

why. Relevant information and comments will help FTA understand completely the facts surrounding the waiver requests and FTA's proposal.

In accordance with Section 70916(c) of the Build America, Buy America Act, FTA will also consult with the Hollings Manufacturing Extension Partnership before approving the proposed waiver.

**Veronica Vanterpool,**  
Acting Administrator.

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2024-0053]

#### Damon Motors Inc.; Receipt of Petition for Temporary Exemption From a Rear Wheel Brake Requirement of FMVSS No. 123

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

**ACTION:** Notice of receipt of a petition for a temporary exemption; request for comment.

**SUMMARY:** Damon Motors Inc. (Damon) has petitioned the agency for a temporary exemption from a rear wheel brake control requirement of Federal Motor Vehicle Safety Standard (FMVSS) No. 123, Motorcycle controls and displays. The petitioner seeks to install the rear brake control on the left handlebar instead of the right foot control required by FMVSS No. 123. NHTSA is publishing this document in accordance with statutory and administrative provisions and requests comment on the merits of Damon's exemption petition. NHTSA has made no judgment at this time on the merits of the petition.

**DATES:** You should submit your comments not later than October 9, 2024.

**FOR FURTHER INFORMATION CONTACT:** Natasha Reed, Office of the Chief Counsel, NCC-200, National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE, Washington, DC 20590. Telephone: (202) 366-2992; Fax: (202) 366-3820.

**ADDRESSES:** We invite you to submit comments on the application described above. You may submit comments identified by docket number in the heading of this notice by any of the following methods:

- Fax: 1 (202) 493-2251.

- **Mail:** U.S. Department of Transportation, Docket Operations, M-30, Room W12-140, 1200 New Jersey Avenue SE, Washington, DC 20590.

- **Hand Delivery:** 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, 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.

**Instructions:** All submissions must include the agency name and docket number. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act discussion below. We will consider all comments received before the close of business on the comment closing date indicated above. To the extent possible, we will also consider comments filed after the closing date.

**Docket:** For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> at any time or to 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. Telephone: (202) 366-9826.

**Privacy Act:** In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, to [www.regulations.gov](http://www.regulations.gov), as described in the system of records notice, DOT/ALL-14 FDMS, accessible through [www.dot.gov/privacy](http://www.dot.gov/privacy). To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

**Confidential Business Information:** If you wish to submit any information under a claim of confidentiality, submit these materials to NHTSA's Office of the Chief Counsel in accordance with 49 CFR part 512. All requests for confidential treatment must be submitted directly to the Office of the Chief Counsel. NHTSA is currently treating electronic submission as an acceptable method for submitting confidential business information to the

agency under part 512. If you claim that any of the information or documents provided in your response constitutes confidential business information within the meaning of 5 U.S.C. 552(b)(4), or are protected from disclosure pursuant to 18 U.S.C. 1905, you may submit your request via email to Dan Rabinovitz in the Office of the Chief Counsel at [Daniel.Rabinovitz@dot.gov](mailto:Daniel.Rabinovitz@dot.gov). Do not send a hardcopy of a request for confidential treatment to NHTSA's headquarters.

#### SUPPLEMENTARY INFORMATION:

##### I. The Motorcycle Rear Brake Control Requirement in FMVSS No. 123 and Its Purpose

FMVSS No. 123, Motorcycle Controls and Displays, specifies requirements for the location, operation, identification, and illumination of motorcycle controls and displays. The purpose of FMVSS No. 123 is to minimize crashes caused by operator error in responding to the motoring environment by standardizing certain motorcycle controls and displays. Among other requirements, FMVSS No. 123 S5.2.1 (table 1) requires the control for a motorcycle's rear brakes to be located on the right side of the motorcycle and to be operable by the rider's right foot.

