

can be operated without requiring special training or practice.

Malaguti stated that it has "independent U.S. lab test data by an NHTSA approved lab as well as European Union TUV testing, and Malaguti factory testing data proving that the phantom 200cc, Madison 200cc, Madison 400cc, and B-2 500cc motor scooters exceed the requirements in FMVSS No. 123." It asserted that all four models "meet the braking requirements of ECE 93/14 as well."

Yamaha identified itself as "the importer and distributor of Yamaha brand motor vehicles produced by a host of Yamaha affiliates throughout the world."

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

In Malaguti's opinion, its scooters provide a "much more natural braking response by the rider than non-exempted vehicles." The exemption would also be in the public interest "because Malaguti is promoting environmentally clean and efficient urban transportation."

Yamaha simply concludes that its "request is consistent with the intent of the National Traffic and Motor Vehicle Safety Act."

#### **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 that equals or exceeds that of nonexempted motorcycles.

Malaguti's public interest and safety arguments are similar to those of other petitioners, which we have found sufficient, regarding braking response and the effect of an exemption in enhancing the environment and urban transportation. We note that Yamaha made no public interest argument or provided support for its conclusion that an exemption would be consistent with the purposes of the Vehicle Safety Act. However, the exemption requested is not one of first impression, and the arguments of other petitioners support

public interest and safety findings applicable to the Yamaha Vino as well.

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. Malaguti S.p.A. is hereby granted NHTSA Temporary Exemption No. EX03-1 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. This exemption covers only the Phantom 200cc, Madison 200cc, Madison 400cc, and B-2 500cc models and expires on March 1, 2005.

2. Yamaha Motor Corporation USA is hereby granted NHTSA Temporary Exemption No. EX03-2 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. This exemption covers only the Vino 125 model and expires on March 1, 2005. (49 U.S.C. 30113; delegation of authority at 49 CFR 1.50).

Issued on March 26, 2003.

**Jeffrey W. Runge,**

*Administrator.*

[FR Doc. 03-7654 Filed 3-28-03; 8:45 am]

**BILLING CODE 4910-59-P**

## **DEPARTMENT OF TRANSPORTATION**

### **Surface Transportation Board**

**[STB Ex Parte No. 646]**

#### **Rail Rate Challenges in Small Cases**

**AGENCY:** Surface Transportation Board, DOT.

**ACTION:** Notice of public hearing.

**SUMMARY:** The Surface Transportation Board (Board) will hold a public hearing on Wednesday, April 16, 2003, at its offices in Washington, DC, to provide interested persons an opportunity to express their views on the subject of Board processing of rail rate challenges that are not suitable for handling under the Board's constrained market pricing procedures. Persons wishing to speak at the hearing should notify the Board in writing.

**DATES:** The public hearing will take place on Wednesday, April 16, 2003. Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should indicate a requested time allotment, as soon as possible but no later than April 8, 2003. Each speaker should also file with the Board his/her written testimony by April 11, 2003.

**ADDRESSES:** An original and 10 copies of all notices of intent to participate and testimony should refer to STB Ex Parte No. 646, and should be sent to: Surface Transportation Board, Attn: STB Ex Parte No. 646, 1925 K Street, NW., Washington, DC 20423-0001.

**FOR FURTHER INFORMATION, CONTACT:** Beryl Gordon, (202) 565-1616. [Federal Information Relay Service (FIRS) (Hearing Impaired): (800) 877-8339.]

**SUPPLEMENTARY INFORMATION:** The Board will hold a public hearing to provide a forum for the expression of views by rail shippers, railroads, and other interested persons, regarding rail rate challenges in small cases to be considered by the Board. This hearing will provide a forum for the oral discussion of any proposals that interested persons might wish to offer for handling small cases involving a challenge to the reasonableness of rates charged by a rail carrier. The Board is also interested in participants' views on how small rate cases should be defined or identified.

#### **Date of Hearing**

The hearing will begin at 10:00 a.m. on Wednesday, April 16, 2003, in the 7th floor hearing room at the Board's headquarters in Washington, DC, and will continue, with short breaks if necessary, until every person scheduled to speak has been heard.

#### **Notice of Intent To Participate**

Any person wishing to speak at the hearing should file with the Board a written notice of intent to participate, and should indicate a requested time allotment, as soon as possible but no later than April 8, 2003.

#### **Testimony**

Each speaker should file with the Board his/her written testimony by April 11, 2003.

#### **Paper Copies**

Each person intending to speak at the hearing should submit an original and 10 paper copies of his/her notice of intent to participate (as soon as possible but no later than April 8, 2003) and testimony (by April 11, 2003).