an arc length of 1044.36 feet, with a chord bearing of South 07°32'10" West, and a chord a length of 969.25 feet, to a point of tangency;

9. South 30°31'07" East, a distance of 864.22 feet, to a point of curvature; 10. Along a curve to the right having a central angle of 74°04'38", a radius of 789.44 feet, an arc length of 1020.66 feet, with a chord bearing of South 96°31'12" West, and a chord length of 951.04 feet, to a point of tangency;

11. South 43°33'31" West, a distance of 1394.98 feet, to a point in the line of said 241.695 acre (Tract 2);

12. North 44°24'19" West, a distance of 737.07 feet, along the said 241.695 acre (Tract 2) to a point;

13. North 45°35'41" East, a distance of 1558.56 feet, continuing along said 241.695 acre (Tract 2), to a point;

14. North 86°58'21" West, a distance of 1030.00 feet, on, over and across said 241.695 acre tract (Tract 2), to a point in the line between Section 11 and Section 12;

Thence North 03°36'41" East, a distance of 1566.99 feet, along the line between Section 11 and Section 12 then a westerly line of said 241.695 acre tract (Tract 2) to a point at the common corners to Sections 11, 12, 1 and 2; Thence North 04°02'49" East, a distance of 2714.89 feet, along line between Section 1 and Section 2 and continuing along a westerly line of said 241.695 acre tract (Tract 2) to a point at an angle point in the 225.289 acre tract (Tract 11);

Thence the following seven (7) courses and distances along a northerly line of said 225.289 (Tract 11);

1. South 86°46'46" East, a distance of 2648.79 feet, to a point;

2. North 34°49'42" East, a distance of 25.00 feet, to a point;

3. South 86°13'24" East, a distance of 428.28 feet, to a point;

4. North 03°46'36" East, a distance of 87.40 feet, to a point;

5. South 87°08'04" East, a distance of 40.00 feet, to a point;

6. South 03°46'36" West, a distance of 88.04 feet, to a point;

7. South 86°13'24" East, a distance of 286.49 feet, to a point;

Thence North 03°48'27" East, a distance of 39.68 feet, along the said 225.289 acre tract (Tract 11) then westerly line of said 0.371 acre tract (Tract 10) to a point;

Thence South 86°09'46" East, a distance of 595.96 feet, along the northerly line of said 0.371 acre tract (Tract 10) to the Point of Beginning, containing 188.653 acres, more or less.

The bearings shown herein are based on the bearing of South 86°09'45" East, for the northerly line of 0.371 acre (Tract 10) of record in Instrument Number 200301020000768, records of the Recorder's Office, Franklin County, Ohio.

Dated: Issued in Romulus, Michigan, on April 30, 2007.

Irene Porter,

Acting Manager, Detroit Airports District Office, FAA, Great Lakes Region.

[FR Doc. 07-2510 Filed 5-21-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Government/Industry Air Traffic Management Advisory Committee

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of RTCA Government/Industry Air Traffic Management Advisory Committee.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of RTCA Government/Industry Air Traffic Management Advisory Committee.

DATES: The meeting will be held June 13, 2007, from 1 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at FAA Headquarters, 800 Independence Avenue, SW., Bessie Coleman Conference Center (2nd Floor), Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: RTCA Secretariat, 1828 L Street, NW., Suite 805, Washington, DC, 20036; telephone (202) 833-9339; fax (202) 833-9434; Web site <http://www.rtca.org>.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463, 5 U.S.C., Appendix 2), notice is hereby given for the Air Traffic Management Advisory Committee meeting. Note: Non-Government attendees to the meeting must go through security and be escorted to and from the conference room. Attendees with laptops will be required to register them at the security desk upon arrival and departure. Agenda items will be posted on www.rtca.org Web-site.

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on May 11, 2007.

Francisco Estrada C.,

RTCA Advisory Committee.

[FR Doc. 07-2515 Filed 5-21-07; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2007-28043]

Hours of Service (HOS) of Drivers; Renewal of American Pyrotechnics Association (APA) Exemption From the 14-Hour Rule during Independence Day Celebrations

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemption; request for comments.

