

future. Goodyear stated that the noncompliance is one solely of labeling.

The Transportation Recall, Enhancement, Accountability, and Documentation (TREAD) Act (Pub. L. 106-414) required, among other things, that the agency initiate rulemaking to improve tire label information. In response, the agency published an Advance Notice of Proposed Rulemaking (ANPRM) in the **Federal Register** on December 1, 2000. (65 FR 75222). The agency received more than 20 comments on the tire labeling information required by 49 CFR §§ 571.109 and 119, part 567, part 574, and part 575. With regard to the tire construction labeling requirements of FMVSS 109, S4.3(d), most commenters indicated that the information was of little or no safety value to consumers. However, according to the comments, when tires are processed for retreading or repairing, it is important for the retreader or repair technician to understand the make-up of the tires and the types of plies. This enables them to select the proper repair materials or procedures for retreading or repairing the tires. A steel cord radial tire can experience a circumferential or "zipper" rupture in the upper sidewall when it is operated underinflated or overloaded. If information regarding the number of plies and cord material is incorrect or removed from the sidewall, technicians cannot determine if the tire has a steel cord sidewall ply. This information is critical when determining if the tire is a candidate for a zipper rupture. In this case, since the tires are not of steel cord construction, but are actually nylon (though marked polyester), this potential safety concern does not exist.

In addition, the agency conducted a series of focus groups, as required by the Tread Act, to examine consumer perceptions and understanding of tire labeling. Few of the focus group participants had knowledge of tire labeling beyond the tire brand name, tire size, and tire pressure.

Based on the information obtained from comments to the ANPRM and the consumer focus groups, we have concluded that it is likely that few consumers have been influenced by the tire construction information (e.g., cord material in the sidewall) provided on the tire sidewall when deciding to buy a motor vehicle or tire.

The agency believes that the true measure of inconsequentiality to motor vehicle safety in this case is the effect of the noncompliance on the operational safety of vehicles on which these tires are mounted. This labeling noncompliance has no effect on the performance of the subject tires.

In consideration of the foregoing, NHTSA has decided that the applicant has met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Accordingly, its application is granted and the applicant is exempted from providing the notification of the noncompliance as required by 49 U.S.C. 30118, and from remedying the noncompliance, as required by 49 U.S.C. 30120.

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

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**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2003-14229]

#### Kawasaki Motors Corporation, U.S.A., Notice of Application for Decision of Inconsequential Noncompliance

Kawasaki Motors Corporation U.S.A. of Irvine, California ("KMC"), has determined that some 2002 and 2003 model year Kawasaki motorcycles produced for sale in the U.S. fail to comply with a requirement in Federal Motor Vehicle Safety Standards (FMVSS) No. 123, "Motorcycle Controls and Displays." The motorcycles in question have ignition switches which are not labeled with the word "ignition." Pursuant to 49 U.S.C. 30118(d) and 30120(h), KMC has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety so that KMC would be exempted from recall and remedy requirements.

KMC filed an appropriate report with the agency pursuant to 49 CFR part 573, "Defect and Noncompliance Reports." The report indicates that KMC produced 7,630 noncompliant motorcycles, all of which are Vulcan 1500 models. That includes 4,450 model VN1500-P1 (MY2002) and 3,180 model VN1500-P2 (MY2003) motorcycles with this noncompliance as of October 18, 2002.

We are publishing this notice of receipt of the KMC application as required by 49 U.S.C. 30118 and 30120. This action does not represent any agency decision or other exercise of judgment concerning the merits of the application.

FMVSS No. 123 standardizes motorcycle controls to minimize the risk

of crashes resulting from operator errors in the use of controls. In FMVSS No. 123, paragraph S5.2.3 specifies that certain motorcycle components must be labeled as listed in Table 3 of the Standard. Table 3, Item no. 1, specifies that the ignition shall be labeled with the word "ignition" as well as the word "off" at the appropriate ignition switch position. Proper labeling of the ignition helps to ensure that a rider who needs to quickly turn off a motorcycle for safety reasons will be able to locate, identify, and operate the ignition control.

KMC described the operation of the motorcycles with the noncompliance as follows:

The ignition switch is 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: "off" where the ignition is disabled; "on" where the ignition is enabled; and "park" where the ignition is disabled but minimal lighting functions are enabled. These ignition switch positions are labeled on a metal plate that surrounds the ignition switch and which also contains the turn signal indicator lamps, neutral and high beam indicators. Unlike standard automotive practice, 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.

KMC stated the following in support of its application for inconsequential noncompliance:

No safety consequences attach to the omission of the "ignition" identification for the switch. 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 switch, in combination with frequently referenced displays such as turn signal, neutral, and high beam indicators means that the operator is quite familiar with the switch and its location, and experiences no adverse consequences from the lack of "ignition" identification for the switch. In fact, an operator unable to identify the ignition switch, due to the lack of labeling, would be unable to start or operate the motorcycle in the first place.

The other ignition switch labeling, i.e., the word "off" at the appropriate switch position, is present as required, and the remainder of the vehicle controls and displays otherwise meet the requirements of FMVSS No. 123.

KMC is not aware of any accidents, injuries, owner complaints or field reports for the subject vehicles related to