

other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477, Apr. 11, 2000). This statement is also available at <http://dms.dot.gov>.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations. Telephone: 202-366-4009. E-mail: MCPSD@dot.gov.

SUPPLEMENTARY INFORMATION:

Background

Section 4007 of the Transportation Equity Act for the 21st Century (Pub. L. 105-178, 112 Stat. 107, June 9, 1998) amended 49 U.S.C. 31315 and 31136(e) to provide authority to grant exemptions from motor carrier safety regulations. Under its regulations, FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including the conducting of any safety analyses. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for denying or, in the alternative, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is being granted. The notice must also specify the effective period of the exemption (up to 2 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

The FMCSRs are generally applicable to motor carriers and drivers operating commercial motor vehicles (CMVs), as defined in 49 CFR 390.5. This includes any self-propelled or towed motor vehicle used on a highway in interstate commerce to transport passengers or property when the vehicle has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), or gross vehicle weight or gross combination weight, of 10,001 pounds or more, whichever is greater.

Centennial Communications is a regional provider of

telecommunications services with a fleet comprised of 46 Ford F-150 and F-250 trucks based in Fort Wayne, Indiana. According to Centennial, all of its trucks' GVWRs are less than 10,001 pounds. Centennial states that 95% of the time these trucks are used for technical service calls, and during such use all trucks are below the 10,001 pound GVWR threshold limit. However, the remaining 5% of the time, Centennial trucks transport generators, via trailer, to wireless towers around their operating area during emergencies (e.g., areas affected by hurricanes and other major storms). When a Centennial truck hauls a generator, the combined weight—truck GVWR plus trailer and generator—exceeds 10,001 pounds.

Centennial has determined that it would be burdensome to designate specific trucks and drivers for the transporting of generators because when Centennial has to haul generators in an emergency situation, not all of its trucks and drivers may be needed. In some circumstances only a few trucks and drivers may be needed to haul generators, but at other times that number may be increased depending on the severity of the emergency. Therefore, if Centennial only designates a certain number of trucks and trailers, it could easily be in a situation where more than the number of designated trucks and drivers are needed.

Centennial states that, because its vehicles rarely reach the 10,001 pound GVWR or more threshold, it would be safer and more economical to revamp its entire fleet of trucks and trailers so that when hauling generators, the combined weight of the truck/trailer/generator is below 10,001 pounds GVWR. Centennial therefore requests the granting of two-year exemption from the FMCSRs in order to allow time to modify its vehicles.

Centennial is concerned that if an exemption is not granted, "a significant impact to company operations will be realized." This is due to the amount of time required to set up all files and get proper documentation in place regarding the FMCSRs. It estimates that it will take at least one year to get all required records on drivers and vehicles up-to-date. Centennial is further concerned about the restoration of service during natural disasters such as hurricanes, major thunderstorms or ice storms if forced to limit the number of drivers until all of its trucks are under the 10,001 pound GVWR.

Centennial believes that there will be no negative safety impact if an exemption is granted because it already has a very thorough company vehicle safety policy in place with its company

"Engineering Vehicle Policy." Excerpts from the "Engineering Vehicle Policy" manual state that it is the responsibility of each driver to read and understand the document, and the assigned driver of the company vehicle is responsible for operating and maintaining the vehicle in a safe and cost effective manner. Other sections in this company manual include the Fleet Management Program, Disciplinary Action, Vehicle Accidents, Drugs and Alcohol, Security, and Driver Safety Training. Centennial states that it has also contacted and solicited help from its insurance carriers to ensure that company vehicle safety practices are among the best in the industry.

A copy of Centennial Communications exemption application includes this detailed "Engineering Vehicle Policy". The application is available for review in the docket for this notice.

Request for Comments

In accordance with 49 U.S.C. 31315(b)(4) and 31136(e), FMCSA requests public comment on Centennial's application for exemption from the FMCSRs. The Agency will consider all comments received by close of business on August 30, 2007. Comments will be available for examination in the docket at the location listed under the **ADDRESSES** section of this notice. The Agency will file comments received after the comment closing date in the public docket, and will consider them to the extent practicable. In addition to late comments, FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should monitor the public docket for new material.

Issued on: July 24, 2007.

Larry W. Minor,

Associate Administrator for Policy and Program Development.

[FR Doc. E7-14801 Filed 7-30-07; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2007-28821, Notice 1]

Tesla Motors, Inc.; Receipt 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: Notice of receipt of petition for temporary exemption from provisions of Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant Crash Protection*.

