

FRA published a 60-day notice in the **Federal Register** soliciting comment on ICRs that the agency was seeking OMB approval. 69 FR 27968. FRA received no comments after issuing this notice.

Before OMB decides whether to approve this proposed collection of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)-(c); 5 CFR 1320.12(d); see also 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); see also 60 FR 44983, Aug. 29, 1995.

The summary below describe the nature of the information collection requirements (ICRs) and the expected burden. These requirements are being submitted for clearance by OMB as required by the PRA.

*Title:* Railroad Trespasser Death Study.

*OMB Control Number:* 2130-NEW.

*Type of Request:* Approval of a New Collection of Information.

*Affected Public:* County (Regional) Coroners/Medical Examiners.

*Form(s):* FRA F 6180.117.

*Abstract:* Trespasser deaths on railroad rights-of-way and other railroad property are the leading cause of fatalities attributable to railroad operations in the United States. In order to address this serious issue, interest groups, the railroad industry, and governments (Federal, State, and local) must know more about the individuals who trespass. With such knowledge, specific education programs, materials, and messages regarding the hazards and consequences of trespassing on railroad property can be developed and effectively disseminated. Since currently available data are lacking in demographic detail, FRA proposes to conduct a study (using a private contractor) to obtain demographic data from local County Medical Examiners so as to develop a general, regional profile of "typical" trespassers in order to target audiences with appropriate education and enforcement campaigns that will reduce the annual number of injuries and fatalities.

*Annual Estimated Burden Hours:* 120 hours.

*Addressee:* Send comments regarding these information collections to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, Attention: FRA Desk Officer.

*Comments are invited on the following:* Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimates of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

*Authority:* 44 U.S.C. 3501-3520.

Issued in Washington, DC on July 21, 2004.

**Kathy A. Weiner,**

*Director, Office of Information Technology and Support Systems, Federal Railroad Administration.*

[FR Doc. 04-17538 Filed 7-30-04; 8:45 am]

**BILLING CODE 4910-06-P**

## 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

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

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

**SUMMARY:** We have received applications from three motorcycle manufacturers (Honda, Piaggio, and Yamaha) 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. The manufacturers ask that we permit the left handlebar as an alternative location for the rear brake control. Each manufacturer 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 applications in accordance with our regulations on the subject, and ask for public comment on each 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 September 1, 2004.

**ADDRESS:** 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 applications for temporary exemption from S5.2.1 and Table 1, Item 11 from three motorcycle manufacturers: Honda Motor Company, Ltd. (Honda); Piaggio & C. S.p.A. and Piaggio USA, Inc (Piaggio); and Yamaha Motor Corporation USA (Yamaha). Honda asks for a new temporary exemption for the PS250 (for Model Years (MYs) 2005 and 2006), and an extension of an existing temporary exemption for the NSS250 (for MYs 2005–2006). Piaggio asks for new temporary exemptions for the Vespa GT200 (for MYs 2005–2006), the Piaggio BV200 (for MYs 2005–2006) and the Piaggio X9–500 (for MYs 2005–2006).

Piaggio asks for an extension of an existing temporary exemption for the Vespa ET4 (for MYs 2004–2006). Yamaha asks for a new temporary exemption for the YP–400 (for MYs 2005–2006), which Yamaha asserts is “equivalent” to the Yamaha Vino 125. The Vino 125 is the subject of a grant of a temporary exemption from Standard No. 123 until March 1, 2005 (See 68 FR 15552; March 31, 2003). All of these motorcycles are considered “motor scooters.”

The safety issues are identical in the case of all of these motorcycles. Honda, Piaggio, and Yamaha have applied to use the left handlebar as the location for the rear brake control on their motorcycles whose engines produce more than 5 brake horsepower (all of the motorcycles specified in the previous paragraph). The frames of each of the motorcycles that are the subject of these applications for temporary exemptions have not been designed to mount a right foot operated brake pedal (*i.e.*, these motor scooters have 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 Petitioners Claim the Overall Level of Safety of the Motorcycles Equals or Exceeds That of Non-exempted Motorcycles

The applicants have 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. Each manufacturer stated that motorcycles for which applications 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. Each manufacturer provided the following additional arguments:

**Honda**—Honda provided separate applications for the new exemption for the PS250 and the renewal of the exemption for the NSS250. In both cases, Honda provided test data showing how each motorcycle met the FMVSS No. 122 *Motorcycle brake systems* test specified at S5.3, service brake system—second effectiveness test. Honda provided separate sets of data showing the results of a second effectiveness comparison test data for

the NSS250 and the PS250 equipped with the combined brake system. The test results for the NSS250 and the PS250 were compared to results for similarly sized models without the combined brake systems. In all cases, the NSS250 and the PS250 had shorter braking stopping distances than did the models without the combined brake systems.

Honda also provided results of ECE 78 test data for the NSS250 and PS250, equipped with the combined brake system, and provided test data comparing stopping distances on various surfaces using the rear brake control only between an NSS250 and a PS250 equipped with a combined brake system and a similar model without a combined brake system.

**Piaggio**—Piaggio stated that brake tests in accordance with FMVSS No. 122 *Motorcycle brake systems*, were conducted on all Vespa and Piaggio models and stated that all models “easily exceed” the performance requirements of FMVSS No. 122. Piaggio also stated that Vespa and Piaggio vehicles fully meet the 93/14 EEC brake testing requirements, and enclosed a copy of the brake testing report of the “Ministero dei Trasporti e della Navigazione” Italy or TUV/VCA.

