

**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.*

[FR Doc. 04-26631 Filed 12-2-04; 8:45 am]

**BILLING CODE 4910-06-M**

**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

standards on the basis of substantial economic hardship, facilitation of the development of new motor vehicle safety or low-emission engine features, or existence of an equivalent overall level of motor vehicle safety.

Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle controls and displays* (49 CFR Section 571.123) specifies requirements for the location, operation, identification, and illumination of motorcycle controls and displays, and requirements for motorcycle stands and footrests. Among other requirements, FMVSS No. 123 specifies that for motorcycles with rear wheel brakes, the rear wheel brakes must be operable through the right foot control, although the left handlebar is permissible for motor-driven cycles (see S5.2.1, and Table 1, Item 11). Motor-driven cycles are motorcycles with motors that produce 5 brake horsepower or less (see 49 CFR Section 571.3, Definitions).

On November 21, 2003, NHTSA published in the **Federal Register** (68 FR 65667) a notice proposing two regulatory alternatives to amend FMVSS No. 123. Each alternative would require that for certain motorcycles without a clutch control lever, the rear brakes must be controlled by a lever located on the left handlebar. We also requested comment on industry practices and plans regarding controls for motorcycles with integrated brakes. If this proposed rule is made final, the left handlebar would be permitted as an alternative location for the rear brake control.

## II. Applications for Temporary Exemption From FMVSS No. 123

NHTSA has received two applications for temporary exemption from S5.2.1 and Table 1, Item 11 from American Suzuki Motor Corporation, a motorcycle manufacturer. Suzuki asks for extensions of existing temporary exemptions for the Burgman 400 (also known as the AN 400) and the Burgman 650 (also known as the AN 650) for MYs 2005–2006. The Burgman 400 and 650 motorcycles are considered “motor scooters.”

Suzuki has applied to use the left handlebar as the location for the rear brake control on its Burgman scooters, whose engines produce more than 5 brake horsepower. The frame of the Burgman scooters have not been designed to mount a right foot operated brake pedal (*i.e.*, each motor scooter has a platform for the feet and operate only through hand controls). Applying considerable stress to this sensitive pressure point of the motor scooter frame by putting on a foot operated brake control could cause failure due to

fatigue, unless proper design and testing procedures are performed.

## III. Why the Petitioner Claims the Overall Level of Safety of the Motorcycles Equals or Exceeds That of Non-Exempted Motorcycles

The applicant has argued that the overall level of safety of the motorcycles covered by their petitions equals or exceeds that of a non-exempted motorcycle for the following reasons. Suzuki has stated that the Burgman scooters are equipped with automatic transmissions. As there is no foot-operated gear change, the operation and use of a motorcycle with an automatic transmission is similar to the operation and use of a bicycle, and the vehicles can be operated without requiring special training or practice.

Suzuki provided test data with its October 4, 2002 original temporary exemption petition showing that the Burgman 400 “can easily meet” the braking performance requirements in FMVSS No. 122 *Motorcycle brake systems*. Suzuki provided similar test data with its June 2, 2002 original temporary exemption petition for the Burgman 650, which also showed that the Burgman 650 “can easily meet” FMVSS No. 122.

Suzuki further stated that it will not sell more than 2,500 exempted vehicles in the U.S. in any 12-month period for which an exemption may be granted. At the end of the exemption period, Suzuki stated that it does not intend to comply with the rear brake control location requirements of FMVSS No. 123. Under previously-granted exemptions, Suzuki sold approximately 2,702 Burgman 400 scooters and approximately 2,947 Burgman 650 scooters over a two-year period.

## IV. Why Petitioner Claims an Exemption Would Be in the Public Interest and Would Be Consistent With the Objectives of Motor Vehicle Safety

Suzuki offered the following reason why another temporary exemption for its motorcycle would be in the public interest and would be consistent with the objectives of motor vehicle safety. Suzuki asserted that the level of safety of the Burgman scooters is “at least equal to similar vehicles that are certified to FMVSS No. 123.” Suzuki further asserted that scooters like the Burgman 400 and 650 are of interest to the public, evidenced by the number of companies that have previously requested exemptions to sell similar products in the U.S., the favorable public comment on the exemption requests, and the number of scooters sold under the granted exemptions.

## V. Comments

*How do I prepare and submit comments?*

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Please submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

You may also submit your comments to the docket electronically by logging onto the Dockets Management System Web site at <http://dms.dot.gov>. Click on “Help & Information” or “Help/Info” to obtain instructions for filing the document electronically.

*How can I be sure that my comments were received?*

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

*How do I submit confidential business information?*

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

*Will the agency consider late comments?*

We will consider all comments that Docket Management receives before the

close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date.