SUMMARY: In accordance with the procedures in 49 CFR Part 555, Tesla Motors, Inc. (Tesla Motors) has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard.¹

This notice of receipt of an application for temporary exemption is published in accordance with the statutory provisions of 49 U.S.C. 30113(b)(2). NHTSA has made no judgment on the merits of the application.

DATES: You should submit your comments not later than August 30, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Ed Glancy or Mr. Ari Scott, Office of the Chief Counsel, NCC-112, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE., Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

Comments: We invite you to submit comments on the application described above. You may submit comments identified by docket number at the heading of this notice by any of the following methods:

- Fax: 1-202-493-2251
- Web Site: <http://dms.dot.gov>.

Follow the instructions for submitting comments on the DOT electronic docket site by clicking on "Help and Information" or "Help/Info."

- Mail: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, 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

number or Regulatory Identification Number (RIN) for this rulemaking. Note that all comments received will be posted without change to <http://dms.dot.gov>, including any personal information provided.

Docket: For access to the docket in order to read background documents or comments received, go to: <http://dms.dot.gov> at any time or to M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477-78) or you may visit: <http://dms.dot.gov>.

We shall consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we shall also consider comments filed after the closing date.

I. Advanced Air Bag Requirements and Small Volume Manufacturers

In 2000, NHTSA upgraded the requirements for air bags in passenger cars and light trucks, requiring what are commonly known as "advanced air bags."² The upgrade was designed to meet the goals of improving protection for occupants of all sizes, belted and unbelted, in moderate-to-high-speed crashes, and of minimizing the risks posed by air bags to infants, children, and other occupants, especially in low-speed crashes.

The advanced air bag requirements were a culmination of a comprehensive plan that the agency announced in 1996 to address the adverse effects of air bags. This plan also included an extensive consumer education program to encourage the placement of children in rear seats. The new requirements were phased in beginning with the 2004 model year.

Small volume manufacturers are not subject to the advanced air bag requirements until September 1, 2006, but their efforts to bring their respective vehicles into compliance with these requirements began several years ago. However, because the new requirements were challenging, major air bag suppliers concentrated their efforts on

working with large volume manufacturers, and thus, until recently, small volume manufacturers had limited access to advanced air bag technology. Because of the nature of the requirements for protecting out-of-position occupants, "off-the-shelf" systems could not be readily adopted. Further complicating matters, because small volume manufacturers build so few vehicles, the costs of developing custom advanced air bag systems compared to potential profits discouraged some air bag suppliers from working with small volume manufacturers.

The agency has carefully tracked occupant fatalities resulting from air bag deployment. Our data indicate that the agency's efforts in the area of consumer education and manufacturers' providing depowered air bags were successful in reducing air bag fatalities even before advanced air bag requirements were implemented.

As always, we are concerned about the potential safety implication of any temporary exemptions granted by this agency. In the present case, we are seeking comments on a petition for a temporary exemption from the advanced air bag requirements submitted by a manufacturer of an electric-powered, high-performance sports car.

II. Overview of Petition for Economic Hardship Exemption

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR Part 555, Tesla Motors, Inc. (Tesla Motors) has petitioned the agency for a temporary exemption from certain advanced air bag requirements of FMVSS No. 208. The basis for the application is that compliance would cause substantial economic hardship to a manufacturer that has tried in good faith to comply with the standard. The requested exemption would apply to Tesla Roadster model vehicles and would extend for a period of three years beginning on August 1, 2007. A copy of the petition³ is available for review and has been placed in the docket for this notice.

III. Statutory Background for Economic Hardship Exemptions

A manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent

¹ To view the application, go to: <http://dms.dot.gov/search/searchFormSimple.cfm> and enter the docket number set fourth in the heading of this document.

² See 65 FR 30680 (May 12, 2000).

³ The company requested confidential treatment under 49 CFR Part 512 for certain business and financial information submitted as part of its petition for temporary exemption. Accordingly, the information placed in the docket does not contain such information that the agency has determined to be confidential.

year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113).

In determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle. The statutory provisions governing motor vehicle safety (49 U.S.C. Chapter 301) do not include any provision indicating that a manufacturer might have substantial responsibility as manufacturer of a vehicle simply because it owns or controls a second manufacturer that assembled that vehicle. However, the agency considers the statutory definition of "manufacturer" (49 U.S.C. 30102) to be sufficiently broad to include sponsors, depending on the circumstances. Thus, NHTSA has stated that a manufacturer may be deemed to be a sponsor and thus a manufacturer of a vehicle assembled by a second manufacturer if the first manufacturer had a substantial role in the development and manufacturing process of that vehicle.