SUMMARY: FMCSA announces its decision to renew the American Pyrotechnics Association (APA) exemption from FMCSA's regulation that drivers of commercial motor vehicles (CMVs) may not drive after the 14th hour of coming on duty. The exemption for 70 motor carriers and approximately 3,000 drivers is applicable for a period beginning 7 days prior to and 2 days immediately following Independence Day in 2007 and 2008. Drivers who operate CMVs in conjunction with staging fireworks shows celebrating Independence Day will be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14 hours. These drivers will not be allowed to drive after

accumulating a total of 14 hours of on-duty time, following 10 consecutive hours off duty, and will continue to be subject to the 11-hour driving time limit, and the 60- and 70-hour on-duty limits. The terms and conditions of the current exemption will remain in place for a second two-year period. FMCSA believes that with the terms and conditions in place, APA will maintain a level of safety that is equivalent to, or greater than, the level of safety that would be obtained by complying with the regulation.

DATES: This renewed exemption is effective from June 28 through July 6, 2007, and from June 28 through July 6, 2008. The exemption expires on July 7, 2008. Comments must be received on or before June 21, 2007.

ADDRESSES: You may submit comments to the DOT Docket Management System (DMS), referencing Docket Number FMCSA-2007-XXXXX, using any of the following methods:

- *Web Site:* <http://dmses.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site.

- *Fax:* 1-202-493-2251.

- *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL-401, Washington, DC 20590-0001.

- *Hand Delivery:* Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.

Instructions: All submissions must include the Agency name and docket numbers for this notice. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided. Please see the Privacy Act heading **FOR FURTHER INFORMATION CONTACT**.

Docket: For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or Room PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The DMS is available 24 hours each day, 365 days each year. If you want us to notify you that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: Anyone may search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Department of Transportation's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477; Apr. 11, 2000). This information is also available at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, MC-PSD, Federal Motor Carrier Safety Administration, 400 Seventh Street, SW., Washington, DC 20590-0001. Telephone: 202-366-4009. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 31315 and 31136(e), FMCSA may renew an exemption from the hours of service (HOS) requirements in 49 CFR 395.3(a)(2) for a 2-year period if it finds "such exemption would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption." The procedures for requesting an exemption (including renewals) are prescribed in 49 CFR part 381. FMCSA has evaluated the American Pyrotechnics Association (APA) application for a renewal on its merits and decided to renew the exemption for the 70 companies requested for a two-year period. The list of APA member companies covered by the exemption from 49 CFR 395.3(a)(2) is included as an Appendix to this Notice.

APA Application for an Exemption Renewal

APA applied for the renewal of an exemption from the HOS rules, specifically 49 CFR 395.3(a)(2), which prohibits drivers from operating property-carrying CMVs after the 14th hour of coming on duty. APA requested that drivers covered by the exemption be allowed to exclude off-duty and sleeper-berth time of any length from the calculation of the 14-hour rule. Drivers would not be allowed to drive after the accumulation of 14 hours of on-duty time following 10 consecutive hours off duty. The exemption would be applicable to 70 motor carriers and approximately 3,000 drivers responsible for operating about 3,000 CMVs. APA is seeking a renewal of this exemption because full compliance with the 14-

hour rule imposes a substantial economic hardship on their member companies. A copy of the request for a renewal is included in the docket referenced at the beginning of this notice.

APA, a trade association representing the domestic fireworks industry, asserts that full compliance with the current HOS regulations during the brief period surrounding Independence Day imposes a substantial economic hardship on its members that operate fireworks for the public. According to their original exemption request submitted in December 2004, APA member-company drivers are trained pyrotechnicians, each holding a commercial driver's license (CDL) with a hazardous materials (HM) endorsement. These drivers transport fireworks and equipment to remote locations under demanding schedules. During the week before Independence Day, APA members are engaged to stage multiple shows in a very compressed period of time. To meet the surge of business in this 1-week period under the current HOS rules, companies would be required to hire a second driver for most trips. This would result in a substantial increase in the cost of these shows, and as a result, many shows would be cancelled. Alternatively, APA members would be forced to significantly decrease their engagements. In either case, APA members would have to decrease the number of shows they provide, thereby denying many Americans a primary component of their Independence Day celebration.

Method To Ensure an Equivalent or Greater Level of Safety

APA believes that the renewal of the exemption will not adversely affect the safety of the motor carrier transportation provided by their member companies. These companies operated under the existing exemption for two years with no reports of incidents of any kind. Moreover, according to the APA, the exemption will enhance safety by decreasing the number of CMVs stationed with HM 1.3 and 1.4 products aboard at locations throughout the country. Under the exemption, CMVs will be able to return to their home base, which is a secured area for these types of products.