Piaggio cited several reasons why it believes the left handlebar rear brake actuation force provides an overall level of safety that equals or exceeds a motorcycle with a right-foot rear brake control. Among these reasons, Piaggio cited the “state of the art” hydraulically activated front disc brakes used on Vespa and Piaggio vehicles, as providing more than enough brake actuation force available to the “hand of even the smallest rider.” Piaggio explained that because of the greater physical size of a foot-powered brake pedal, mechanical efficiency is lower and inertia about the pivot is higher. This results in less effective feedback, or what Piaggio describes as “feeling” of the actuation system. Piaggio asserted that because there is more sensitivity to brake feedback from the hand lever, use of a hand lever reduces the probability of inadvertent wheel locking in an emergency braking situation. Piaggio stated that inexperienced riders may lose control of their motorcycle because of rear wheel locking, and that use of the hand lever reduces the possibility of rear wheel locking.

**Yamaha**—Yamaha cited an August 1999 study, “Motorcycle Braking Control Response Study” by T. J. Carter, as showing that handlebar-mounted rear brakes have an equivalent level of safety to that of right-foot control rear brakes, because handlebar-mounted rear brakes

have equivalent reaction times to the foot control. Yamaha analogized motorcycle operators changing from the dual hand control wheel brakes to the hand/foot arrangement, to that of an automobile driver going from an automatic transmission to a stick shift. Yamaha asserted: “[t]here have been no required warnings of ‘change’ or ‘difference in operating character’ to the automobile operator, nor has there been shown to be a lessened or lowered level of equivalent safety for the two different systems on the same platform (automobiles).”

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

Each manufacturer offered the following reasons why temporary exemptions for their motorcycles would be in the public interest and would be consistent with the objectives of motor vehicle safety:

*Honda*—For both the NSS250 and the PS250, Honda asserted that it is “certain” that the level of safety of the two motorcycles “is equal to similar vehicles certified under FMVSS No. 123; therefore, we seek renewal of the [or a new] temporary exemption from this standard.” Honda noted that both the NSS250 and the PS250 are equipped with a combined brake system. The combined brake system uses both front and rear disc brakes and employs a unique three-piston front caliper. Applying the right handlebar brake lever activates the front brake caliper. Applying the left handlebar brake lever activates one piston in the front brake caliper and the rear brake caliper.

Honda asserted that with the combined brake system, the rider is able to precisely control brake force distribution, depending on which control is used. Applying the right handlebar lever activates the outer two pistons in the front caliper. In this case, the front wheel receives a larger portion of the braking force. Applying the left handlebar lever activates the center piston in the front caliper and the single piston in the rear caliper. A valve has been installed in this system to slightly delay the brake force at the front wheel. This delay improves braking by allowing the rear of the scooter to settle, which helps to minimize front nose dive and weight shift. Honda further noted that using both controls at once activates all pistons in both calipers for maximum braking force.

For the NSS250, Honda plans to offer some models with an optional antilock-brake system.

*Piaggio*—Piaggio stated that with the introduction of automatic transmission engines on motorcycles, “the Code of Federal Regulations is completely out of harmonization with the majority of countries in the world as far as the FMVSS 123–S5.2.1 is concerned.” Piaggio asserted all European Community countries permit motorcycle manufacturers to make their own decision whether to use a left handlebar control or a right foot control for rear wheel brakes.

*Yamaha*—Since there have been many previous exemptions to Standard No. 123, S5.2.1, and Table 1, Item 11 granted, Yamaha asserts that “the grounds and precedent are clear and a redundant reiteration of same is not in order to preserve precious Agency time.” Yamaha concluded that its “request is consistent with the intent of the National Traffic and Motor Vehicle Safety Act and offers an equivalent level of safety for consumers and other motorists/highway users.”

#### 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: July 28, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-17535 Filed 7-30-04; 8:45 am]

**BILLING CODE 4910-59-P**

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## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Form 1120-RIC

**AGENCY:** Internal Revenue Service (IRS), Treasury.

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

**SUMMARY:** The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the

Paperwork Reduction Act of 1995, Public Law 104-13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120-RIC, U.S. Income Tax Return for Regulated Investment Companies.

**DATES:** Written comments should be received on or before October 1, 2004, to be assured of consideration.

**ADDRESSES:** Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form and instructions should be directed to Allan Hopkins, at (202) 622-6665, or at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or through the Internet, at [Allan.M.Hopkins@irs.gov](mailto:Allan.M.Hopkins@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* U.S. Income Tax Return for Regulated Investment Companies.

*OMB Number:* 1545-1010.

*Form Number:* 1120-RIC.

*Abstract:* Internal Revenue Code sections 851 through 855 provide rules for the taxation of a domestic corporation that meets certain requirements and elects to be taxed as a regulated investment company. Form 1120-RIC is filed by a domestic corporation making such an election in order to report its income and deductions and to compute its tax liability. The IRS uses the information on Form 1120-RIC to determine whether the corporation's income, deductions, credits, and tax have been correctly reported.

*Current Actions:* There are no changes being made to the form at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Business or other for-profit organizations.

*Estimated Number of Respondents:* 3,277.

*Estimated Time Per Respondent:* 116 hours, 5 minutes.

*Estimated Total Annual Burden Hours:* 380,425.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

*Request for Comments:* Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 19, 2004.

**Glenn Kirkland,**

*IRS Reports Clearance Officer.*

[FR Doc. 04-17451 Filed 7-30-04; 8:45 am]

**BILLING CODE 4830-01-P**