IV. Petition of Tesla Motors

Background. Tesla Motors is a small, start-up motor vehicle manufacturer that was founded in California in July 2003. The company plans to produce its first model, the Tesla Roadster, beginning in August 2007. Tesla Motors is not affiliated with any other automobile manufacturer, and currently employs approximately 170 people in the United States, the United Kingdom, and Taiwan.

This application concerns the Tesla Roadster (the first model of vehicle that Tesla Motors plans to produce) which as the company states will be an electric vehicle that will achieve the performance equivalent to a high performance car. The vehicle utilizes an energy storage system that provides power to the entire vehicle, and Tesla Motors expects the vehicle will be able to travel approximately 200 miles on a single charge. To date, Tesla Motors has not produced any vehicles for sale in the U.S. or other markets.

According to the petition, Tesla Motors had originally planned to produce a vehicle that would comply with the advanced air bag requirements in effect since September 2006. The Tesla Roadster utilizes the chassis and several other systems of the Group Lotus plc (Lotus) Elise, which at the time of design was a vehicle that intended to comply with the advanced air bag requirements by 2006. However, Lotus could not achieve compliance with the requirements by that date, and was

granted an exemption for the Elise on August 31, 2006. This deprived Tesla Motors of a FMVSS No. 208-compliant air bag system that could have been used in the Roadster.

The petitioner stated that it first became aware of Lotus's inability to obtain a compliant advanced air bag system in mid-2005, after it had committed to base the Roadster on the Elise platform. Tesla Motors therefore argued that it tried in good faith, but cannot bring the vehicle into compliance with the advanced air bag requirements, and would incur substantial economic hardship if it cannot sell vehicles in the United States.

Eligibility. As discussed in the petition, Tesla Motors is an independent company formed in 2003. The entire organization currently employs approximately 170 people. The Roadster will be manufactured under Tesla Motors' supervision at Lotus's automobile factory in the United Kingdom. However, Lotus has no ownership interest in Tesla Motors, and the reverse is likewise true. No other entity has an ownership interest in Tesla Motors. Stated another way, Tesla Motors is an independent automobile manufacturer which does not have any common control or is otherwise affiliated with any other vehicle manufacturer.

The company is a small volume manufacturer that has never produced any motor vehicles for sale. According to its current forecasts, Tesla Motors anticipates that worldwide production of the Roadster would be approximately 800 vehicles in the first year of production, and projected production would be 3000 vehicles per year in the two years after that. Tesla Motors also expects to produce a second model of automobile, the White Star, beginning in 2010, but believes that the company's total production will be less than 10,000 vehicles per year during the duration of the exemption request.

As indicated earlier, a manufacturer is eligible to apply for a hardship exemption if its total motor vehicle production in its most recent year of production did not exceed 10,000 vehicles, as determined by the NHTSA Administrator (49 U.S.C. 30113). Moreover, in determining whether a manufacturer of a vehicle meets that criterion, NHTSA considers whether a second vehicle manufacturer also might be deemed the manufacturer of that vehicle.

In this case, it appears that Lotus, as well as Tesla Motors, may be considered the manufacturer of the vehicle. Tesla indicated in its petition that in addition

to utilizing the chassis and several other systems of the Lotus Elise, "the Roadster will be manufactured under Tesla Motors" supervision and direction at a factory owned by Lotus * * *." The term "manufacturer" is defined as a person "manufacturing or assembling motor vehicles or motor vehicle equipment" or "importing motor vehicles or motor vehicle equipment for resale." See 49 U.S.C. 30102. It appears that Lotus is manufacturing or assembling the vehicles at issue in its factory under contract.

We note, however, that Lotus is a small manufacturer, and NHTSA granted a temporary exemption regarding this same issue for the Lotus Elise. See 71 FR 52851; September 7, 2006. We believe the combined production of vehicles for Lotus and Tesla Motors is fewer than 10,000 vehicles in the year preceding the petition. Therefore, we believe Tesla Motors to be eligible for a hardship exemption. We also note that as production of the Tesla Motors vehicles proceeds, there could be an issue of whether combined production of Lotus' own vehicles and those it builds under contract may increase to more than 10,000 vehicles per year. The agency requests comments that will assist the agency in further evaluating this situation; specifically, whether it should influence the eligibility for future exemptions, or the duration of the current exemption, if granted.