In their original exemption request, APA stated they believe that the operational demands of this unique industry minimize the risks of CMV crashes. In the last few days before the Independence Day holiday, drivers spend their driving time transporting fireworks relatively short distances from the nearest distribution point to the site

of the fireworks display. Most of their on-duty time, however, is devoted to installing, wiring, and double-checking fireworks displays. Pyrotechnicians drive to the site of the fireworks display in the early morning and return late in the evening, thus avoiding much of the heavy traffic typical of the holiday. After setting the fireworks display in daylight in order to reduce the possibility of mistakes, the pyrotechnicians/drivers typically have several hours off duty in the late afternoon and early evening, just before the shoot. This enables them to rest or nap, reducing or eliminating the fatigue caused by the day's activities, and making their return trip later that evening safer.

In addition to driving at off-peak hours and having an opportunity for substantial rest periods during their tour of duty, pyrotechnicians who drive back to a hotel or motel in the 15th or 16th hours after coming on duty will be required to take 10 consecutive hours off-duty, like other drivers. Although FMCSA believes the 14-hour limit is generally conducive to safety, the current HOS regulations allow certain short-haul drivers a 16-hour driving "window" once a week, providing specified conditions are met. Because pyrotechnician-drivers operate like short-haul drivers (relatively little driving, a variety of work), FMCSA has concluded that the 9-day yearly exemption requested by APA is not likely to adversely affect motor carrier safety.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comments on APA's request for a renewal of its exemption from the requirements of 49 CFR 395.3(a)(2). FMCSA will review all comments received and determine whether the renewal of the exemption is consistent with the requirements of 49 U.S.C. 31315 and 31136(e). Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable.

FMCSA believes the requirements for a renewal of an exemption under 49 U.S.C. 31315 and 31136(e) can be satisfied by initially granting the renewal and then requesting and subsequently evaluating comments submitted by interested parties. As

indicated earlier, the Agency previously published a notice announcing its decision to exempt these APA member companies (and drivers) from the HOS rules in 49 CFR 395.3(a)(2). The decision to renew the exemption for these companies and drivers was based on the merits of the APA application, and only after careful consideration of the comments submitted in response to the May 6, 2005 notice (70 FR 24160).

Interested parties or organizations possessing information that would otherwise show that any or all of these APA member companies are not achieving the requisite statutory level of safety should immediately notify FMCSA. The Agency will evaluate any information submitted and, if safety is being compromised or if the continuation of the exemption is inconsistent with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA will immediately take steps to revoke the exemption of the company or companies and driver(s) in question.

Terms of the Exemption

Period of the Exemption

The exemption from the requirements of 49 CFR 395.3(a)(2) (the 14-hour rule) is effective June 28, 2007, and is applicable from June 28 through July 6, 2007, and from June 28 through July 6, 2008. The exemption expires on July 7, 2008.

Extent of the Exemption

This exemption is restricted to drivers employed by the companies, firms and entities listed in the appendix to this notice. The drivers are entitled to a limited exemption from the requirements of 49 CFR 395.3(a)(2). This regulation, 49 CFR 395.3(a)(2), currently prohibits a driver from driving after the 14th hour of coming on duty and does not permit off-duty periods to extend the 14-hour limit. Drivers covered by this exemption may exclude off-duty and sleeper berth time of any length from the calculation of the 14-hour limit. This exemption is contingent on each driver driving no more than 11 hours in a 14-hour period. The exemption is further contingent on each driver having a full 10 hours off duty following 14 hours on duty prior to beginning a new driving period. The drivers must comply with all other requirements of 49 CFR part 395.

Preemption

During the period the exemption is in effect, no state shall enforce any law or regulation that conflicts with or is inconsistent with this exemption with respect to a person operating under the exemption.

Notification to FMCSA

Each company, firm and entity listed in the appendix to this notice must notify FMCSA within 5 business days of any of the following:

1. An accident (as defined in 49 CFR 390.5), involving any of the motor carrier's CMVs, operating under the terms of this exemption. The notification must include the following information:

- a. Date of the accident,
- b. City or town, and State, in which the accident occurred, or closest to the accident scene,
- c. Driver's name and license number,
- d. Vehicle number and State license number,
- e. Number of individuals suffering physical injury,
- f. Number of fatalities,
- g. The police-reported cause of the accident, and
- h. Whether the driver was cited for violation of any traffic laws, or motor carrier safety regulations.

