

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****Environmental Impact Statement:
Montgomery and Prince George's
Counties, MD**

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a Draft Environmental Impact Statement (EIS)/ Draft Section 4(f) Evaluation will be prepared for a proposed roadway improvement project in Montgomery and Prince George's Counties, Maryland.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel W. Johnson, Environmental Program Specialist, Federal Highway Administration, Maryland Division, The Rotunda, Suite 220, 711 W. 40th Street, Baltimore, Maryland 21211, Telephone: (410) 962-4342, extension 145.

SUPPLEMENTARY INFORMATION: The FHWA along with the Maryland State Highway Administration will prepare a Draft EIS with a draft Section 4(f) Evaluation for transportation improvements along the MD 28/MD 198 Corridor in Montgomery and Prince George's Counties. The U.S. Army Corps of Engineers and U.S. Environmental Protection Agency will be invited to be cooperating agencies. The proposed project includes widening improvements along MD 28 (Norbeck Road), Norbeck Road Extended and MD 198 (Spencerville Road/Sandy Spring Road) from the vicinity of MD 97 (Georgia Avenue) to the vicinity of I-95 (approximately 10.6 miles).

Proposed improvements along this corridor are necessary because MD 28 and MD 198 are currently operating near capacity in some areas between MD 97 in Montgomery County and I-95 in Prince George's County. The 2002 completion of Montgomery County's Norbeck Road Extended project provides a direct connection of MD 28 and MD 198, reducing travel time between MD 182 (Layhill Road) and MD 650 (New Hampshire Avenue). Traffic operations in the study corridor are expected to worsen as planned and future development occurs and congestion increases. The local roadway network will reach capacity and will be unable to accommodate this increased travel demand leading to stop-and-go conditions at locations along the corridor. Improvements within the corridor will accommodate existing and projected travel demand, while addressing safety concerns.

The alternates under consideration include (1) No-Build Alternate—taking no action, (2) Transportation Systems Management Alternate—providing a wide range of spot improvements throughout the corridor that address the most serious concerns at specific location or segments of roadway (e.g., intersection improvements, geometric improvements, access management strategies, and center turn lanes) and (3) Master Plan Features Alternate—incorporating roadway improvements, including roadway widening, to MD 28, Norbeck Road Extended and MD 198 within the study limits as called for in the local area master plans.

Other transportation projects within the vicinity of the MD 28/MD 198 Corridor Improvement Study are under way or under study; including the MD 28/MD 97 interchange, the MD 198/US 29 interchange and the Intercountry Connector (ICC). A Public Hearing was held for the MD 28/MD 97 interchange in December 2002. The MD 198/US 29 interchange is currently under construction, anticipated to be complete in the Fall 2004. The Public Hearing for the ICC is tentatively scheduled for the Fall 2004.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, local agencies, private organizations, and citizens who have previously expressed or are known to have an interest in this project. A Public Hearing is tentatively scheduled for the Winter 2003/2004. The Draft EIS/Draft Section 4(f) Evaluation will be available for public and agency review and comment prior to a Public Hearing. Public notice will be given of the availability of the Draft EIS/4(f) for review and of the time and place of this hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties.

Comments or questions concerning these proposed actions and EIS should be directed to the FHWA at the address provided above (Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation of Federal programs and activities apply to this program).

Issued on: August 14, 2003.

Daniel W. Johnson,
*Environmental Program Manager, Baltimore,
Maryland.*

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DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety
Administration**

[Docket No. NHTSA-2003-14229; Notice 2]

**Kawasaki Motors Corporation, U.S.A.;
Grant 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 Standard (FMVSS) No. 123, "Motorcycle Controls and Displays". The motorcycles in question have ignition switches that 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 and has filed an appropriate report pursuant to 49 CFR part 573, "Defect and Noncompliance Reports".

Notice of receipt of the application was published, with a 30-day comment period, on February 3, 2003, in the **Federal Register** (67 FR 72026). NHTSA received no comment on this application.

Federal Motor Vehicle Safety Standard 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 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.

Kawasaki Motors Corporation 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.

Kawasaki Motors Corporation 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 comply with the requirements of FMVSS No. 123.

In their application, KMC stated that it is unaware of any accidents, injuries, owner complaints or field reports for the subject vehicles *vis-à-vis* this noncompliance, and has received no communications of any kind from owners, dealers, or anyone else indicating any awareness of the missing label.

After reviewing KMC's application, NHTSA concludes that the noncompliance of KMC with respect to FMVSS No. 123 does not constitute a consequential vehicle safety concern. Motorcycles, including the non-complying Kawasaki motorcycles, are equipped with an engine kill switch located on the right handlebar where it is within reach of the rider's right hand. A motorcycle operator confronted with the need to quickly shut off the engine can do so without moving his hand from the handgrip. By using the kill switch, there is no need for the operator to locate the ignition switch. As a result, the missing label on the ignition switch should not prevent immediate engine shut-down.

Accordingly, KMC's 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.

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

Issued on: August 15, 2003.

Stephen R. Kratzke,

Associate Administrator for Rulemaking.

[FR Doc. 03-22041 Filed 8-27-03; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB-290 (Sub-No. 223X)]

Norfolk Southern Railway Company— Abandonment Exemption—in Mingo County, WV

Norfolk Southern Railway Company (NSR) has filed a notice of exemption under 49 CFR 1152 Subpart F—Exempt Abandonments to abandon a 1.59-mile line of railroad between milepost TE-1.50 at Licks Fork Spur and milepost TE-3.09 at Elda, in Mingo County, WV. The line traverses United States Postal Service Zip Code 24293.

NSR has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic can be rerouted over other lines; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on September 27, 2003,¹ unless stayed pending reconsideration. Petitions to stay that do not involve

¹ While NSR initially indicated a proposed consummation date of September 26, 2003, because the verified notice was filed on August 8, 2003, consummation may not take place prior to September 27, 2003. NSR's representative has subsequently confirmed that consummation cannot occur before September 27, 2003.

environmental issues,² formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),³ and trail use/rail banking requests under 49 CFR 1152.29 must be filed by September 8, 2003. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by September 17, 2003, with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to NSR's representative: James R. Paschall, General Attorney, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

NSR has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. SEA will issue an environmental assessment (EA) by September 2, 2003. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423-0001) or by calling SEA, at (202) 565-1539.

[Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1-800-877-8339.] Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), NSR shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by NSR's filing of a notice of consummation by August 28, 2004, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at <http://www.stb.dot.gov>.

² The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis (SEA) in its independent investigation) cannot be made before the exemption's effective date. See *Exemption of Out-of-Service Rail Lines*, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

³ Each OFA must be accompanied by the filing fee, which currently is set at \$1,100. See 49 CFR 1002.2(f)(25).