

| Flooding source(s) | Location of referenced elevation | *Elevation in feet (NGVD) +Elevation in feet (NAVD) #Depth in feet above ground | | Communities affected |
|-----------------------|---|---|----------|--|
| | | Effective | Modified | |
| Branch E | Approximately 2,100 feet above confluence with Eightmile Creek. | None | +18 | City of Prichard. |
| Branch F | Approximately 1,800 feet upstream of Aldock Road ... | None | +35 | City of Prichard. |
| | Approximately 1,100 feet above confluence with Eightmile Creek. | None | +15 | |
| | Approximately 3,800 feet above confluence with Eightmile Creek. | None | +32 | |
| Branch G | Approximately 800 feet downstream of West Main Street. | None | +28 | City of Prichard. |
| Gum Tree Branch | Approximately 250 feet upstream of Wolf Ridge Road | None | +44 | City of Prichard. |
| | Approximately 100 feet upstream of Turner Road | None | +25 | |
| Miller Creek | Approximately 600 feet upstream of Caledonia Street | None | +29 | Unincorporated Areas of Mobile County. |
| | Approximately 2,600 feet upstream of Snow Road | None | +153 | |
| Unnamed Branch | Aproximately 12,420 feet upstream of Snow Road | None | +183 | City of Prichard. |
| | Approximately 100 feet downstream of Bear Fork Road. | None | +88 | |
| | Approximately 1,100 feet upstream of Forrest Park Road. | None | +149 | |

* National Geodetic Vertical Datum.

Depth in feet above ground.

+ North American Vertical Datum.

ADDRESSES

City of Mobile

Maps are available for inspection at 205 Government Street, 3rd Floor, Mobile, AL 36602.

Send comments to The Honorable Samuel L. Jones, Mayor, City of Mobile, P.O. Box 1827, Mobile, AL 36633.

City of Prichard

Maps are available for inspection at 216 East Prichard Avenue, Mobile, AL 36610.

Send comments to The Honorable Ron Davis, Mayor, City of Prichard, P.O. Box 10427, Prichard, AL 36610.

Unincorporated Areas of Mobile County

Maps are available for inspection at 1110 Schillinger Road, Suite 100, Mobile, AL 36608.

Send comments to The Honorable Stephen Nodine, Chairman, Mobile County, P.O. Box 1443, Mobile, AL 36633.

(Catalog of Federal Domestic Assistance No. 97.022, "Flood Insurance.")

Dated: August 21, 2007.

David I. Maurstad,

Federal Insurance Administrator of the National Flood Insurance Program, Department of Homeland Security, Federal Emergency Management Agency.

[FR Doc. E7-17352 Filed 8-30-07; 8:45 am]

BILLING CODE 9110-12-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA-2007-28140 Notice 1]

Federal Motor Vehicle Safety Standards; Denial of Petition for Rulemaking

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

ACTION: Denial of petition for rulemaking.

SUMMARY: Based on the agency's evaluation, the NHTSA denies a petition for rulemaking from Ricon Corporation (Ricon) to amend S6.1/S7.4 (threshold warning signal requirement and related test procedure), S6.10.2.3 (anti-stow interlock requirement) and S6.10.2.7/S7.6 (occupied inner roll stop interlock requirement and related test procedure) of FMVSS No. 403. The NHTSA believes that the rulemaking is unnecessary because granting the proposed amendments would not result in a substantial increase in the effectiveness and safety benefit of the requirements and related test procedures. The NHTSA also believes that the current requirements and test procedures are appropriate and objective ways of ensuring compliance.

FOR FURTHER INFORMATION CONTACT:

For Non-Legal Issues: Contact Mr. William D. Evans, Office of Crash Avoidance Standards, National Highway Traffic Safety Administration,

400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366-2272, Facsimile: (202) 366-7002.

For Legal Issues: Contact Mr. Ed Glancy, Office of Chief Counsel, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590, Telephone: (202) 366-2992, Facsimile: (202) 366-3820.

SUPPLEMENTARY INFORMATION:

Background: On December 27, 2002 NHTSA published in the **Federal Register** a final rule, Federal Motor Vehicle Safety Standard (FMVSS) No. 403 (67 FR 79416), Platform Lift Systems for Motor Vehicles. The purpose of FMVSS No. 403 is to prevent injuries and fatalities to passengers and bystanders during the operation of platform lifts installed in motor vehicles. The standard is written to protect standing passengers who may be aided by canes and walkers, as well as persons seated in wheelchairs, scooters and other mobility aids. FMVSS No. 403 became effective on April 1, 2005.

