

Even if we were to consider the data shown in Table 2, it does not reflect a failure trend for the subject vehicles as a whole or by individual models.

Considering the fact that there were over 5 million subject vehicles manufactured and that these vehicles are 10 years old on average, the number of alleged defects reported to ODI on the subject vehicles is extremely low.

In view of the foregoing, it is unlikely that NHTSA would issue an order for the notification and remedy of an alleged safety-related defect as defined by the petitioner in the subject vehicles at the conclusion of an investigation. Therefore, in view of the need to allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

**Authority:** 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

Issued on: June 23, 2003.

**Kenneth N. Weinstein,**

*Associate Administrator for Enforcement.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 03-15520]

#### Grant of Applications of Two Motorcycle Manufacturers for Temporary Exemptions and Renewal of Temporary Exemptions From Federal Motor Vehicle Safety Standard No. 123

This notice grants the applications by two motorcycle manufacturers for temporary exemptions, and renewal of temporary exemptions, from a requirement of S5.2.1 (Table 1) of Federal Motor Vehicle Safety Standard No. 123 *Motorcycle Controls and Displays*. The applicants asserted 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," 49 U.S.C. Sec. 30113(b)(3)(iv).

Aprilia, U.S.A. Inc., Woodstock, Ga., has applied for an extension of exemption for the Aprilia Scarabeo 150 (NHTSA Temporary Exemption No. 99-9), and for new exemptions for the Aprilia Mojito 150, Atlantic 200, Atlantic 500, and Scarabeo 500 models. American Honda Motor Company, Inc., Torrance, California, has applied for an extension of exemption for the Honda

FSC600 (previously FJS600)(NHTSA Temporary Exemption No. EX 2001-8).

Because the safety issues are identical we have decided to address all petitions in a single notice. Further, given the opportunity for public comment on these issues in the years 1998-2002 (which resulted only in comments in support of the petitions), we have concluded that a further opportunity to comment on the same issues is not likely to result in any substantive submissions, and that we may proceed to decisions on these petitions. See, e.g., the grant of applications by five motorcycle manufacturers (67 FR 62850).

#### The Reason Why the Applicants Need a Temporary Exemption

The problem is one that is common to the motorcycles covered by the applications. 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, although the left handlebar is permissible for motor-driven cycles (Item 11, Table 1). Motor-driven cycles are motorcycles with motors that produce 5 brake horsepower or less. Honda and Aprilia petitioned to use the left handlebar as the control for the rear brakes of certain of their motorcycles whose engines produce more than 5 brake horsepower. The frame of each of these motorcycles has not been designed to mount a right foot operated brake pedal (i.e., these scooter-type vehicles which provide a platform for the feet and operate only through hand controls). Applying considerable stress to this sensitive pressure point of the frame could cause failure due to fatigue unless proper design and testing procedures are performed.

Absent an exemption, the manufacturers will be unable to sell the motorcycle models named above because the vehicles would not fully comply with Standard No. 123.

#### Arguments Why the Overall Level of Safety of the Vehicles To Be Exempted Equals or Exceeds That of Non-Exempted Vehicles

As required by statute, the petitioners have argued that the overall level of safety of the motorcycles covered by their petitions is at least equal to that of a non-exempted motor vehicle for the following reasons. All vehicles for which petitions have been submitted are equipped with an automatic transmission. 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.

The five models for which Aprilia seeks exemption are equipped with engines ranging from 150cc to 50cc in displacement. They are configured identically with respect to their brake controls. In its earlier petitions, Aprilia cited tests performed by Carter Engineering on a similarly-configured Aprilia scooter to support its statement that "a motor vehicle with a hand-operated rear wheel brake provides a greater overall level of safety than a nonexempt vehicle." See materials in Dockets No. NHTSA 98-4357 and 01-10257. Aprilia cites these materials in support of its applications for the Scarabeo 150 and Atlantic 500 models. The company has submitted individual test reports for the Mojito 150, Atlantic 200, and Scarabeo 500 models, which have been placed in the docket identifying this notice. According to Aprilia, a rear wheel hand brake control allows riders to brake more quickly and securely. It takes a longer time for a rider to find and place his foot over the pedal and apply force than it does for a rider to reach and squeeze the hand lever, and there is a reduced probability of inadvertent wheel locking in an emergency braking situation. In its latest petition, Aprilia stated that it has received no written complaints relating to the brake operation of the Scarabeo 150s which it has imported and sold under NHTSA Temporary Exemption No. 99-9. (This exemption was scheduled to expire on October 1, 2002, but the expiration date was tolled as provided by 49 CFR 555.8(e) for timely filings. Aprilia's petition for renewal was dated May 2, 2002.)

Aprilia also pointed out that European regulations allow motorcycle manufacturers the option of choosing rear brake application through either a right foot or left handlebar control, and that Australia permits the optional locations for motorcycles of any size with automatic transmissions.

Honda informed us that "the FSC600 can easily meet the braking performance requirements of both Standard 122 and ECE 78," and, therefore, that "This braking system provides the FSC600 with an overall safety level exceeding \* \* \* nonexempted vehicles."

