

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. NHTSA 2000-7616; Notice 2]

Piaggio & c., S.p.A.; Grant of Application for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 123

This notice grants the application by Piaggio & c., S.p.A. ("Piaggio"), an Italian corporation, of Pontedera, Italy, 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. 30113(b)(3)(B)(iv).

Notice of receipt of the application was published on July 17, 2000, and an opportunity afforded for comment (65 FR 44093).

Piaggio applied on behalf of its Vespa ET4 (125 and 150 cc) motor scooters. The scooters are defined as "motorcycles" for purposes of compliance with the Federal motor vehicle safety standards. 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 (the left handlebar is permissible only for a motor driven cycle (Item 11, Table 1), *i.e.*, a motorcycle with a motor that produces 5 brake horsepower or less).

Piaggio petitioned that it be allowed to use the left handlebar as the control for the rear brakes of its Vespa ET4, which is a motorcycle and not a motor driven cycle. The model features an automatic clutch that eliminates the left-hand clutch lever as well as any left-foot gearshift lever. According to Piaggio, "the motor scooter is therefore very similar to a bicycle, both in ergonomic stance and operation." The model will feature a hand-actuated lever on the left handlebar that will actuate the rear brake, and a hand-actuated lever on the right handlebar that will control the front brake.

Piaggio argued 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. The Vespa ET4 is equipped with disc brakes on the front wheels, and "easily meets and exceeds all the performance requirements of FMVSS 122" for motorcycle brake systems. The vehicle meets the braking

performance requirements of ECE 93/14 as well.

Piaggio averred that no other country in Europe, Japan, or elsewhere in Asia requires scooters to be equipped with a right foot-operated brake control. Absent an exemption, then, Piaggio will be unable to sell the Vespa ET4 in the United States. Piaggio "is in the process of introducing a complete modification of the Vespa braking system to conform with FMVSS 123," and intends to complete its development work during the two-year period that its exemption would be in effect.

Piaggio will not sell more than 2,500 scooters a year while an exemption is in effect. The exemption would cover Model Year 2001 and 2002 vehicles.

The company believes that an exemption would be consistent with the objectives of traffic safety because the vehicle provides "for much more natural braking response by the rider than non-exempt vehicles." Extended use in Europe and the rest of the world has not resulted in either consumer groups or governmental authorities raising any safety concerns. The exemption would also be in the public interest because it is "environmentally clean and fuel efficient * * * convenient urban transportation."

We received five comments, all supporting granting Piaggio's application.

Piaggio's request is not a new one, as we have exempted three other motorcycle manufacturers from S5.2.1 (Aprilia, 64 FR 44262, re-issued at 65 FR 1225; Vectrix, 64 FR 45585; and Italjet, 64 FR 58127). Our concern about a lack of standardization of the rear brake control for scooter-type vehicles was addressed by Aprilia in its petition which included a report on "Motorscooter Braking Control Study," available for examination in Docket No. NHTSA-99-4357. This report indicated that test subjects' brake reaction times using a vehicle configured like Piaggio's were approximately 20% quicker than their reaction times on the conventional motorcycle. We interpreted the report as indicating that a rider's braking response is not likely to be degraded by the different placement of brake controls, and cited it in granting the similar petition by Vectrix. In Piaggio's case, the favorable comments appear to sustain our previous conclusions. We intend to initiate rulemaking to amend Standard No. 123 to address the location of the brake control on vehicles with automatic transmissions, such as the petitioner manufactures.

With respect to the public interest and the objectives of motor vehicle safety, the overall level of safety, as Piaggio

argues, appears at least equal to that of vehicles certified to comply with Standard No. 123. We note that the vehicle meets the braking performance requirements of ECE 93/14 as well. The comments make convincing arguments that an exemption would be in the public interest by making available a compact, fuel-efficient vehicle for urban use that would not otherwise be available without an exemption.

In consideration of the foregoing, we hereby find that Piaggio has met its burden of persuasion 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. We further find that a temporary exemption is in the public interest and consistent with the objectives of motor vehicle safety. Accordingly, Piaggio & c. S.p.A. is hereby granted NHTSA Temporary Exemption No. EX2000-3 from the requirements 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 the Vespa ET4 and will expire on October 1, 2002.

Issued on October 23, 2000.

Sue Bailey,

Administrator.

[FR Doc. 00-27724 Filed 10-27-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION**Surface Transportation Board**

[STB Docket No. AB-55 (Sub-No. 581X)]

CSX Transportation, Inc.—Abandonment Exemption—in Fayette and Raleigh Counties, WV

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon a line of railroad between milepost CAX0.0, near Mill Creek Junction, and milepost CAX4.8, near Garden Ground, a distance of approximately 4.8 miles, in Fayette and Raleigh Counties, WV (line). The line traverses United States Postal Service Zip Code 25880 (and possibly 25906).

CSXT has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government agency acting on behalf of

such user) regarding cessation of service over the line is either pending with the Surface Transportation Board (Board) or any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 29, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,¹ formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),² and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 9, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 20, 2000, with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to applicant's representative: Natalie S. Rosenberg, Esq., CSX Transportation, Inc., 500 Water Street, J150, Jacksonville, FL 32202. If the verified notice contains false or misleading information, the exemption is void *ab initio*.

CSXT has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by November 3, 2000. Interested persons may obtain a copy of

the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by CSXT's filing of a notice of consummation by October 30, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: October 19, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,
Secretary.

[FR Doc. 00-27562 Filed 10-27-00; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-183 (Sub-No. 3X)]

Union Railroad Company— Abandonment Exemption—in Allegheny County, PA

Union Railroad Company (URR) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments and Discontinuances* to abandon and discontinue service over its line of railroad known as the Rankin Branch extending from point of switch Survey Station 158+50 of Turnout MU-18, and extending from that point over and across the Rankin Hot Metal Bridge to a rail connection with the Railroad's so-called Wildcat Track at Survey Station 48+35 in the Borough of Rankin, Allegheny County, PA, a distance of 0.89 miles.¹ The line traverses United

States Postal Service Zip Codes 15120 and 15104.

URR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 29, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by November 9, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 20, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Christopher T. Como, Attorney and Assistant Secretary, Union Railroad Company, 135 Jamison Lane, Monroeville, PA 15146.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

¹ The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

² Each offer of financial assistance must be accompanied by the filing fee, which currently is set at \$1000. See 49 CFR 1002.2(f)(25).

¹ Pursuant to 49 CFR 1150.50(d)(2), the railroad must file a verified notice with the Board at least 50 days before the abandonment or discontinuance is to be consummated. While the applicant initially indicated a proposed consummation date of November 28, 2000, because the verified notice was filed on October 10, 2000, consummation may not take place prior to November 29, 2000. Applicant's representative has subsequently confirmed that the correct consummation date is on or after November 29, 2000.