In 2005, NHTSA issued a final rule amending FMVSS No. 123 to require scooter-type motorcycles with automatic transmissions (*i.e.*, scooters without a clutch lever) to have a left-hand rear brake control.<sup>1</sup> NHTSA chose not to allow the option of placing the rear brake control on either the left handlebar or right foot pedal, explaining it had concerns that permitting manufacturers to choose between two different arrangements could result in a loss of standardization, as similar or even identical clutchless motorcycles could have different rear brake controls. Further, NHTSA stated that while some commenters asserted such an outcome would not have any safety consequences, without probative data, the agency believed the goal of standardization was better served via FMVSS No. 123 specifically requiring one brake control location. Thus, the final rule made the left-hand rear brake control a requirement, not an option, on scooter-type motorcycles with automatic transmissions (*i.e.*, without a clutch lever). The final rule continued to require non-scooter motorcycles with combined brake systems to have their single-point control located at the right foot, the required location for the rear brake control. For supplemental rear brake controls, the final rule continued

<sup>1</sup> 70 FR 51286.

to require all non-scooter motorcycles to have a right foot pedal control for rear brakes, with supplemental rear brake control located on the left handlebar if no clutch lever is present.

The subject of Damon's petition is this motorcycle rear brake control. Per the requirements of table 1 of FMVSS No. 123, as a motorcycle, rather than a motor-driven cycle or scooter, Damon's HyperSport must have rear wheel brakes located on the vehicle's right foot control. However, Damon explains in its petition that the rear brake control and advanced safety feature design aspects of its HyperSport motorcycle (including all variants) preclude the vehicle from meeting the requirement for a foot-operated control. Damon indicates that the placement of the rear brake control solely on the left handlebar will provide at least an equivalent level of safety as that required by FMVSS No. 123, pointing to the findings of a motor scooter study and European regulations allowing the placement of the rear brake control on the left handlebar for motor scooters. Damon further states that the absence of a rear brake control at the right foot location does not significantly reduce the motorcycle's level of safety, and that added safety features, including an advanced warning and anti-lock braking system (ABS), actually improve the overall safety of the motorcycle. Damon contends that granting its petition will benefit the public interest by allowing it to introduce for demonstration, development, and field evaluation a new zero emission vehicle with advanced safety features aimed at improving the overall level of safety within the motorcycling industry.

## II. Statutory Authority for Temporary Exemptions

The National Traffic and Motor Vehicle Safety Act (Safety Act), codified at 49 U.S.C. chapter 301, provides the Secretary of Transportation authority to exempt, on a temporary basis and under specified circumstances, motor vehicles from a motor vehicle safety standard or bumper standard. This authority is set forth at 49 U.S.C. 30113. The Secretary has delegated the authority for implementing this section to NHTSA.

The Act authorizes the Secretary to grant a temporary exemption to a vehicle manufacturer under certain conditions. The first relevant condition for this petition request requires a finding that the exemption would make easier the development or field evaluation of a new motor vehicle safety feature providing a safety level at least equal to the safety level of the standard. The second relevant condition for this

petition request requires a finding that the exemption would make the development or field evaluation of a low-emission motor vehicle easier and would not unreasonably lower the safety level of the vehicle.<sup>2</sup>

NHTSA established 49 CFR part 555, *Temporary Exemption from Motor Vehicle Safety and Bumper Standards*, to implement the statutory provisions concerning temporary exemptions. The requirements in 49 CFR 555.5 state that the petitioner must set forth the basis of the petition by providing the information required under 49 CFR 555.6, and the reasons why the exemption would be in the public interest and consistent with the objectives of the Safety Act.

A petition on the basis that the exemption would make easier the development or field evaluation of a new motor vehicle safety or impact protection features must include the information specified in 49 CFR 555.6(b). The main requirements of that section include: (1) a description of the safety or impact protection features along with research, development, and testing documentation establishing the innovative nature of such features; (2) an analysis establishing the level of safety or impact protection of the feature is equivalent to or exceeds the level of safety or impact protection established in the standard from which exemption is sought; (3) substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; and (4) a statement of whether the manufacturer intends to conform to the standard at the end of the exemption period, apply for a further exemption, or petition for rulemaking to amend the standard to incorporate the safety or impact protection features.

A petition on the basis that the exemption would make easier the development or field evaluation of a low-emission motor vehicle must include the information specified in 49 CFR 555.6(c). The main requirements of that section include: (1) substantiation that the vehicle is a low-emission vehicle; (2) documentation establishing that a temporary exemption would not unreasonably degrade the safety of a vehicle; (3) substantiation that a temporary exemption would facilitate the development or field evaluation of the vehicle; and (4) a statement of whether the petitioner intends to conform to the standard at the end of the exemption period.