Honda attached to its petition copies of a second effectiveness service brake system test conducted in accordance with S5.3 of Standard No. 122, demonstrating that the FSC600 easily stopped within the maximum distances specified at speeds of 30 and 65 mph, as well as a test showing compliance with ECE 78.

### Arguments Why an Exemption Would Be in the Public Interest and Consistent With the Objectives of Motor Vehicle Safety

Aprilia asserted in its initial request for exemption that "the public interest would be served with the granting of the exemption because the Scarabeo 150 provides enhanced safety as well as environmentally friendly, fuel-efficient, convenient urban transportation." According to Aprilia, its initial assertion is supported by feedback from initial customers. It has enclosed comments from Scarabeo 150 customers touting the speed and handling of the motorcycle, and a magazine article commenting that it is "the perfect vehicle for stop-and-go traffic." For this reason, Aprilia argues that an exemption would also be consistent with the objectives of motor vehicle safety. Aprilia asserted that "the braking configuration of the Atlantic 500 is safer than non-exempt vehicles currently being operated in the U.S.," and "allows for a more natural braking response by the rider." Aprilia reiterated this assertion with respect to the Scarabeo 500, the Mojito 150, and the Atlantic 200.

In support of its argument that an exemption would be in the public interest and consistent with the objectives of motor vehicle safety, Honda reiterated its certainty "that the level of safety of the FSC600 is equal to similar vehicles certified under Standard No. 123 \* \* \*."

### NHTSA's Decisions on the Applications and Request

It is evident that, unless Standard No. 123 is amended to permit or require the left handlebar brake control on motor scooters with more than 5 hp, the petitioners will be unable to sell their motorcycles if they do not receive a temporary exemption from the requirement that the right foot pedal operate the brake control. It is also evident from the previous grants of similar petitions that we have repeatedly found that the motorcycles exempted from the brake control location requirement of Standard No. 123 have an overall level of safety at least equal to that of nonexempted motorcycles.

In consideration of the foregoing, we hereby find that the petitioners have met their burden of persuasion that to require compliance with Standard No. 123 would prevent these manufacturers 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.

Therefore:

1. NHTSA Temporary Exemption No. 99-9, exempting Aprilia USA Inc. 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, is hereby extended to expire on July 1, 2005. This exemption applies only to the Aprilia Scarabeo 150.

2. NHTSA Temporary Exemption No. EX2001-8, exempting American Honda Motor Co., Inc., 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 brakes be operable through the right foot control, is hereby extended to expire on July 1, 2005. This exemption applies only to the Honda FSC600.

3. Aprilia USA Inc. is hereby granted NHTSA Temporary Exemption No. EX03-3 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 brakes be operable through the right foot control. This exemption applies only to the following Aprilia models: Mojito 150, Atlantic 200, Atlantic 500, and Scarabeo 500. The exemption will expire on July 1, 2005. (49 U.S.C. 30113; delegation of authority at 49 CFR 1.50).

Issued on June 27, 2003.

**Jeffrey W. Runge,**  
Administrator.

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## DEPARTMENT OF THE TREASURY

### Submission for OMB Review; Comment Request

June 30, 2003.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

**DATES:** Written comments should be received on or before August 7, 2003 to be assured of consideration.

### Internal Revenue Service (IRS)

OMB Number: 1545-0193.

Form Number: IRS Form 4972.

Type of Review: Revision.

Title: Tax on Lump-Sum Distributions (From Qualified Retirement Plans or Plan Participants Born Before 1936).

Description: Internal Revenue Code (IRC) section 402(e) allows taxpayers to compute a separate tax on a lump-sum distribution from a qualified retirement plan. Form 4972 is used to correctly figure that tax. The data is used to verify the correctness of the separate tax. Form 1972 is also used to make the special 20% capital gain election attributable to pre-1974 participation from the lump-sum distribution.

Respondents: Individuals or households.

Estimated Number of Respondents/Recordkeepers: 35,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 52 minutes

Learning about the law or the form: 19 minutes

Preparing the form: 1 hour, 11 minutes

Copying, assembling, and sending the form to the IRS: 20 minutes

Frequency of Response: Annually.

Estimated Total Reporting/Recordkeeping Burden: 95,550 hours.

OMB Number: 1545-1020.

Form Number: IRS Form 1041-T.

Type of Review: Revision.

Title: Allocation of Estimated Tax Payments to Beneficiaries.

Description: This form was developed to allow a trustee of a trust or an executor of an estate to make the election under Internal Revenue Code (IRC) section 643(g) to allocate any payment of estimated tax to a beneficiary(ies). This form serves as a transmittal so that Service Center personnel can determine the correct amounts that are to be transferred from the fiduciary's account to the individual's account.

Respondents: Business or other for-profit.

Estimated Number of Respondents/Recordkeepers: 1,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping: 19 minutes

Learning about the law or the form: 4 minutes

Preparing the form: 18 minutes

Copying, assembling, and sending the form to the IRS: 16 minutes

Frequency of Response: Other (when such election is made).

Estimated Total Reporting/

Recordkeeping Burden: 990 hours.

OMB Number: 1545-1441.