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Department of Transportation

National Highway Traffic Safety Administration

[Docket No. NHTSA-2014-0113; Notice 2]

Harley-Davidson Motor Company, Inc., Grant of Petition for  
Decision of Inconsequential Noncompliance

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

**ACTION:** Grant of Petition

**SUMMARY:** Harley-Davidson Motor Company, Inc. (Harley-Davidson) has determined that certain MY 2015 Harley-Davidson model XG500 and model XG750 motorcycles do not fully comply with speedometer markings as specified in table 3, footnote 4, of Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle Controls and Displays*. Harley-Davidson has filed an appropriate report dated September 3, 2014, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*.

**ADDRESSES:** For further information on this decision contact Stuart Seigel, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5287, facsimile (202) 366-5930.

**SUPPLEMENTARY INFORMATION:**

**I. Harley-Davidson's Petition:** Pursuant to 49 U.S.C. 30118(d) and 30120(h) (see implementing rule at 49 CFR part 556), Harley-

Davidson submitted a petition for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential to motor vehicle safety.

Notice of receipt of the petition was published, with a 30-day public comment period, on November 21, 2014 in the Federal Register (79 FR 69553). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at:

<http://www.regulations.gov/>. Then follow the online search instructions to locate docket number "NHTSA-2014-0113."

**II. Motorcycles Involved:** Affected are approximately 3,929 MY 2015 Harley-Davidson model XG500 and model XG750 motorcycles manufactured from March 6, 2014 through August 12, 2014.

**III. Noncompliance:** Harley-Davidson explains that the numerals on the speedometers of the affected motorcycles are labeled at 20 mph intervals instead of 10 mph intervals as required by table 3, footnote 4, of FMVSS No. 123.

**Rule Text:** Footnote 4 of FMVSS No. 123 table 3 requires in pertinent part:

... Major graduations and numerals appear at 10 mph intervals, minor graduations at 5 mph intervals...

**V. Summary of HARLEY-DAVIDSON's Analyses:** Harley-Davidson stated its belief that the subject noncompliance is

inconsequential to motor vehicle safety for the following reasons:

- A) Harley-Davidson stated that FMVSS No. 123 does not require that motorcycles be equipped with speedometers. Specifically, the standard only requires that if motorcycles are in fact equipped with a speedometer, that the speedometer be marked in 10 mph intervals. This has led Harley-Davidson to believe that NHTSA has implicitly acknowledged that a speedometer is not, itself, necessary for the safe operation of motorcycles, which is consistent with NHTSA's decision in 1982 to rescind FMVSS No. 127 which had required installation of speedometers on all vehicles.
- B) Harley-Davidson also stated that while the labeling error constitutes a technical noncompliance with table 3, footnote 4, of FMVSS No. 123, the noncompliance does not affect any aspect of vehicle performance - braking, steering, acceleration, visibility, etc. The speedometer remains fully visible to the operator and Harley-Davidson believes that the 20 mph numeral intervals adequately provide indication of speed to the rider.

C) Harley-Davidson believes that the lack of 10 mph numerical labels will not present confusion for riders, as evidenced by the lack of complaints, claims or incidents. Furthermore, they believe that motorcycle owners typically also own and operate other vehicles, such as passenger cars and light trucks, which are not subject to any speedometer graduation requirements and which, in many cases, are equipped with speedometers with 20 mph numeral intervals.

Harley-Davidson has additionally informed NHTSA that beginning on August 12, 2014 it corrected the noncompliance so that the subject motorcycles produced on or after that date fully comply with FMVSS No. 123.

In summation, Harley-Davidson believes that the described noncompliance of the subject motorcycles is inconsequential to motor vehicle safety, and that its petition, to exempt Harley-Davidson from providing recall notification of noncompliance as required by 49 U.S.C. 30118 and remedying the recall noncompliance as required by 49 U.S.C. 30120 should be granted.

