

The wiper system functionality on the vehicles that are the subject of this petition is such that wiper frequency does not decrease during vehicle deceleration to 0 mph. Therefore, the slight or marginal noncompliance does not exist during vehicle deceleration, including the small period of time when the vehicle is coming to rest, *e.g.*, approaching a stoplight. In those circumstances, there could be a vehicle already at the stoplight or a pedestrian in the crosswalk. In these instances, the vehicles that are the subject of this petition are fully compliant. BMW contends that the affected vehicles comply with all other applicable provisions of FMVSS No. 104. BMW says that the wiper system is compliant in the vast majority of driving situations/modes, especially when wipers are needed most, *i.e.*, while driving when the wipers are selected by the driver to be in either "High" or "Low" setting/mode. Any potential non-compliance only occurs when the vehicle is at rest, or in the very brief time period when accelerating from 0 mph to 2.5 mph.

#### 7. *SAE J903 (Passenger Car Windshield Wiper Systems):*

BMW says that it has reviewed the most recent release of SAE J903 and that it would appear that based upon a review of "currently available engineering data" by the technical expert group responsible for ongoing releases of SAE J903, that the currently-accepted minimum performance requirement is 10 cycles/min. As noted in its petition, under certain limited circumstances BMW's wiper system frequencies (cycles/min) are at approximately 41 or 42 instead of 45, or at 19.8 instead of 20 and, in all of these conditions, all frequencies are well-above a wiper frequency rate of 10 cycles/min. Therefore, it would appear, according to the current version of SAE J903 that these wiper frequency rates are also safe.

#### 8. *Field Experience:*

BMW affirms that they have not received any complaints from vehicle owners and are not aware of any accidents or injuries that have occurred as a result of this issue. Toyota is not aware of any accidents or injuries and has no field reports or claims relating to this issue in Supra vehicles.

#### 9. *Vehicle Production:*

BMW says that vehicle production has been corrected to conform to FMVSS No. 104 Sections 4.1.1.2 and 4.1.1.3.

BMW 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.

On February 23, 2021, BMW submitted a supplement to its petition pertaining to a study created and conducted by BMW's Human-Factor's group in conjunction with the technical development group responsible for wiper systems. BMW states that the objective of this study was to evaluate two different wiping speeds (41 rpm and 45 rpm) in two identical vehicles and their influence on the recognizability and legibility of traffic signs using an experimental setup. During the standardized test, a rain simulation was used to create comparable visibility conditions. The participants had to read out different traffic signs to an experimenter and evaluate their recognizability while sitting in the vehicle with the wipers on. Steady rain conditions were simulated by applying water to the windshield. BMW contends that there was no statistically significant difference in the self-reported difficulty of reading the traffic signs, and there was no difference in the recognition rate of the signs (*i.e.*, speed limits and additional texts). There was also no difference in the satisfaction with the wiping performance.

BMW's complete petition and all supporting documents, including details of the study conducted by BMW, are available by logging onto the Federal Docket Management System (FDMS) website at: <https://www.regulations.gov> and by following the online search instructions to locate the docket number as listed in the title of this notice.

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 vehicles that BMW 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 vehicles under their control after BMW 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.*

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## 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) 2020-2012;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 May 24, 2021.

**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, SE, 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, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except for Federal holidays.

- **Electronically:** Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at [https://](https://www.regulations.gov)

[www.regulations.gov](http://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>

[www.regulations.gov](http://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 19477-2012;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 2020-2012;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 2020-2012;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.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2020-0121; Notice 1]

#### FCA US LLC, Receipt of Petition for Decision of Inconsequential Noncompliance

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

**ACTION:** Receipt of petition.

**SUMMARY:** FCA US LLC (f/k/a Chrysler Group LLC) (“FCA US”) has determined that certain model year (MY) 2017–2020 Dodge Charger Pursuit motor vehicles with Officer Protection Package (“OPP”) modules do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect* and FMVSS No. 118, *Power-Operated Window, Partition, and Roof Panel Systems*. FCA US filed a noncompliance report dated November 13, 2020, and subsequently petitioned NHTSA on December 4, 2020, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This notice announces receipt of FCA US’s petition.

**DATES:** Send comments on or before May 24, 2021.

**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 SE, 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 SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. 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) 366–7487 or Ahmad Barnes, Compliance Engineer, NHTSA, Office of Vehicle Safety Compliance, (202) 366–7236.

#### SUPPLEMENTARY INFORMATION:

I. *Overview:* FCA US has determined that certain MY 2017–2020 Dodge Charger Pursuit motor vehicles with OPP modules do not fully comply with the requirements of paragraph S3.1.4.1 of FMVSS No. 102, *Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect* (49 CFR 571.102) and paragraph S5.1 of FMVSS No. 118, *Power-Operated Window, Partition, and Roof Panel Systems* (49 CFR 571.118). FCA US filed a noncompliance report dated November 13, 2020, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. FCA US subsequently petitioned NHTSA on December 4, 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 FCA US’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 27,593 MY 2017–2020 Dodge Charger Pursuit motor vehicles with OPP modules, manufactured between October 17, 2016, and October 30, 2020, are potentially involved.

III. *Noncompliance:* FCA US explains that the noncompliance is occurs when the OPP module is in Surveillance Mode, the subject vehicles’ PRNDL display will indicate the vehicle is in the REVERSE “R” position while the transmission is actually in the PARK “P” position and, therefore, do not fully meet the requirements specified in paragraph S3.1.4.1 of FMVSS No. 102. Additionally, when Surveillance Mode is activated, the driver and passenger power-operated windows in the subject