to NHTSA's General Provisions for Assistance Agreements, dated July 1995.

Jeffrey P. Michael,

Director, Office of Impaired Driving and Occupant Protection.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition, DP03–002

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

ACTION: Denial of petition for a defect investigation.

SUMMARY: This notice sets forth the reasons for the denial of a petition submitted to NHTSA under 49 U.S.C. 30162, requesting that the agency investigate alleged steering column failures on model year (MY) 1987–1995 vehicles manufactured by DaimlerChrysler Corporation (DCC). The petition is identified as DP03–002.

FOR FURTHER INFORMATION CONTACT: Mr. Jonathan White, Office of Defects Investigation (ODI), NHTSA, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366–5226.

SUPPLEMENTARY INFORMATION: Mr. Larry A. Sackey, an attorney with the Law Offices of Herbert Hafif in Claremont, CA, submitted a petition to NHTSA by letter dated April 18, 2003, requesting NHTSA to further investigate alleged ''defective collapsible steering shaft systems'' on all MY 1987–1995 and model vehicles manufactured by DCC, other than those previously investigated and subsequently recalled. NHTSA had previously opened investigations PE93–091, PE96–047, and RQ97–004 to investigate alleged steering column shaft separations on MY 1993 Jeep Grand Cherokee vehicles, MY 1994–1995 Dodge Ram Series trucks, and MY 1993–1995 Jeep Cherokee/1994–1995 Jeep Grand Cherokee vehicles, respectively. As a result of the PE investigations, DCC recalled 115,000 units of MY 1993 Grand Wagoneer and Grand Cherokee vehicles (NHTSA Recall 93V210) and 475,000 units of MY 1994–1995 Dodge Ram Series Trucks (NHTSA Recall 96V230) to remedy a defect that could allow the upper and the lower shafts of the collapsible steering column to separate from each other (alleged defect) resulting in a loss of steering control. The petitioner alleged that DCC issued the recalls when they were aware the same defect existed in other MY 1987–1995 DCC vehicles.

For analytical purposes, ODI has focused on the experience of MY 1993–1995 vehicles, other than those covered by the previous recalls, in part because 49 U.S.C. 30120(g) limits a manufacturer's obligation to provide a recall remedy without charge to vehicles less than 10 years old at the time of a defect determination. If the analysis of these vehicles had identified a potential problem, the scope could have been expanded in an investigation.

A review of ODI's database shows that there are only six complaints about the subject vehicles that appear to be related to the alleged defect. Table 1 shows the make, model, model year, and the receipt date of each of these complaints:

TABLE 1.—ODI DATABASE SEARCH RESULTS FOR STEERING COLUMN SHAFT SEPARATION COMPLAINTS ON THE SUBJECT VEHICLES

Make	Model	Model year	Complaint date
Dodge	Dakota	1993	6/95
Dodge	Ram	1993	5/96
Jeep	Grand Cherokee	1995	9/99
Jeep	Grand Cherokee	1995	7/01
Jeep	Cherokee	1994	4/95
Jeep	Cherokee	1995	10/96

The number of reports is very low, considering the fact that these vehicles have on average 10 years of usage. The data also show that there is a lack of a defect trend and recent complaints.

Steering column complaints reported to ODI on the subject vehicles that do not appear to be related to the alleged defect are shown in Table 2. Most of these complaints alleged steering column vibration, looseness, noise, or binding; and a few identified no specific failure. ODI has not considered complaints of miscellaneous electrical malfunctions and crash-induced problems. The complaints for MY 1995 Dodge and Plymouth Neon vehicles are also not counted because the Neon's steering column is not designed to collapse during certain crashes. Instead, it has a coupler designed to separate during certain crashes to mitigate crash forces. NHTSA previously investigated these Neon vehicles (PE94–095, PE96–069, and EA97–009) for inadvertent steering column coupler separation, and they were recalled (Recall 97V169).

TABLE 2.—ODI DATABASE SEARCH RESULTS FOR STEERING COLUMN COMPLAINTS ON THE SUBJECT VEHICLES NOT RELATED TO THE ALLEGED DEFECT

Model platform	No. of complaints	Complaint date range
Cirrus/Stratus	1	9/98
Concorde/Intrepid/LHS/New Yorker	8	3/95 to 4/00
Caravan/Voyager	8	4/95 to 5/01
Cherokee/Grand Cherokee	6	10/95 to 2/00
Dakota	6	2/95 to 6/97
Lebaron	4	6/95 to 5/00
Shadow/Spirit/Sundance	3	10/96 to 8/97

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.