On October 1, 2004, in response to petitions for reconsideration of its December 27, 2002 final rule, the agency published a final rule in the **Federal Register** revising FMVSS Nos. 403 and 404. Among the changes made by the October 1, 2004 final rule, the agency amended the requirements for lighting on public use lifts, edge guard requirements and the wheelchair test device specifications (69 FR 58843).

Requirements in FMVSS No. 403 include S6.1/S7.4 (Threshold warning signal requirement and related test procedure), S6.10.2.3 (Anti-stow interlock requirement) and S6.10.2.7/S7.6 (Occupied inner roll stop interlock requirement and related test procedure) which are the subject of Ricon's petition for rulemaking.

Summary of Petition (S6.1/S7.4 Threshold Warning Signal Requirement and Related Test Procedure)

The first issue addressed is Ricon's request to alter the test procedures used to test the threshold warning signal requirement. According to the petitioner, the changes to the test procedure would better serve the intent of the regulation. Ricon states that the purpose of the threshold warning system is to provide an audible and visual warning signal when the lift platform is in an unsafe position for boarding and that the threshold warning signal is intended to alert passengers but does not physically restrain them. Ricon further states that the threshold warning requirements in FMVSS No. 403 are based on previous industry guidelines established by the California Department of Rehabilitation and the Society of Automotive Engineers (SAE) Standards J2092 and J2093. Ricon states that the California requirement was established as a result of accidents involving wheelchair-bound passengers backing out of the vehicle when the lift platform was not at vehicle floor level. Ricon notes that the threshold warning test in SAE J2092 emphasizes active verbs and phrases, which stress the dynamic nature of the test and make it clear that the recommendation's intent is to detect unsafe movement through the threshold area. It is Ricon's opinion that these tests contain an implied element of timeliness of the warning so that the threshold warning system can detect, activate, and warn with sufficient speed to protect the wheelchair passenger in the worst-case situation of a wheelchair moving through the threshold area. Therefore, Ricon requests that the FMVSS No. 403 test procedure for the threshold warning signal requirement be changed to a dynamic procedure to address this

worst-case situation rather than consisting of the static multi-step test that presently appears in S7.4. Ricon also requests that the wheelchair test device include a simulated passenger (anthropomorphic dummy) which would have significant impact on how quickly the threshold warning signal reacts.

Analysis of Petition (S6.1/S7.4 Threshold Warning Signal Requirement and Related Test Procedure)

The petitioner suggests that the intent of the threshold warning system would best be served by using a dynamic, rather than static, test, in order to test the detection of unsafe movement. However, we note that while the concept of the threshold warning system can be attributed to both the California and SAE standards, the NHTSA chose not to adopt either of these requirements verbatim. The threshold warning signal requirements in FMVSS No. 403, S6.1 and its related test procedure in S7.4 are intended to warn standing passengers who may be aided by canes and walkers, as well as persons seated in wheelchairs, scooters and other mobility aids that are within the threshold warning area when the lift platform is greater than 25 mm (1 in) below the vehicle floor and the associated testing procedures serve those ends.

The current requirements and test procedure dictate that the warning signal must actuate if portions of a passenger and/or their mobility aid is already within the threshold area when the lift platform moves lower than 25 mm (1 in) below the vehicle floor and if the lift platform is already 25 mm (1 in) below the vehicle floor when a wheelchair rolls or a passenger steps onto any portion of the threshold warning area. In order to comply with these requirements, sensor coverage in the threshold warning area must be such that a warning signal is actuated when one front wheel of the wheelchair test device (WTD) is placed on any portion of the threshold warning area. The warning must remain continuously actuated until the wheel is removed from the threshold warning area or the platform is adjusted up to within 25 mm (1 in) of the vehicle floor level. One front wheel of the WTD is used because it exerts a downward force to trigger pressure sensitive mats and the WTD has structure to trigger light beam type systems. In addition, wheelchairs are the most common mobility aid used on platform lifts.