**NHTSA DECISION:**

*NHTSA Analysis:* The purpose of FMVSS No. 123 is to minimize accidents caused by operator error in responding to the motoring environment by standardizing certain motorcycle controls and displays. In the case of the subject vehicles, the agency

believes that the incomplete labeling of the analog speedometers at 20 mph intervals instead of the 10 mph intervals as required by FMVSS No. 123 does not conflict with motorcycle speedometer standardization. Although numerals do not appear at 10 mph intervals, the fundamental components for motorcycle speedometer standardization are still present - MPH increase in a clockwise direction, major graduations appear at 10 mph interval, minor graduations appear at 5 mph intervals, and numerical labeling is provided at 20, 40, 60, 80 and 100 mph. In addition, a top speed of 110 mph is delineated on the gauge at the required 10 mph major graduation which reinforces to the operator, that the major graduations are in fact at 10 mph intervals further reducing the likelihood of any speedometer confusion.

Harley-Davidson correctly notes that UN ECE Regulation 39, a commonly-used international speedometer standard, states that for vehicles manufactured for sale in any country where imperial units are used, the speed shall be indicated on the dial at intervals not exceeding 20 mph, and commencing at 10 to 20 mph. This is consistent with the speedometer markings on the subject noncompliant motorcycles.

As noted by Harley-Davidson, most motorcyclists typically own and operate other vehicles such as passenger vehicles and light trucks which must comply with FMVSS NO. 101, *Controls and Displays*. However, that standard does not specify requirements

for speedometer graduations, numerical intervals or markings. Many of these vehicles have speedometer markings at 20 mph intervals. The agency believes that motorcyclists, accustomed to seeing speedometers with 20 mph intervals, will not be confused due to the omission of numerals at every 10 mph delineation on the subject motorcycle speedometers.

The XG 500 and 750 models are Harley-Davidson's low-displacement entry-level motorcycles which tend to be operated, in part, by less experienced riders with limited familiarity with motorcycle controls and displays. With marking at 20 mph intervals versus 10, the speedometer face is less cluttered allowing these beginning riders to more easily determine vehicle speed and recognize other information displayed on the speedometer face such as turn signal activation, neutral gear position, and fuel and oil level indicators.

The 20 mph increments on the speedometers mounted on the subject motorcycles, adequately provide vehicle speed indication to the vehicle operators. Although numerals marking some of the major 10 mph graduations are not present, there is no ambiguity as to the meaning of the graduations, and speedometer standardization between motorcycles is effectively maintained.

Lastly, the Agency agrees with Harley-Davidson that the noncompliance does not affect any aspect of vehicle performance related to braking, steering, acceleration or visibility.

*NHTSA Decision:* In consideration of the foregoing, NHTSA has decided that Harley-Davidson has met its burden of persuasion that the FMVSS No. 123 noncompliance is inconsequential to motor vehicle safety. Accordingly, Harley-Davidson's petition is hereby granted and Harley-Davidson is exempted from the obligation of providing notification of, and a remedy for, that noncompliance under 49 U.S.C. 30118 and 30120.

NHTSA notes that the statutory provisions (49 U.S.C. 30118(d) and 30120(h)) that permit manufacturers to file petitions for a determination of inconsequentiality allow NHTSA to exempt manufacturers only from the duties found in sections 30118 and 30120, respectively, to notify owners, purchasers, and dealers of a defect or noncompliance and to remedy the defect or noncompliance. Therefore, this decision only applies to the subject motorcycles that Harley-Davidson no longer controlled at the time it determined that the noncompliance existed. However, the granting of this petition does not relieve vehicle distributors and dealers of the prohibitions on the sale, offer for sale, or introduction or delivery for introduction into interstate commerce of the noncompliant motorcycles under their control after Harley-Davidson notified them that the subject noncompliance existed.

**Authority:** (49 U.S.C. 30118, 30120: delegations of authority at  
49 CFR 1.95 and 501.8)

Jeffrey M. Giuseppe, Acting Director  
Office of Vehicle Safety Compliance.

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