Requested exemption. Tesla Motors stated that it intends to certify the Tesla Roadster as complying with the rigid barrier belted test requirement using the 50th percentile adult male test dummy set forth in S14.5.1(a) of FMVSS No. 208. The petitioner stated that it previously determined the Tesla Roadster's compliance with rigid barrier unbelted test requirements using tests of prototype vehicles. As such, Tesla Motors is requesting an exemption for the Tesla Roadster from the advanced air bag requirements (S14), with the exception of the belted, rigid barrier provisions of S14.5.1(a); the rigid barrier test requirement using the 5th percentile adult female test dummy (belted and unbelted, S15); the offset deformable barrier test requirement using the 5th percentile adult female test dummy (S17); and the requirements to provide protection for infants and children (S19, S21, and S23).

Tesla Motors did not make an explicit statement that it intends to comply with the advanced air bag requirements of the FMVSS upon the expiration of the temporary exemption period. We note, however, that Lotus signaled such an intention in its petition for the Elise,

and the Tesla Roadster uses the Elise's safety system.

Economic hardship. Publicly available information and also the financial documents submitted to NHTSA by the petitioner indicate that the Tesla Roadster project will result in financial losses unless Tesla Motors obtains a temporary exemption. Over the period 2003–2006, Tesla Motors has had net operational losses totaling over \$43 million. As of the time of the application, Tesla Motors has invested substantially on the design and development of the Tesla Roadster.

The company has stated that Lotus could not acquire or develop an advanced air bag system for the Elise, on which the advanced air bag system was to be designed, and furthermore that Tesla Motors does not have the technical or financial resources to independently develop an advanced air bag system. As it does not have the ability to independently build or acquire an advanced air bag system, Tesla states that without an exemption, it will have to cancel its pending development of an electric-powered sedan, and would ultimately have to terminate its operations.

Good faith efforts to comply. As stated above, Tesla Motors relies on the inability of Lotus to design or acquire an advanced air bag system, despite a good faith effort to do so, as a basis for Tesla Motors' efforts to comply. Tesla Motors initially planned to produce vehicles that were fully compliant with all FMVSS requirements, but after it had committed to using the design and manufacturing facility of the Lotus Elise, Lotus determined that that vehicle could not be supplied with a compliant advanced air bag system. Tesla Motors bases its petition on Lotus's good faith efforts to comply with the requirements in its September 28, 2005 petition for exemption (Docket NHTSA–2006–25324–3). Tesla Motors states that it does not have the technical or financial resources to develop an advanced air bag system independent of Lotus, and will, therefore, need a similar exemption in order to produce Roadster models for the U.S. market. Tesla Motors makes no further comments on its own independent efforts beyond this statement.

Tesla Motors argues that an exemption would be in the public interest. The petitioner put forth several arguments in favor of a finding that the requested exemption is consistent with the public interest and would not have a significant adverse impact on safety. Specifically, Tesla Motors argued that the vehicle will have a variant of the bonded aluminum chassis structure of

the Lotus Elise, dual standard air bags, and pre-tensioning, load-limiting seat belts. Furthermore, the company emphasized that the Tesla Roadster will comply with all other applicable FMVSSs.

Moreover, the petitioner stated that the requested exemption will have a negligible impact on motor vehicle safety because of the limited number of vehicles sold. Furthermore, Tesla stated that it is unlikely that young children would be passengers in the Roadster, so an exemption from the advanced air bag requirements that are designed to protect children will not create a significant safety issue. In addition, as with the Lotus Elise, the front passenger seat in the Roadster is fixed in its rearmost position, thereby reducing air bag risks to children and other passengers.

Tesla Motors asserted that granting the exemption will benefit U.S. employment, companies, and citizens. Affected individuals include both Tesla Motors' current employees as well as those who are likely to be involved in selling and servicing the Roadster and other future Tesla Motors models. Furthermore, Tesla Motors states that it has plans to open a manufacturing facility in the United States in 2009, with approximately 300 employees, a venture that will likely not go forward if the petition is denied.

V. Issuance of Notice of Final Action

We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

Issued on: July 25, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7–14694 Filed 7–30–07; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–6 (Sub-No. 460X)]

BNSF Railway Company— Abandonment Exemption—in Webster County, NE

On July 11, 2007, BNSF Railway Company (BNSF) filed with the Board a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon an 8.41-mile line of railroad, extending from milepost 193.60 to milepost 202.01, near Red Cloud, in Webster County, NE. The line

traverses United States Postal Service Zip Codes 68952 and 68970, and includes no stations.

The line does not contain federally granted rights-of-way. Any documentation in BNSF's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by October 29, 2007.

Any OFA under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a \$1,300 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than August 20, 2007. Each trail use request must be accompanied by a \$200 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–6 (Sub-No. 460X), and must be sent to: (1) Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001; and (2) Sidney Strickland, Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007. Replies to the petition are due on or before August 20, 2007.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 245–0230 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152.

Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 245–0305. [Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within