The matrix of sensors in a pressure sensitive mat must be such that it triggers off of the contact area between the WTD front wheel and the mat, and

the matrix of light beams in a light beam type system must be such that the WTD structure continually obstructs at least one of the light beams while the WTD's front wheel is moved to all portions of the threshold warning area. Such systems will not allow a standing passenger or a passenger in a mobility aid to be partially or completely within the threshold area or roll/move within the threshold area when the platform is greater than 25 mm (1 in) below the vehicle floor without actuation of the threshold warning. Ricon's suggestion of a dynamic test has the practical effect of reducing the proximity sensing range to a single line under the assumption that the passenger will cross the line slowly after the platform has already been lowered. It may not warn a passenger already on the threshold when the platform is lowered subsequently.

The threshold warning requirements in FMVSS No. 403, as well as prior threshold warning standards do not protect fast-moving passengers moving through the threshold area. In order to do so, requirements would have to specify a maximum threshold warning reaction time, would most likely require a deeper threshold warning area and the degree of protection would still significantly depend on the reaction time of the passenger. However, comments to the supplemental notice of proposed rulemaking, the response to which was published in the final rule (67 FR 79416) included requests from Ricon, as well as others, to *reduce* the depth of the threshold warning area beyond its current 457 mm (18 in) depth due to limited space in the vehicle. FMVSS No. 403 currently maintains the 457 mm (18 in) depth requirement for the threshold warning area. However, with limited space in the vehicle for the existing threshold warning area, there is also limited space for a walking or wheelchair-bound passenger to build enough speed to move extremely fast through the threshold area. The current threshold warning area is of adequate size to warn passengers moving slowly through the threshold area and passengers stationary on any portion of the threshold area. The NHTSA believes that the current threshold warning signal requirements and test procedures in FMVSS No. 403 are appropriate and objective ways of ensuring compliance and protection to passengers in these situations. If there is no room in the vehicle to expand the threshold area, then improving protection for fast-moving passengers (if such situations exist) is not practical and the need to add or substitute a dynamic test is moot. Therefore, Ricon's petition to adopt a

dynamic test for the threshold warning signal is denied.

Regarding Ricon's request that the WTD include a simulated passenger (anthropomorphic dummy) which would have significant impact on how quickly the threshold warning signal reacts, the NHTSA does not agree that placing a load in the WTD will have a significant impact on the timeliness of threshold warning actuation relative to weight-based or light beam type systems. However, the NHTSA is already considering allowing a human representative of a 5th percentile female to be present in the WTD during the threshold warning signal test in FMVSS No. 403, S7.4. This consideration has no relationship to threshold warning signal response times but is related to a petition from Lift-U (Docket: NHTSA-2005-20286-30) concerning the use of infrared threshold warning detection. Information relative to this petition will be published in the near future in the form of a notice of proposed rulemaking (NPRM).

Summary of Petition (S6.10.2.3 Anti-Stow Interlock Requirement)

In its petition, Ricon recognizes that the purpose of the Anti-Stow Interlock is to prevent the accidental stowage of an occupied lift and that the anti-stow interlock requirement in FMVSS No. 403 was carried over from the Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles (hereafter "ADA").¹ Ricon also agrees that the 50-pound weight used in FMVSS No. 403 is intended to simulate an unattended standing passenger. However, Ricon states that it disagrees with the FMVSS No. 403 version of the interlock requirement which states that the interlock must prevent stowing of the lift platform when the 50-pound weight is placed on "any portion" of the platform. Ricon believes that the interlock should only be tested with the 50-pound weight at the center of the lift platform instead of on "any portion" of the lift platform. Ricon cites the following reasons for its position:

- Under 49 CFR Part 38.23 Section (12), Use by Standees, it states that lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. *The platform may be marked to indicate a preferred standing position.*

- Ricon lifts have the standing position clearly marked on the lift platform. The standing position is also described in the operating instructions.

- Canadian Motor Vehicle standards place the test weight at the "centroid" position of the lift platform in its anti-stow interlock requirement.

- The required placement of the handrails required by FMVSS No. 403 dictate that the passenger stand in the approximate center of the platform.

- NHTSA's "Final Regulatory Evaluation (FRE) and Regulatory Flexibility Analysis—Platform Lift" does not include the anti-stow interlock in its discussion of hardware improvements necessary for existing lift designs to comply with FMVSS No. 403. Therefore, designs previous to the FRE must be acceptable. Such designs only trigger the interlock and prevent stowing of an occupied lift when the 50-pound weight is placed in the center of the platform.

