

the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

Wallace Environmental Testing Laboratories, Inc. of Houston, Texas ("Wallace") (Registered Importer 90-005) has petitioned NHTSA to decide whether 1994 Eagle Vision passenger cars originally manufactured in the United States for export to foreign markets are eligible for importation into the United States. The vehicle which Wallace believes is substantially similar is the 1994 Eagle Vision that was manufactured for sale in the United States and certified by its manufacturer, Chrysler Corporation, as conforming to all applicable Federal motor vehicle safety standards.

The petitioner claims that it carefully compared the non-U.S. certified 1994 Eagle Vision to its U.S. certified counterpart, and found the two vehicles to be substantially similar with respect to compliance with most Federal motor vehicle safety standards.

Wallace submitted information with its petition intended to demonstrate that the non-U.S. certified 1994 Eagle Vision, as originally manufactured, conforms to many Federal motor vehicle safety standards in the same manner as its U.S. certified counterpart, or is capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non-U.S. certified 1994 Eagle Vision is identical to its U.S. certified counterpart with respect to compliance with Standards Nos. 102 *Transmission Shift Lever Sequence* * * *, 103 *Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 105 *Hydraulic Brake Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 111 *Rearview Mirror*, 113 *Hood Latch Systems*, 114 *Theft Protection*, 116 *Brake Fluid*, 118 *Power Window Systems*, 124 *Accelerator Control Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*,

204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Retention*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 301 *Fuel System Integrity*, 302 *Flammability of Interior Materials*.

Additionally, the petitioner states that the non-US certified 1994 Eagle Vision complies with the Bumper Standard found in 49 CFR part 581.

Petitioner also contends that the vehicle is capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: (a) Replacement of the odometer/speedometer with units calibrated in miles/miles per hour on vehicles that are not already so equipped; (b) Inscription of the word "brake" on the brake failure indicator lamp lens.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: replacement of the headlights, taillights, and front and rear sidemarker assemblies with components that conform to the standard.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 208 *Occupant Crash Protection*: Installation of driver's and passenger's side airbags and knee bolsters. The petitioner states that the vehicle is equipped with Type 2 seat belts in front and rear outboard seating positions, and with a lap belt in the rear center designated seating position.

The petitioner states that a vehicle identification number plate that meets the requirements of 49 CFR part 565 will be affixed to the vehicle if it is not already so equipped.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW, Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal**

Register pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: October 22, 1999.

Marilynne Jacobs,

Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 99-6093; Notice 2]

Italjet S.p.A.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

This notice grants the application by Italjet S.p.A., an Italian corporation, through Italjet USA ("Italjet") of New York City, NY, for a temporary exemption of two years from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The basis of the request was that "compliance with the standard would prevent the manufacturer from selling a motor vehicle with an overall safety level at least equal to the overall safety level of nonexempt vehicles," 49 U.S.C. Sec. 30113(b)(3)(B)(iv).

We published a notice of receipt of the application on August 24, 1999 (64 FR 46225) asking for comments, but received none.

Italjet has applied on behalf of its Torpedo 125, Formula 125, Millenium 125, and Millenium 150 motor scooters ("scooters"). The scooters are defined as "motorcycles" for purposes of compliance with the Federal motor vehicle safety standards. According to Italjet, its scooters have a peak motor output of 26 hp and a top speed of 60 miles per hour.

If a motorcycle is produced with rear wheel brakes, S5.2.1 of Standard No. 123 requires that the brakes be operable through the right foot control, though the left handlebar is permissible for motor driven cycles (Item 11, Table 1). Italjet would like to use the left handlebar as the control for the rear brakes of the scooters, whose peak motor output of 26 hp produces more than the 5 hp maximum that separates motor driven cycles from motorcycles. The gear ratio of the vehicle is fixed, and "there is no need for the rider to shift gears, as on a standard motorcycle." Because of this, the scooters are "equipped with neither a

clutch nor a clutch lever, and the left hand of the rider is free to operate a brake lever." Italjet states that it prefers this design, given its focus on European and Asian markets "where rear brake controls for scooters of all horsepower ratings are typically mounted on the left handlebar."

Italjet argues that the overall level of safety of the scooters equals or exceeds that of a motorcycle that complies with the brake control location requirement of Standard No. 123. It believes that "the prevalence of the left hand operated design in Europe and Asia is one strong indicator that a vehicle designed in this way can be operated safely." It believes that "vehicle safety might be somewhat enhanced with the left hand brake lever, as the hand (bare or gloved) is generally more capable of sensitive modulation of the braking force than the foot."

Italjet intends to field test a small number of the scooters in the American market in Fall 1999 to assess the design, and without an exemption it would be unable to do so. It wishes to consider whether the United States' scooter market offers sufficient sales potential to justify the creation of a design specifically for the United States that incorporates the right foot brake pedal. Alternatively, it may petition for rulemaking to amend Standard No. 123 to allow the hand-operated brake control on motorcycles with more than 5 hp.

