

a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

**Uniontown Central Railroad (UTCV) (Waiver Petition Docket Number FRA-2004-19999)**

The Uniontown Central Railroad (UTCV) seeks a waiver of compliance from certain provisions of the Safety Glazing Standards, 49 CFR part 223, which requires certified glazing in all windows.

This request is for two (2) cabooses, Car Numbers PC 18086 (built in 1946) and P&LE 504 (built in 1956), and one locomotive, UTCV 5656. The UTCV claims that its operation has low incidence of vandalism, the windows of these cabooses and locomotive are of odd sizes, and the costs of FRA Type I and II glazing are high. In addition, the UTCV stated that the maximum speed of its equipment is 20 miles per hour.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2004-19999) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL-401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.-5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at <http://dms.dot.gov>.

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). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC, on February 9, 2005.

**Grady C. Cothen, Jr.,**

*Deputy Associate Administrator for Safety Standards and Program Development.*

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**DEPARTMENT OF TRANSPORTATION**

**National Highway Traffic Safety Administration**

[Docket No. NHTSA 2003-14826, Notice 2]

**Nissan North America Inc., Notice of Grant of Application for Decision of Inconsequential Noncompliance**

Nissan North America (Nissan) has determined that some 2002-2003 Model Year (MY) Altimas are equipped with side marker lamps that fail to comply with certain requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices and Associated Equipment." Nissan has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." Nissan has also applied to be exempted from the notification and remedy requirements of 49 U.S.C Chapter 301—"Motor Vehicle Safety" on the basis that the noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the application was published in the **Federal Register** (68 FR 60147) on October 21, 2003. Opportunity was afforded for public comment until November 20, 2003. Comments were received from lighting manufacturers Koito Manufacturing Co., LTD. (Koito), and North American Lighting (NAL). Nissan submitted a letter September 28, 2004, in support of its petition; this letter referenced a FMVSS No. 108 final rule published in the **Federal Register** (69 FR 48805) on August 11, 2004. Nissan also submitted data in support of its letter on October 22, 2004.

Paragraph S5.1.1 of FMVSS No.108 states that "\* \* \* each vehicle shall be equipped with at least the number of lamps, reflective devices, and associated equipment specified in Tables I and III and S7, as applicable. Required equipment shall be designed to conform to the SAE Standards or Recommended Practices referenced in those tables \* \* \* Table III applies to passenger cars

and motorcycles and to multipurpose passenger vehicles, trucks, trailers, and buses less than 80 inches in overall width." For side marker lamps, Table III lists SAE J592e, July 1972, which in turn requires section J "Photometry Test" of SAE J575 to be met. Section J of SAE J575 states that "when making photometric measurements at specified test points, the candlepower requirements between test points shall not be less than the lower specified value of two closest adjacent test points for minimum values." The specified photometric value required for amber side markers such as those used on the subject Nissan Altimas is 0.62 cd.

Nissan stated that extensive testing has shown that the side marker lamps consistently meet the photometric requirements at the required test points, but that the lamps fail to satisfy the requirement to maintain the lower minimum intensity value of two test points between those test points. However, Nissan stated that the noncompliance does not affect the primary purpose of the lamps to provide proper visibility allowing identification of the front edge of the vehicle at night. Nissan argued that the reported noncompliance is inconsequential as it relates to motor vehicle safety. In its letter received by the agency on September 28, 2004, Nissan discussed the applicability of the cited final rule that amended requirements of FMVSS No. 108. Nissan pointed out that the final rule contained a provision for side marker lamps mounted less than 750 mm above the road surface that allows compliance with photometric requirements at a 5 degree downward visibility angle instead of the previously required 10 degree downward visibility angle. Nissan stated that the Altima side marker lamps would be compliant under the amended Standard because the light output at 5 degrees downward surpasses the minimum requirement of 0.62 cd at, and between, test points.

Both of the public comments received, from Koito and NAL, supported granting Nissan's petition. Both companies stated they believe the noncompliance in question is inconsequential to motor vehicle safety. They supported this conclusion with various comments that indicated a belief that the ability to recognize the presence of the subject Altimas, as well as the overall length of these vehicles, is not adversely impacted by the noncompliance in question.

We have reviewed Nissan's rationale for granting the petition and we agree. The aforementioned final rule published on August 11, 2004, did indeed amend the photometric requirement for low-

mounted lamps, including side marker lamps, to allow compliance at a 5 degree downward visibility angle instead of at a 10 degree downward visibility angle as previously required. This change is present in the following text under section S5.3.2.3 of the revised FMVSS No. 108, "For signal lamps and reflected devices mounted less than 750 mm above the road surface as measured to the lamp axis of reference, the vertical test point angles located below the horizontal plane subject to photometric and visibility requirements of this standard may be reduced to 5 degrees." In making this revision, the agency previously explained that such low-mounted lamps typically cannot be observed at greater downward angles. This situation is exactly the same as which exists on the Altima front side marker lamp; it complies at 5 degrees down.

In consideration of the foregoing, NHTSA has decided that Nissan has met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety, and that it should be exempted from the notification and remedy requirements of the statute. Accordingly, Nissan's application is hereby granted.

**Authority:** 49 U.S.C. 30118(d) and 30120(h); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 10, 2005.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 05-3020 Filed 2-16-05; 8:45 am]

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## DEPARTMENT OF VETERANS AFFAIRS

### Office of Research and Development; Government Owned Invention Available for Licensing

**AGENCY:** Office of Research and Development, VA.

**ACTION:** Notice of government owned invention available for licensing.

**SUMMARY:** The invention listed below is owned by the U.S. Government as represented by the Department of Veterans Affairs, and is available for licensing in accordance with 35 U.S.C. 207 and 37 CFR part 404 and/or CRADA Collaboration under 15 U.S.C. 3710a to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are

filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

#### **FOR FURTHER INFORMATION CONTACT:**

Technical and licensing information on the invention may be obtained by writing to: Sal Sheredos, Department of Veterans Affairs, Acting Director Technology Transfer Program, Office of Research and Development, 810 Vermont Avenue, NW., Washington, DC 20420; fax: 202-254-0473; e-mail at: [saleem@vard.org](mailto:saleem@vard.org). Any request for information should include the Number and Title for the relevant invention as indicated below. Issued patents may be obtained from the Commissioner of Patents, U.S. Patent and Trademark Office, Washington, DC 20231.

**SUPPLEMENTARY INFORMATION:** The invention available for licensing is:

US Provisional Patent Application No. 60/600,390 "Treating Neurological Disorders with Neuro-Specific Gap Blockers".

Dated: February 10, 2005.

**Gordon H. Mansfield,**

*Deputy Secretary, Department of Veterans Affairs.*

[FR Doc. 05-3085 Filed 2-16-05; 8:45 am]

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