2. The total driving time and the total on-duty time period prior to the accident.

Termination

FMCSA does not believe the motor carriers and drivers covered by this exemption will experience any deterioration of their safety record. However, should this occur, FMCSA will take all steps necessary to protect the public interest, including revocation of the exemption. FMCSA will immediately revoke the exemption for failure to comply with its terms and conditions. Each motor carrier and each driver may be subject to periodic monitoring by FMCSA during the period of the exemption.

Issued on: April 20, 2007

Rose A. McMurray,
Chief Safety Officer, Assistant Administrator.

Appendix to Notice of Renewal of American Pyrotechnics Association (APA) Exemption from the 14-Hour Rule during Independence Day Celebrations

**LIST OF APA MEMBERS COVERED BY EXEMPTION FROM 14 HOUR RULE IN HOURS OF SERVICE FOR DRIVERS
REGULATION**

Company name	Address	Address 2	DOT #
Add Fire, Inc	11370 NE 8 Ave	Miami, FL 33161	481513
Alonzo Fireworks Display, Inc	12 County Rd 75	Mechanicsville, NY 12118	420639
American Promotional Events, Inc—West/TNT Fireworks	555 North Gilbert Street	Fullerton, CA 92833	564520
American Promotional Events of Texas, LP/TNT Fireworks.	1101 114th Street	Lubbock, TX 79423	1144209
American Promotional Events, Inc—East Coast/TNT Fireworks.	4511 Helton Drive	Florence, AL 35630	0121384
American Promotional Events—Northwest/TNT Fireworks.	2120 Milwaukee Way	Tacoma, WA 98421	013086
Arrowhead Fireworks Co., Inc	3625 Normanna Rd	Duluth, MN 55803	125673
Atlas Enterprises Inc	6601 Nine Mile Azle Rd	Fort Worth, TX 76135	0116910
Atomic Fireworks	3660 W. Sunshine	Springfield, MO	130200
Atomic Fireworks	999 Sumter Highway	Bishopville, SC	446835
Atomic Fireworks	P.O. Box 190	South Pittsburg, TN	095166
B.J. Alan Company	555 Martin Luther King, Jr Blvd	Youngstown, OH 44502-1102	262140
Central States Fireworks, Inc	18034 Kincaid Street	Athens, IL 62613	1022659
Ches-Lee Enterprises, Inc	P.O. Box 64	Bastrop, TX 78602	533725
Colonial Fireworks Company	5225 Telegraph Road	Toledo, OH 43612	177274
Falcon Fireworks	3411 Courthouse Road	Guyton, GA 31312	1037954
Fireworks & Stage FX America	P.O. Box 488	Lakeside, CA 92040	908304
Fireworks by Grucci, Inc	1 Grucci Lane	Brookhaven, NY 11719	324490
Fireworks of Alabama	3325 Poplar Lane	Adamsville, AL 35005	579933
Fireworks Productions, Inc	P.O. Box 294	Maryland Line, MD	464796
Garden State Fireworks, Inc	383 Carlton Road	Newington, NJ 07946	435878
Galaxy Fireworks, Inc	204 E MLK Jr Blvd	Tampa, FL 33603	809731
Gateway Fireworks Displays	P.O. Box 39327	St Louis, MO 63139	1325301
Global Pyrotechnics Solutions, Inc	10476 Sunset Drive	Dittmer, MO 63023	1183902
Hamburg Fireworks Display Inc	4300 Logan Lancaster Rd	Lancaster, OH	395079
Ingram Enterprises dba Fireworks over America	6597 W Independence Drive	Springfield, MO 65802	0268419
International Fireworks Mfg. Co.	242 Sycamore Road	Douglasville, PA 19518	385065
Island Fireworks Company	N735 825th St	Hager City, WI 54014	414583
J&M Displays, Inc	18064 170th Ave	Yarmouth, IA 52660	377461
Jake's Fireworks, Inc	2311 A West 4th St	Pittsburg, KS 66762	449599
July 4 Ever	382 Rock Cut Rd	Walden, NY 12586	803422