Italjet anticipates sales of not more than 2500 scooters a year while an exemption is in effect. It believes that an exemption would be in the public interest and consistent with the objectives of traffic safety "because it would maintain an acceptable level of safety while accelerating the advancement of an important new class of vehicles for use by consumers and businesses."

The application by Italjet is substantially similar to that by Aprilia, S.p.A. which we granted on August 13, 1999 (64 FR 44264). Aprilia also requested an exemption from the rear brake location requirement of S5.2.1 (Table 1) of Standard No. 123 pursuant to 49 U.S.C. 30113(b)(3)(B)(iv). On August 20, 1999, we also granted an exemption from this requirement to Vectrix Corporation for its electric scooter pursuant to 49 U.S.C. 30113(b)(3)(B)(iii), on the basis that it would make the development or field evaluation of a low-emission vehicle easier (64 FR 45585).

As we observed in granting Aprilia's application, we must find that an exemption is consistent with the public interest and motor vehicle safety (49

U.S.C. Sec. 30113(b)(3)(A)), and that compliance with the brake control location requirement of Standard No. 123 would prevent Aprilia from selling a motorcycle with an overall safety level at least equal to the safety level of a nonexempt motorcycle (49 U.S.C. Sec. 30113(b)(3)(B)(iv)).

Aprilia correctly identified our principal area of concern: the standardization of motorcycle controls. In adopting Standard No. 123 in April 1972, effective September 1, 1974, we justified standardization of motorcycle controls as a means of minimizing operator error in responding to the motoring environment, saying that "a cyclist, especially the novice and the cyclist who has changed from one make of machine to another, must not hesitate when confronted with an emergency" (37 FR 7207).

We asked Aprilia to comment on our concern that a left hand lever-operated rear brake may contribute to unfamiliarity and thus degrade a rider's overall braking reaction beyond what would exist on a motorcycle with conventionally configured controls. At the request of Aprilia's U.S. sales subsidiary, Aprilia U.S.A. Inc. of Woodstock, Georgia, Carter Engineering of Franklin, Tennessee, prepared a report on "Motorscooter Braking Control Study" (Report No. CE-99-APR-05, May 1999) comparing braking response times of riders using the left hand control of the Leonardo 150 and the right foot control of the Yamaha XC-125 Riva. We have placed a copy of this report in the Aprilia docket, Docket No. NHTSA-98-4357. Aprilia U.S.A. commented that "[o]verall, the test subjects' reaction times on the Leonardo were approximately 20% quicker than their reaction times on the conventional motorcycle." Aprilia believed that "a less complex braking arrangement like that of the [vehicle for which it sought exemption] will improve rider reaction in an emergency situation." We interpreted the report as indicating that a rider's braking response was not likely to be degraded by the different placement of the brake controls, thus directly addressing and meeting our safety concern.

With respect to the public interest and consistency with objectives of motor vehicle safety, the available information suggests that Italjet's request to operate the rear brake with the left hand instead of the right foot may not degrade the rider's braking response. By allowing exempted vehicles to be sold on a temporary basis for two years, it will be possible for us to gather data on operators' experience with this alternative rear brake control. This

information would allow us to make a more informed decision about locations for motorcycle brake controls.

In consideration of the foregoing, it is hereby found that to require compliance with Standard No. 123 would prevent the manufacturer from selling a motor vehicle with an overall level of safety at least equal to the overall safety level of nonexempt vehicles. It is further found that a temporary exemption is in the public interest and consistent with the objectives of motor vehicle safety. Accordingly, Italjet, S.p.A. is hereby granted NHTSA Temporary Exemption No. EX99-11 from the requirement of Item 11, Column 2, Table 1 of 49 CFR 571.123 Standard No. 123, *Motorcycle Controls and Displays*, that the rear wheel brakes be operable through the right foot control. This exemption applies only to models Torpedo 125, Formula 125, Millenium 125, and Millenium 150, and will expire on October 1, 2001. 49 U.S.C. 30113; delegation of authority at 49 CFR 1.50).

Issued on October 22, 1999.

Rosalyn G. Millman,

Acting Administrator.

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33806]

Tishomingo Railroad Company, Inc.— Lease and Operation Exemption—Line of State of Mississippi at Iuka, MS

Tishomingo Railroad Company, Inc., a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from the State of Mississippi, Department of Economic and Community Development, and operate approximately 10 miles of rail line in Iuka, MS (line). The line runs between the Tri-State Commerce Park and a connection with the Memphis main line of Norfolk Southern Corporation, at station 8385-475 (east leg of Wye) and station 8406.00 (west leg of Wye).

The parties report that they intend to consummate the transaction promptly after the effective date of the exemption. The earliest the transaction can be consummated is October 21, 1999, 7 days after the exemption was filed.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to