

often once the program began. In addition, the survey will provide information on driver awareness and acceptability of specific enforcement techniques being used as well as data regarding the ongoing national alcohol media campaign called You drink and drive. You Lose. The information to be collected by this survey is not available to NHTSA through any other source.

Within each state, the survey will be administered in three waves (prior to the intervention effort, at the mid-point, and at the end the effort) by telephone to a probability sample of the driving age public (aged 16 years or older as of their last birthday). Participation by respondents is strictly voluntary. The interview is anticipated to average 8.5 minutes in length. Interviewers will use computer assisted telephone interviewing to reduce survey administration time and to minimize data collection errors. A Spanish-language questionnaire and bi-lingual interviewers will be used to reduce language barriers to participation. All respondents' results will remain anonymous and completely confidential. Participant names and telephone numbers used to reach the respondents are separated from the data records prior to its entry into the analytical database.

#### **Description of the Need for and Proposed Use of the Information**

More than 308,000 persons were reported injured and nearly 16,000 persons died in alcohol-related motor vehicle crashes during 1999 (Traffic Safety Facts: 1999, NHTSA—National Center for Statistics and Analysis). NHTSA is committed to the development of effective programs to reduce the incidence of these crashes. In 1999, NHTSA awarded cooperative agreements valued at approximately \$1,000,000 each to five states—Pennsylvania, Georgia, Louisiana, Tennessee, and Texas. NHTSA is currently in the process of awarding cooperative agreements to two additional states. Each state is responsible for implementing an enforcement and publicity programs and conducting both process and impact evaluations. Data to be collected include number and types of police stops made, and changes in alcohol-related violations and crashes.

In order to reduce the work requirements for each state and to create sets of survey data that can be readily compared among the states, a separate award was made to a survey firm having expertise in conducting random telephone surveys. Thus, the survey data to be collected comprise only one

part of the entire data set that will be assessed.

The entire data set will be used to properly plan and evaluate new enforcement programs directed at reducing alcohol-impaired driving. States found to have implemented effective programs to counter the driving after drinking problem will prepare a Best Practices Guide that highlights the major features of their programs. These Guides will be disseminated among states that want to implement an improved alcohol-enforcement program.

The findings from this proposed data collection will assist NHTSA in addressing the problem of alcohol-impaired driving and in formulating programs and recommendations to Congress. NHTSA will use the findings to help focus current programs and activities to achieve the greatest benefit, to develop new programs to decrease the likelihood of drinking and driving behaviors, and to provide informational support to states, localities, and law enforcement agencies that will aid them in their efforts to reduce drinking and driving crashes and injuries.

It should be noted that during the past decade NHTSA has conducted surveys on drinking and driving attitudes and behavior but these were from nationally represented samples and not related to specific statewide enforcement activities. Also, some survey data about an enforcement effort were collected years ago in one of the targeted states—Tennessee—but these data cannot be used within the context of the present study.

#### **Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)**

Under this proposed collection, a telephone interview averaging approximately 8.5 minutes in length would be administered to each of 1,000 randomly selected members of the general public age 16 and older, in each of the two states in this study, at three different times over a 20-month period. A total of 6,000 individuals will be interviewed over the course of this study. Interview will be conducted with persons at residential phone numbers selected using random digit dialing. No more than one respondent per household will be selected, and each sample member will complete just one interview. Businesses are ineligible for the sample and would be not be interviewed. After each wave is completed and the data analyzed, the findings will be disseminated to each state for review.

#### **Estimate of the Total Annual Reporting and Record Keeping Burden Resulting From the Collection of Information**

NHTSA estimates that respondents in the sample would require an average of 8.5 minutes to complete the telephone interview. Thus, the number of estimated reporting burden on the general public would be a total of 850 hours for all three waves of the proposed survey. The respondents would not incur any reporting or record keeping cost from the information collection.

**Rose A. McMurray,**

*Associate Administrator, Office of Traffic Safety Programs.*

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#### **DEPARTMENT OF TRANSPORTATION**

##### **National Highway Traffic Safety Administration**

[Docket No. NHTSA 2000–7657, Notice 2]

##### **General Motors North America; Denial of Application for Decision of Inconsequential Noncompliance**

General Motors North America (GM) has determined that in some 1998–1999 model year GM and Isuzu light trucks, use of the hazard flasher switch may activate the retained accessory power (RAP) feature with no key in the ignition. This occurs, according to GM, because of “sneak” circuits created in the flasher switch. When the RAP is activated, power windows and sunroofs in the affected vehicles are operable. This condition fails to meet the requirements of S4 of FMVSS 118, “Power-operated window, partition, and roof panel systems.” General Motors filed an appropriate report pursuant to 49 CFR Part 573, “Defect and Noncompliance Reports” and subsequently petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety pursuant to 49 U.S.C. 30118(d) and 30120(h).