Kellner's Fireworks Inc	478 Old Rte 8	Harrisville, PA	481553
Kuhn Fireworks Display Co.	2240 Homebrook Trail SW	Pequot Lakes, MN 56472	1057310
Lantis Fireworks and Lasers	P.O. Box 491	Draper, UT 84202	195428
Lantis Fireworks, Inc	130 Sodrac Dr	N Sioux City, DK 57049	534052
Legion Fireworks Co., Inc	10 Legion Lane	Wappingers Falls, NY 12590	554391
Lew's Fireworks, Inc	45788 U.S. Hwy 212	Watertown, SD 57201	333792
Mad Bomber/Planet Productions	P.O. Box 418	Kingsbury, IN 46345	777176
Melrose Display Company	7620 Little Mount Rd	Taylorsville, KY 40071	434586
Melrose North Pyrotechnics	9405 River Rd SE	Clear Lake, MN 55319	434586
Melrose Pyrotechnics, Inc	P.O. Box 302	Kingsbury, IN 46345	434586
Melrose South Pyrotechnics	4652 Catawga River Rd	Catawga, SC 29704	545033
Montana Display Inc	9480 Inspiration Drive	Missoula, MT 59808	1030231
Precocious Pyrotechnics, Inc	4420-278th Ave NW	Belgrade, MN 56312	435931
Premier Pyrotechnics Inc	25255 Hwy K	Richland, MO 65556	0853895
Pyro Engineering Inc, dba/Bay Fireworks	110 Route 110, Suite 102	Huntington Station, NY 11746	530262
Pyro Shows Inc	701 W. Central Ave	LaFollette, TN 37766	456818
Pyro Spectaculars, Inc	3196 N Locust Ave	Rialto, CA 92376	029329
Pyro Services, Inc dba, Pyrotechnics by Lamb & Choice Express.	P.O. Box 1931	Kilgore, TX 75663	1264631
Pyrotechnics by Presutti, Inc	P.O. Box 42	St Clairsville, OH 43950	51974
Pyrotecnico	302 Wilson Rd	New Castle, PA 16105	526749
Pyrotecnico of Louisiana, LLC	60 West Ct	Mandeville, LA 70471	548303
Red Rocket Fireworks Co. Inc	311 Evergreen	Strafford, MO 65757	239756
RES Specialty Pyrotechnics	21595 286th St	Belle Plaine, MN 56011	523981
Rich Brothers Company	700 S Marion Rd	Sioux Falls, SD 57106	001356
Rozzi's Famous Fireworks, Inc	11605 North Lebanon Rd	Loveland, OH 45140	0483686
Salish Fireworks	10041 S March Pt Rd	Anacortes, WA 98221	678702
Skypainter Fireworks Intl. Inc	1714 Prince Philip Street	Clearwater, FL 33755	1079555
Spielbauer Fireworks Co, Inc	220 Roselawn Blvd	Green Bay, WI 54301	046479
Stonebraker-Rocky Mountain Fireworks Co.	5650 Lowell Blvd, Unit E	Denver, CO 80221	0029845
Thunder Fireworks	5207-187th St E	Tacoma, WA 98446	463284
Vermont Fireworks Co., Inc/Northstar Fireworks Co., Inc	2235 Vermont Route 14 South	East Montpelier, VT 05651	310632
Wald & Co., Inc	P.O. Box 319	Greenwood, MO 64034-0319	087079
Walt Disney Entertainment	5700 Maple Road	Lake Buena Vista, FL 32830	148477
Western Enterprises, Inc	P.O. Box 160	Carrier, OK 73727	203517
Western Fireworks, Inc	14592 Ottaway Rd. NE	Aurora, OR 97002	838585
Winco Fireworks Int. LLC	1992 NW Hwy 50	Lone Jack, MO	259688

LIST OF APA MEMBERS COVERED BY EXEMPTION FROM 14 HOUR RULE IN HOURS OF SERVICE FOR DRIVERS
REGULATION—Continued

Company name	Address	Address 2	DOT #
Wolverine Fireworks Display, Inc	205 W Seidlers	Kawkawlin, MI	376857
Young Explosives Corp	P.O. Box 18653	Rochester, NY	450304
Zambelli Fireworks MFG, Co., Inc	P.O. Box 1463	New Castle, PA 16103	033167

[FR Doc. E7-9841 Filed 5-21-07; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety
Administration

[Docket No. NHTSA-2006-26424; Notice 2]

Maxon Industry, Inc. DBA Maxonlift
Corp.; Ruling on Petition for
Determination of Inconsequential
Noncompliance

