



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0118; Notice 1]

Kawasaki Motors Corp., U.S.A. Receipt of Petition for Decision of Inconsequential Noncompliance

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

ACTION: Receipt of petition.

SUMMARY: Kawasaki Motors Corp., U.S.A. (KMC), has determined that certain model year (MY) 2020–2021 Kawasaki ZR900F and ZRT00K motorcycles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 123, *Motorcycle Controls and Displays*. KMC filed a noncompliance report dated November 16, 2020. KMC simultaneously petitioned NHTSA on November 16, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of KMC's petition.

DATES: Send comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- Mail: Send comments by mail addressed to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to the U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room

W12-140, 1200 New Jersey Avenue, S.E., Washington, DC 20590. The Docket

Section is open on weekdays from 10 am to 5 pm except for Federal holidays.

- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the internet at <https://www.regulations.gov> by following the online instructions for accessing the docket. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000 (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Frederick Smith, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366-7407.

SUPPLEMENTARY INFORMATION:

I. Overview: KMC has determined that certain MY 2020–2021 Kawasaki ZR900F and ZRT00K motorcycles do not fully comply with the requirements of paragraph S5.2.3(b) of FMVSS No. 123, *Motorcycle Controls and Displays* (49 CFR 571.123). KMC filed a noncompliance report dated November 16, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. KMC simultaneously petitioned NHTSA on November 16, 2020, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

This notice of receipt of KMC's petition is published under 49 U.S.C. 30118 and 30120 and does not represent any Agency decision or other exercise of judgment concerning the merits of the petition.

II. Vehicles Involved: Approximately 2,302 MY 2020–2021 Kawasaki ZR900F and ZRT00K motorcycles, manufactured between December 4, 2019, and November 2, 2020, are potentially involved.

III. Noncompliance: KMC explains that the noncompliance is that the subject motorcycles are equipped with ignition switches that use the ISO identification symbol to identify the off position instead of the word “Off” as specified in paragraph S5.2.3(b) of FMVSS No. 123.

IV. Rule Requirements: Paragraph 5.2.3(b) of FMVSS No. 123 includes the requirements relevant to this petition. If an item of equipment listed in Table 3, Column 1 of FMVSS No. 123 is provided, the item and its operational function shall be identified by (b) Wording shown in both Column 2 and Column 4. In this case, Table 3, No. 1, shows the Control and Display

Identification Word “Ignition” and the Identification at Appropriate Position of Control and Display as “Off”.

V. Summary of KMC’s Petition: The following views and arguments presented in this section, “V. Summary of KMC’s Petition,” are the views and arguments provided by KMC. They have not been evaluated by the Agency and do not reflect the views of the Agency. KMC describes the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, KMC submitted the following reasoning:

1. KMC states that the subject motorcycles are equipped with an ignition switch located in a pod positioned immediately in front of the operator, just ahead of the fuel filler opening on the top of the fuel tank. The switch is operated by an ignition key and has three positions, sequentially in a clockwise direction:  where the motorcycle’s front wheel is locked in position when parked;  where the ignition is disabled; and  where the ignition is enabled. These ignition switch positions are labeled on a plastic cover that surrounds the ignition switch. Unlike standard automotive practice, KMC asserts, the ignition switch does not operate the starter motor—the starter button is located on the handlebar. Starting the motorcycle involves insertion of the key into the switch and turning the ignition to the “on” position, then operating the separate starter button. An operator would not be able to start the engine inadvertently by using only the ignition switch. The owner’s manual that accompanies these motorcycles instruct the operator to “turn the ignition key to  in order to stop the engine. The motorcycle’s engine can also be turned off by using the engine’s stop switch on the handlebar.
2. KMC claims that no safety consequences are attached to the omission of the “Off” identification for the ignition. Operators are familiar with the function and location of the ignition switch as well as the use of the ignition key to operate the switch. The location

of the engine's stop switch, in combination with the frequently used engine start switch, means that the operator is quite familiar with the engine stop switch and its location. Therefore, the operator experiences no adverse consequences from the lack of an "Off" identification for the ignition.

KMC concludes that the subject noncompliance is inconsequential as it relates to motor vehicle safety, and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

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, any decision on this petition only applies to the subject motorcycles that KMC no longer controlled at the time it determined that the noncompliance existed. However, any decision on 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 KMC 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)

Otto G. Matheke III,

Director, Office of Vehicle Safety Compliance.