<sup>2</sup> 49 U.S.C. 30113(b)(3)(B).

## III. Overview of Petition

In accordance with 49 U.S.C. 30113 and the procedures in 49 CFR part 555, Damon submitted a petition asking the agency for a temporary exemption from the motorcycle rear brake control requirement in FMVSS No. 123 S5.2.1 (table 1). Damon states the requested two-year exemption will allow it to introduce for demonstration, development, and field evaluation the "Hypersport," a multi variant zero-emission motorcycle equipped with advanced safety features aimed at improving the overall level of safety within the motorcycle industry. Damon notes all HyperSport variants are designed to utilize the left handlebar position to control the rear brake, which prevent it from meeting the motorcycle rear brake location requirement in S5.2.1 (table 1) of FMVSS No. 123, which, as described above, requires motorcycle rear wheel brake controls to be located at the rider's right foot.

Damon requests the exemption for 2 years, stating it will not produce more than 2,500 exempted motorcycles within any 12-month period during the exemption. Damon explains it intends to use data gathered through the grant of this petition to submit a petition for rulemaking to reduce the complexity of the regulation at issue and allow manufacturers the ability to locate rear wheel brake controls on either the right foot or left handlebar.

Damon seeks exemption under two alternative bases. The first basis is that an exemption would make the development or field evaluation of a new motor vehicle safety feature easier while providing a safety level at least equal to the safety level of the standard.<sup>3</sup> In support of this basis Damon states its design will incorporate several advanced safety features normally only found in the automotive industry to increase rider situational awareness, provide warnings of potential dangers around motorcyclists, and maximize the available rider response time. Damon explains these features include an advanced warning system, anti-lock braking (to reduce the chance of an accident caused by the user's application of excessive braking force), and an adjustable ergonomics system.

Damon states that many of these features are already commonplace in the automotive sector and studies have shown they save lives. However, Damon relays that integrating these systems into motorcycles presents new challenges because the dynamics of the vehicle are

<sup>3</sup> 49 U.S.C. 30113(b)(3)(B)(ii).

distinct. For example, Damon states that unlike the fixed ergonomics of conventional motorcycles, its adjustable ergonomics system (SHIFT) provides the user more freedom and control for different riding styles. Damon explains that using the left handlebar rear brake position to accommodate and implement this adjustable ergonomics system will be less complex and avoid the challenges of having the foot brake also change position. Further, Damon states that locating SHIFT on the handlebar brake position will allow it more design freedom to optimize bodywork for the vehicle to reduce drag and increase the overall efficiency of the HyperSport.

The second basis is that an exemption would make the development or field evaluation of a low-emission vehicle easier without unreasonably lowering the safety of that vehicle.<sup>4</sup> In support of this basis, Damon states that its HyperSport qualifies as a low-emission vehicle because no emissions are produced during operation. Damon explains that the HyperSport has an all-electric powertrain.

To demonstrate that the HyperSport meets the minimum safety levels required for an exemption under either 49 CFR 555.6(b)<sup>5</sup> or 49 CFR 555.6(c),<sup>6</sup> Damon states that the absence of a rear brake control at the right foot location does not significantly reduce the level of safety afforded to the user, and that the HyperSport's added safety features, including an advanced warning system and ABS, improve the overall level of safety of the motorcycle. Damon states the HyperSport's brake system is designed to surpass the performance requirements of FMVSS No. 122, which measures braking performance. Further, Damon points out that from 1999–2005 NHTSA granted exemptions for motor scooters with rear brake controls on the left handlebar, and that a 2000 Carter Engineering study submitted with a similar petition for exemption found no response-time detriment in moving the rear brake control from the right foot location to the left handlebar. Damon states the study found operators responded 21 percent faster to the braking stimulus with handlebar-mounted rear brake controls.

<sup>4</sup> 49 U.S.C. 30113(b)(3)(B)(iii).

<sup>5</sup> The exemption would make easier the development or field evaluation of a new motor vehicle safety or impact protection features providing a safety or impact protection level at least equal to that of the standard.