Notice of receipt of the petition was published in the **Federal Register** (65 FR 48280) on August 7, 2000, and opportunity was afforded for public comment until September 6, 2000.

As many as 975,462 GM light trucks including Chevrolet and GMC pickups and sport utility vehicles, Oldsmobile and Cadillac sport utility vehicles, and Isuzu pickups are involved. According to GM's petition, the problem is due to manufacturing tolerances in the hazard flasher switch of those vehicles and does not affect all of the vehicles

equally. RAP activation is more difficult in some vehicles than in others.

However, there is no way to identify which vehicles have problem flasher switches, so the entire vehicle population would be subject to recall.

For the reasons discussed in this notice, we believe that the noncompliance is not inconsequential to motor vehicle safety when evaluated by the criteria used by the agency in the past in making such decisions. Therefore, the agency denies the GM petition.

Note that NHTSA recently granted (66 FR 32871) a related but separate inconsequentiality petition from GM concerning noncomplying illumination of the center high-mounted stop lamp (CHMSL) caused by the same "sneak" circuit malfunction that caused the power window noncompliance that is the subject of this notice.

### Background

The noncompliance involves the "Retained Accessory Power" (RAP) feature of the subject GM vehicles. RAP allows certain electrical accessories such as the radio and power windows to be used for a limited time interval after removal of a vehicle's ignition key. The presence of the RAP feature complies with the requirements of FMVSS No. 118 as long as RAP is active only during the time interval between turning off a vehicle's ignition with the ignition key and opening of either of the vehicle's front doors. This requirement, stated in S4(e) of FMVSS No. 118, permits manufacturers to equip vehicles with the RAP convenience feature while ensuring that a driver or other person will be present in the vehicle to supervise any children in the vehicle when the power windows are enabled by the RAP feature. Once RAP is activated, it remains active for no more than 20 minutes, and it is canceled immediately upon opening of one of the front doors of the vehicle.

On the noncomplying GM vehicles, the RAP can be activated without the ignition key by forcefully depressing the hazard flasher switch located on the steering column. The hazard flasher switch in the affected vehicles is a pushbutton that operates as a push-on/push-off switch. When the hazard flasher pushbutton is fully depressed, it reaches a stop approximately 6 mm below the fully extended "on" position. It is not necessary for the switch to reach the stop in order to go from the "on" position to the "off" position, or vice-versa. The pushbutton is spring-loaded and will not stay in the fully depressed position unless pressure is maintained on it.

Under certain conditions, unintended or so-called "sneak" circuits may be created in the switch if the pushbutton is depressed to its full extent of travel. The "sneak" circuits disappear when the switch is released. The presence of the "sneak" circuits causes activation of the RAP feature without the key in the ignition. The "sneak" circuits materialize more easily if the brake pedal is pressed in conjunction with use of the hazard flasher switch. Activation of the RAP feature in these modes fails to comply with S4(e) of FMVSS No. 118.

### GM's Petition

GM's petition discussed in detail the nature of the circumstances under which RAP might be activated by use of the hazard flasher switch. An important GM rationale was that only some of the vehicles in the affected population had switches that were susceptible to RAP activation. The susceptibility depended on the force used to depress the switch pushbuttons. The necessary force for RAP activation varied from switch to switch because the root cause of the problem was manufacturing tolerances in the switches. The petition included data from a hands-on GM evaluation of 2,770 switches in which GM grouped the switches according to ease of RAP activation. In the evaluation, switches were operated repeatedly so as to intentionally activate RAP by forcefully pressing on the pushbutton, holding the pushbutton at the bottom limit of travel, and applying side force in all directions. Depending upon the amount of bottoming and side force applied before RAP was activated, GM categorized the switches as "least difficult," "moderately difficult," "hard," and "impossible." The data indicated only about 1 percent of the switches would cause RAP activation under normal use, i.e., with moderate bottoming force on the pushbutton. In almost 92 percent of switches, RAP activation was rated "impossible."

GM later revised this data significantly. In the revised data, the sample size dropped from 2,770 to 530 (apparently, many of the switches in the initial group were switches that had already been modified in production in an attempt to fix the problem.) In the revised data, the portion of sample switches that were "least difficult" was about 24 percent, and those categorized as "impossible" fell to about 57 percent.

