

**DEPARTMENT OF TRANSPORTATION****Federal Railroad Administration****Petition for Waiver of Compliance**

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

**National Railroad Passenger Corporation**

[Docket Number FRA-2004-19756]

The National Railroad Passenger Corporation (AMTRAK) seeks a waiver of compliance from the provisions of the Federal Track Safety Standards, 49 CFR 213.333(l), subpart G, regarding the requirement for conducting annual instrumented wheel set (IWS) testing. The waiver would grant AMTRAK relief by extending their deadline for conducting the 2004 instrumented wheel set (IWS) test on its North East Corridor (NEC). This relief provides AMTRAK sufficient time to jointly resolve technical issues with FRA and allows AMTRAK to better manage the expense and possible service disruptions caused by IWS testing.

AMTRAK anticipates that these technical issues will be resolved with FRA in early 2005. It also anticipates that further testing with IWS for 9 inch cant deficiency operation will need to take place once these technical issues are resolved. In order to reduce cost, and minimize service disruption, AMTRAK would like to schedule its annual IWS testing concurrent with 9 inch cant deficiency testing, and is requesting this waiver so that all testing can benefit from one installation of instrumentation for IWS.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communication concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number FRA-2004-

19756) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 20 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

Issued in Washington, DC, on November 29, 2004.

**Michael J. Logue,**

*Deputy Associate Administrator for Safety.*

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

[Docket No. NHTSA-2004-18745]

**Receipt of Applications for Temporary Exemption From a Federal Motor Vehicle Safety Standard; American Suzuki Motorcycle Corporation**

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.

**ACTION:** Notice of receipt of two applications for temporary exemptions from a Federal motor vehicle safety standard; Request for comments.

**SUMMARY:** We have received two applications from American Suzuki Motorcycle Corporation (Suzuki), a motorcycle manufacturer, for temporary exemptions from a provision in the Federal motor vehicle safety standard on motorcycle controls and displays specifying that a motorcycle rear brake, if provided, must be controlled by a right foot control. Suzuki asks that we permit the left handlebar as an alternative location for the rear brake control for two of its scooters, the Burgman 400 and the Burgman 650. Suzuki states its belief that "compliance with the standard 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 are publishing this notice of receipt of the application in accordance with our regulations on the subject, and ask for public comment on Suzuki's application. This publication does not

mean that we have made a judgment yet about the merits of the applications.

**DATES:** You should submit your comments early enough to ensure that Docket Management receives them not later than January 3, 2005.

**ADDRESSES:** You may submit your comments [identified by the DOT DMS Docket Number cited in the heading of this document] by any of the following methods:

- Web site: <http://dms.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 20590-001.

- 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.

You may call the Docket at (202) 366-9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Mr. Michael Pyne, Office of Crash Avoidance Standards at (202) 366-4171. His FAX number is (202) 493-2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366-2992. Her FAX number is (202) 366-3820.

You may send mail to these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:****I. Background**

49 U.S.C. Section 30113(b) provides the Secretary of Transportation the authority to exempt, on a temporary basis, motor vehicles from a motor vehicle safety standard under certain circumstances. The exemption may be renewed, if the vehicle manufacturer reapplies. The Secretary has delegated the authority for Section 30113(b) to NHTSA.

NHTSA has established regulations at 49 CFR Part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*. Part 555 provides a means by which motor vehicle manufacturers may apply for temporary exemptions from the Federal motor vehicle safety