<sup>6</sup> The exemption would make the development or field evaluation of a low-emission vehicle easier and would not unreasonably lower the safety or impact protection level of that vehicle.

Damon contends that based on this report there is likely no difference in the physical response time for operators of motorcycles compared to operators of scooters. Damon also points out that motor scooter manufacturers were afforded the opportunity to bring their vehicles to market in support of gathering future data, and that the granting of this petition would allow Damon's HyperSport to do the same. Finally, Damon notes that although FMVSS No. 123 reserves the left handlebar for the clutch lever or as a supplemental position for the rear brake on motorcycles with an automatic transmission, other markets like Europe and Canada allow manufacturers to use the left handlebar for the rear brake control, and that this exemption would promote international harmonization.

#### IV. Comment Period

The agency seeks comment from the public on the merits of Damon's application for a temporary exemption from the motorcycle rear brake control requirements in paragraph S5.2.1 (table 1) of FMVSS No. 123. The agency has not made any judgment on the merits of the application and is placing a non-confidential copy of the petition in the docket. We are providing a 30-day comment period. After considering public comments and other available information, we will publish a notice of final action on the application in the **Federal Register**.

**Authority:** 49 U.S.C. 30113; delegation of authority at 49 CFR 1.95 and 501.5.

**Sophie Shulman,**  
*Deputy Administrator.*

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## DEPARTMENT OF TRANSPORTATION

### Office of the Secretary

**[Docket ID Number: DOT-OST-2010-0140]**

### Notice of Submission of Proposed Information Collection to OMB

**AGENCY:** Office of the Secretary, Department of Transportation.

**ACTION:** Notice and request for comments.

**SUMMARY:** In accordance with the Paperwork Reduction Act of 1995 (PRA), as amended, this notice announces the Department of Transportation's (Department or DOT) intention to reinstate Office of Management and Budget (OMB) Control Number 2105-0561 for the collection and posting of certain aviation

consumer protection-related information from U.S. carriers and foreign carriers. The subject information collections relate to requirements in the Code of Federal Regulations (CFR) for the development and auditing of carrier customer service plans, reporting of tarmac delays, display of on-time performance, and the posting of various consumer protection documents on carrier websites. The Control Number expired on August 31, 2024.

**DATES:** Comments on this notice must be received by October 9, 2024. Interested persons are invited to submit comments regarding this proposal.

**ADDRESSES:** Written comments and recommendations for the proposed information collection review (ICR) should be sent within 30 days of publication of this notice to [www.reginfo.gov/public/do/PRAMain](http://www.reginfo.gov/public/do/PRAMain). Find this particular ICR by selecting "Currently under 30-day Review—Open for Public Comments" or by using the search function.

**FOR FURTHER INFORMATION CONTACT:** Alexa Strong or Hannah Cohen, Office of the Secretary, Office of Aviation Consumer Protection (C-70), U.S. Department of Transportation, 1200 New Jersey Ave. SE, Washington, DC 20590, at [Alexa.Strong@dot.gov](mailto:Alexa.Strong@dot.gov) or [Hannah.Cohen@dot.gov](mailto:Hannah.Cohen@dot.gov) (Email). Arrangements to receive this document in an alternative format may be made by contacting the above-named individuals.

**SUPPLEMENTARY INFORMATION:** *Title:* Submission of Miscellaneous Information Collection Systems as Required by the Department's Rules to Enhance Airline Passenger Protections.

*OMB Control Number:* 2105-0561.

On December 30, 2009 and April 25, 2011, the Department issued two rules to enhance airline passenger protections that, among other things, required U.S. and foreign carriers to adopt and audit a customer service plan, retain information regarding tarmac delays, submit data regarding tarmac delays, and post tarmac delay plans, customer service plans, and contracts of carriage on their websites. The 2009 rule also required U.S. carriers that file on-time performance reports under 14 CFR part 234 ("reporting carriers") to display the on-time performance of domestic flights on their websites. A 2016 rule then expanded the definition of U.S. carriers considered reporting carriers.

On May 3, 2021, the Department issued a rule amending its tarmac delay requirements. Among other things, the rule narrowed the tarmac delay data reporting requirements in 14 CFR part 244 to those delays considered