*How can I read the comments submitted by other people?*

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location.

You may also see the comments on the Internet. To read the comments on the Internet, take the following steps:

1. Go to the Docket Management System (DMS) Web page of the Department of Transportation (<http://dms.dot.gov>).
2. On that page, click on "search."
3. On the next page (<http://dms.dot.gov/search/>), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were "NHTSA-1998-1234," you would type "1234." After typing the docket number, click on "search."
4. On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments. Although the comments are imaged documents, instead of word processing documents, the "pdf" versions of the documents are word searchable.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late comments. Accordingly, we recommend that you periodically check the Docket for new material.

*How does the Federal Privacy Act apply to my public comments?*

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>.

**Authority:** 49 U.S.C. Section 30113; delegations of authority at 49 CFR 1.50 and 501.4.

Issued on: November 30, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-26632 Filed 12-2-04; 8:45 am]

**BILLING CODE 4910-59-P**

## DEPARTMENT OF TRANSPORTATION

### Research and Special Programs Administration

**[Docket No. RSPA-2004-16964 (Notice No. 04-8)]**

#### Notice of Information Collection Approval

**AGENCY:** Research and Special Programs Administration (RSPA), DOT.

**ACTION:** Notice of information collection approval.

**SUMMARY:** This notice announces Office of Management and Budget (OMB) approval and extension until July 31, 2007 for the following information collection requests (ICRs): OMB No. 2137-0018, "Inspection and Testing of Portable Tanks and Intermediate Bulk Containers"; OMB No. 2137-0039, "Hazardous Materials Incidents Reports"; OMB No. 2137-0572, "Testing Requirements for Non-Bulk Packagings"; and OMB No. 2137-0595, "Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service."

In addition, this notice announces OMB approval and extension until November 30, 2007 for the following ICRs: OMB No. 2137-0014, "Cargo Tank Specification Requirements"; OMB No. 2137-0542, "Flammable Cryogenic Liquids"; OMB No. 2137-0582, "Container Certification Statements"; OMB No. 2137-0586, "Hazardous Materials Public Sector Training and Planning Grants"; and OMB No. 2137-0591, "Response Plans for Shipments of Oil."

**DATES:** The expiration dates for these ICRs are July 31, 2007 and or November 30, 2007.

**ADDRESSES:** Requests for a copy of an information collection should be directed to Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, Room 8422, 400 Seventh Street, SW., Washington, DC 20590-0001.

**FOR FURTHER INFORMATION CONTACT:** Deborah Boothe or T. Glenn Foster, Office of Hazardous Materials Standards (DHM-10), Research and Special Programs Administration, Room 8422, 400 Seventh Street, SW., Washington, DC 20590-0001, Telephone (202) 366-8553.

**SUPPLEMENTARY INFORMATION:** Office of Management and Budget (OMB) regulations (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104-13) require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (*see* 5 CFR 1320.8(s)) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, RSPA has received OMB approval for renewal of the following ICRs:

*OMB Control Number:* 2137-0014.  
*Title:* Cargo Tank Specification Requirements.

*Expiration Date:* November 30, 2007.

*OMB Control Number:* 2137-0018.

*Title:* Inspection and Testing of Portable Tanks and Intermediate Bulk Containers.

*Expiration Date:* July 31, 2007.

*OMB Control Number:* 2137-0039.

*Title:* Hazardous Materials Incidents Reports.

*Expiration Date:* July 31, 2007.

*OMB Control Number:* 2137-0542.

*Title:* Flammable Cryogenic Liquids.

*Expiration Date:* November 30, 2007.

*OMB Control Number:* 2137-0572.

*Title:* Testing Requirements for Non-Bulk Packagings.

*Expiration Date:* July 31, 2007.

*OMB Control Number:* 2137-0582.

*Title:* Container Certification Statements.

*Expiration Date:* November 30, 2007.

*OMB Control Number:* 2137-0586.

*Title:* Hazardous Materials Public Sector Training and Planning Grants.

*Expiration Date:* November 30, 2007.

*OMB Control Number:* 2137-0591.

*Title:* Response Plans for Shipments of Oil.

*Expiration Date:* November 30, 2007.

*OMB Control Number:* 2137-0595.

*Title:* Cargo Tank Motor Vehicles in Liquefied Compressed Gas Service.

*Expiration Date:* July 31, 2007.

These information collection approvals expire on July 31, 2007 or November 30, 2007 as indicated.

Issued in Washington, DC, on November 30, 2004.

**Edward T. Mazzullo,**

*Director, Office of Hazardous Materials Standards.*

[FR Doc. 04-26633 Filed 12-2-04; 8:45 am]

**BILLING CODE 4910-60-P**