Maxon Industry Inc. DBA Maxonlift Corp. (Maxonlift) has determined that certain wheelchair lifts that it produced in 2005 and 2006 do not comply with paragraph S6.4.7.3 of 49 CFR 571.403, Federal Motor Vehicle Safety Standard (FMVSS) No. 403, *Platform Lift Systems for Motor Vehicles*. Pursuant to 49 U.S.C. 30118(d) and 30120(h), Maxonlift has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Responsibility and Reports." Notice of receipt of the petition was published, with a 30 day public comment period, on December 13, 2006 in the **Federal Register** (71 FR 74996). The National Highway Traffic Safety Administration (NHTSA) received no comments. To view the petition and all supporting documents, go to: <http://dms.dot.gov/search/searchFormSimple.cfm> and enter Docket No. NHTSA-2006-26424.

Affected are a total of approximately 197 Model WL-7 and WL-7A wheelchair lifts produced by Maxon between April 1, 2005 and May 30, 2006. Specifically, paragraph S6.4.7.3 of FMVSS No. 403 requires:

The deployed wheelchair retention device(s) must be capable of sustaining 7,117 N (1,600 lb force) when tested in accordance with S7.13. No separation, fracture, or breakage of the wheelchair retention device may occur as a result of conducting the test in S7.13.

On the subject wheelchair lifts, the outer barrier wheelchair retention device does not comply. In NHTSA's compliance test on the Maxon lift, the outer barrier sustained 5,502 N (1,237 lb. force). Bending occurs on the locking

bracket attachments and in the ramp extrusion, and potentially the outer barrier can unfold or break. Maxonlift has corrected the problem that caused these errors so that they will not be repeated in future production.

Maxonlift believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. Maxonlift states:

For the units built with seat belts [all except for 63] we have an electronic feature that does not allow the unit to travel up and down without the seat belts fastened. The seat belt is an added restraint that takes force off of the outboard roll stop. If an electric wheelchair is accidentally moved forward it will hit the seat belt first keeping the person in place. We have had zero failure reports or warranty claims relating to an outboard roll stop failure.

With respect to the lifts that were provided with seat belts and an associated electronic feature that prevents lift platform up and down travel unless the seat belt is fastened, NHTSA agrees with Maxonlift that the noncompliance of the outer barrier is inconsequential to motor vehicle safety. NHTSA does not agree with Maxonlift with regard to the remainder of the lifts that do not have seat belts (secondary wheelchair retention devices). Lifts without seatbelts would rely solely on the inadequate noncompliant outer barrier to prevent a wheelchair from rolling off the lift platform. A failure of the outer barrier would therefore present a potential for severe injury to both the wheelchair occupant and attendants.

On the basis of the foregoing, NHTSA has determined that Maxonlift has adequately demonstrated that, under the specific facts and circumstances presented here, the noncompliance with FMVSS No. 403 in the lifts *with seat belts* is inconsequential to motor vehicle safety and no further action is warranted. Conversely, the noncompliance in the lifts *without seat belts* is not inconsequential.

Accordingly, Maxonlift's petition for an exemption from the duty to recall these noncompliant lifts equipped with seat belts is granted in part. However, the case of the noncompliant lifts without seat belts, the petition is denied

and Maxonlift must notify according to 49 U.S.C. 30118 and remedy according to 49 U.S.C. 30120.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: May 16, 2007.

Daniel C. Smith,

Associate Administrator for Enforcement.

[FR Doc. E7-9858 Filed 5-21-07; 8:45 am]

BILLING CODE 4910-59-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety
Administration

[Docket No. NHTSA-2006-26109]

Panoz Auto-Development Company;
Grant of Application for a Temporary
Exemption From the Advanced Air Bag
Requirements of FMVSS No. 208

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

ACTION: Grant of application for temporary exemption from certain provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection.

SUMMARY: This document grants the application of Panoz Auto-Development Company for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The exemption applies to the Panoz Esperante. The basis for the grant is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard, and the exemption would have a negligible effect on motor vehicle safety.

The notice of receipt of an application for temporary exemption from Panoz was published in the **Federal Register** on October 20, 2006. We received no comments in response to the publication.

DATES: The exemption for the Panoz Esperante from the specified provisions of FMVSS No. 208 is effective immediately and remains in effect through August 31, 2009.