Ricon claims that with respect to active lifts, it has met the anti-stow interlock requirement by incorporating a pressure control switch in the hydraulic circuit. The switch is designed to detect weight on the platform by reading pressure settings. In this case, pressure is a function of weight and the location of the weight on the platform. The further the weight is placed from the pivot center the higher the pressure reading. The Ricon system was designed to detect the 50-pound weight placed at the centroid (standee) position. Ricon said that based on its industry experience and observation of competitor's products, this same design feature is used on the vast majority of "active" platform lifts in service prior to FMVSS No. 403, and remains in service today. Further, Ricon believes that this is the design feature that the NHTSA reviewed prior to concluding that there was no additional cost of compliance to meet this requirement. However, by the NHTSA requiring the interlock to function when the test weight is on "any position" rather than simply on the "centroid or standee" position, significant design changes, as well as additional costs, which were not anticipated are required. Ricon believes that the choice of language to include "any position" on the platform is inconsistent with prior industry practice as well as NHTSA's own intent which resulted in unintended consequences not foreseen by the regulation. As such, Ricon is requesting that the language in S6.10.2.3 be changed to specify placement of the 50-pound weight at the "centroid or standee" position.

Analysis of Petition (S6.10.2.3 Anti-Stow Interlock Requirement)

Under ADA, Subpart A, 38.23 *Mobility aid accessibility*, (b) *Vehicle lift*, (12) *Use by standees* it states that

"lifts shall accommodate persons using walkers, crutches, canes or braces or who otherwise have difficulty using steps. The platform *may* be marked to indicate a preferred standing position." The ADA also states under Subpart A, 38.23 *Mobility aid accessibility*, (b) *Vehicle lift*, (2) *Controls* that the control shall not allow an occupied platform to fold or retract into the stowed position. The ADA does not specifically link "a preferred standing position" in the "Use by standees" section to the anti-stow interlock requirement under the "Controls" section. Also, the ADA contains no test procedure. It was for this reason that the Architectural and Transportation Barriers Compliance Board charged the NHTSA with the responsibility of developing safety tests for platform lifts. The NHTSA follows ADA's premise that the anti-stow interlock should protect standing passengers, as well as persons in mobility aids. Not all lift manufacturers designate a standing position on its platform and standing passengers have the option of standing on any useable portion of the platform even if a standing position is designated. It is for these reasons that the NHTSA chose to test the anti-stow interlock on any useable portion of the platform. The anti-stow interlock requirements in FMVSS No. 403, S6.10.2.3 not only protects heavy loads such as a passenger in a wheelchair completely on the lift platform, but it also protects lighter loads such as a small child standing on any useable portion of the platform, as well as passengers in wheelchairs that may be partially on the lift platform and partially on the vehicle floor.

Ricon commented in its petition that the FRE did not include the anti-stow interlock in its discussion of hardware improvements necessary for existing lift designs to comply with FMVSS No. 403, and therefore NHTSA did not really intend the anti-stow interlock to protect passengers on any useable portion of the platform. The FRE talks in general terms and does not necessarily address the specifics of each and every individual lift model. It is NHTSA's intention that the anti-stow interlock protect all passengers whether standing or seated in mobility aids on any useable portion of the platform. This concept is feasible as proven by manufacturers that have interpreted and complied with the requirements correctly. Therefore, NHTSA is not persuaded to amend the interlock requirement in accordance with Ricon's petition.

¹ See 49 CFR Part 38.

Summary of Petition (S6.10.2.7/S7.6 Occupied Inner Roll Stop Interlock Requirement and Related Test Procedure)

Ricon, in its petition, recognizes that the occupied inner roll stop interlock in FMVSS No. 403 is intended to detect the presence of a passenger (either in a wheelchair or a standee) on the inner roll stop and prevent the inner roll stop from deploying when it is occupied. Ricon further mentions that the test procedure in S7.6 uses the front wheel of the WTD to simulate an occupied inner roll stop. Ricon indicates that there is significant latitude about the number of front wheels to be placed on the inner roll stop (either one or two front wheels), as well as where the front wheels are placed. Ricon believes that the degree of latitude is ambiguous and may cause test results that are not objective and repeatable. Ricon recommends changing S7.6 by substituting a 25-pound test weight for the WTD. Ricon said that a 25-pound test weight will exert the same force as the weight of one front wheel of an unoccupied WTD and at the same time would provide worst-case protection for standing passengers. Ricon further explained that for test purposes, it recommends placement of the entire 25-pound weight on any portion of the inner barrier. By this Ricon means that the weight should not be placed half on and half off the inner barrier. Ricon says that such an amendment to FMVSS No. 403 would allow for easy verification of the interlock outside of a laboratory environment which is important as it will eliminate the myriad of *ad hoc* tests that inspectors currently use when a wheelchair test device is not readily available. Ricon indicated that the proposed change will make the test procedure more objective and repeatable.

Analysis of Petition (S6.10.2.7/S7.6 Occupied Inner Roll Stop Interlock Requirement and Related Test Procedure)

The test procedure in FMVSS No. 403, S7.6 is a single test procedure that verifies both the interlock requirements in S6.10.2.4 and S6.10.2.7. The interlock

in S6.10.2.4 is one that prevents further up or down movement of the platform if the inner roll stop fails to deploy at the point where it is designed to deploy. The interlock in S6.10.2.7 is one that prevents the inner roll stop from deploying when occupied. Therefore, if the platform is moving down from the vehicle floor level and a wheel of the WTD is on the inner roll stop, when the platform gets to the level where the inner roll stop is designed to deploy, the inner roll stop should not deploy and the platform should stop. This means that the S6.10.2.7 interlock sensed that the inner roll stop was occupied and did not deploy and the S6.10.2.4 interlock sensed that the inner roll stop did not deploy at the point it is designed to deploy and caused the platform to stop. Also, when the S6.10.2.7 interlock is activated and inhibiting deployment of the inner roll stop, it must not allow the inner roll stop to lift the wheel of the WTD vertically off the platform more than 13 mm (0.5 in).

The test procedure instructs one to move the lift platform to the vehicle floor level and place the WTD on the lift platform facing toward the vehicle. The platform is moved down until the inner roll stop deploys and this location is noted. The platform is then moved back up to the vehicle floor level loading position. One front wheel of the WTD is placed on any portion of the inner roll stop. If the platform is too narrow to maneuver one front wheel of the WTD on any portion of the inner roll stop, two front wheels may be placed on any portion of the inner roll stop. Using the lift control move the platform down until it stops. The platform must not be at a lower level than the previously noted level where the inner roll stop is designed to deploy and the wheel or wheels of the WTD must not have raised vertically more than 13 mm (0.5 in).

The NHTSA has not received any specific complaints relative to implementation or repeatability problems with the test procedure. The NHTSA chose the front wheel of the WTD to load the inner roll stop as it is probably the most common item that may be inadvertently on and restricting the deployment of the inner roll stop under real-world conditions. The

NHTSA does not stipulate how the wheelchair test device's wheel is placed on the inner roll stop. It is permissible for the wheel to be completely on the inner roll stop so the full downward force exerted by the wheel is transferred to the inner roll stop. If S7.6 were amended to use a 25-pound test weight, then other tests that use the front wheel of the WTD would have to be amended for the sake of consistency. Therefore, the NHTSA is not in favor of changing the load to a test weight unless specific problems with detailed information and data are brought to our attention. As the NHTSA's regulations require self-certification, it is not prohibited that manufacturers and inspectors test with a 25-pound test weight as long as they determine that it will correctly indicate compliance of their particular lift design when the weight is placed on any portion of the inner roll stop. The NHTSA, however, will continue to conduct compliance tests using the front wheel of the WTD in accordance with S7.6. Therefore, the NHTSA, at this time, denies Ricon's petition to amend S7.6 to use a 25-pound test weight in place of the front wheel of the WTD.

Conclusion

In accordance with 49 CFR Part 552, this completes the agency's review of the petition for rulemaking. The NHTSA believes that the suggested amendments would not result in a substantial increase in the effectiveness and safety benefit of the requirements and related test procedures. The NHTSA also believes that the current requirements and test procedures are appropriate and objective ways of ensuring compliance. Thus, after considering the allocation of agency resources and agency priorities, NHTSA has decided that the rulemaking requested by the petitioner is not warranted. Accordingly rulemaking on the petition is denied.

Authority: 49 U.S.C. 30162; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: August 27, 2007.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. E7-17374 Filed 8-30-07; 8:45 am]

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