According to GM, for RAP activation to occur unintentionally in the affected vehicles, two "sneak" circuits must be completed. Both circuits can be completed by depressing the hazard flasher button though, as discussed above, significant bottoming force on

the button is often necessary and in some switches no amount of applied force caused RAP activation. However, one of the two "sneak" circuits is completed whenever the brake pedal is depressed enough to light the brake lamps. Thus, RAP activation is much easier when the brake pedal is depressed in conjunction with pressing on the hazard flasher switch. GM submitted data on ease of RAP activation with the brake pedal depressed for a sample of 234 hazard flasher switches from the affected vehicle population. This data indicated that RAP activation was "least difficult" in over half the switches in the sample, i.e., it could occur through normal use of the pushbutton with moderate bottoming force. Over 33 percent were "moderately difficult" and 14 percent were "hard" when the brake pedal was on. None of the switches in this sample were classified as "impossible" regarding RAP activation if the brake pedal was concurrently pressed.

GM's main rationale for inconsequentiality was that, for any harm to come to occupants of the affected vehicles as a result of the noncompliance, a chain of unlikely events would have to occur. GM stated that the following specific events, each of which it describes as having a low probability of occurring, all would have to occur before an opportunity would exist for a person to be injured by a power operated window or sunroof:

- A young child or children within a certain age range (not infants, not older children) would have to be left unattended and unrestrained inside the vehicle. Restrained children would not have access to the hazard flasher switch located on the steering column. GM submitted the results of a survey that it commissioned to estimate the frequency with which children are left unattended in vehicles. In the survey, vehicles entering the parking areas of selected store and shopping complex locations in Virginia and California in June 2000 were monitored. Of a total of 730 vehicles observed, the survey found 25 percent had children of any age as occupants and 1.5 percent had children left in them unattended. Most of the unattended children were older (approx. 10 years and over) and the average time unattended was about 7½ minutes.

- Unrestrained, unattended, young children would have to get access to and depress the hazard flasher switch to its limit of travel, and usually some force would be required for RAP activation to occur, or the child or children would have to press on the brake pedal while bottoming the switch. Even if these events occur, RAP probably would not

be activated since some switches are not prone or are less prone to "sneak" circuits, as described previously. In this regard, GM conducted a human factors test to determine how likely children are to play with the hazard flasher switch, or the switch and brake pedal concurrently, when left alone in vehicles. GM describes the test as maximizing the possibility of switch usage by the children to determine not only the likelihood of RAP activation but also what would occur after any such activation. Four vehicles were used in the study and were all equipped with switches categorized as "Least Difficult" for RAP activation, and 138 young children were observed either individually or in pairs inside the vehicles for 20 minutes. At the conclusion of each 20 minute period, before removing the child or children from the vehicle, evaluators directed the children to activate the hazard flasher switch if they had not already. Pursuant to the GM test protocol, the children pressed on the switches a total of 554 times (mostly by direction) resulting in one occurrence of RAP activation in the case of a pair of children, a nine-year-old boy and four-year-old girl. The RAP was de-activated in that instance by the four-year-old opening a door prior to any use of the power windows. In total, 96 observations of either one or two children in vehicles for no more than 20 minutes resulted in 25 occasions of hazard switch activation. In seven of these 25 instances, window switches were contacted after hazard switch use but, as mentioned window switches were not touched in the one instance where hazard switch use caused RAP activation.

- In the event unattended children activated the RAP feature, they would have to subsequently operate the power window or sunroof controls prior to RAP time-out or de-activation by a door being opened. Even then, power window use would be unlikely to actually lead to an injury. None of the affected vehicles has an "express close" feature so the windows only continue closing as long as the control is held.

GM believes that, because each of these events has a very low frequency or probability of occurrence, the likelihood of all of them occurring is negligible.

GM stated furthermore that it is not aware of any accidents, injuries, owner complaints, or field reports on the subject vehicles related to the noncompliance. GM commissioned an independent analysis of complaints in the NHTSA complaint database relating to power windows or sunroofs. That analysis found 30 complaints related in some way to entrapment out of 8,621

complaints involving power windows or sunroofs. Fourteen of those 30 involved an injury or near-injury to children. None of the 30 involved any of the subject GM vehicles.

#### Comments on the Petition

One comment was submitted regarding the subject GM inconsequentiality petition. The Center for Auto Safety (CAS) urged the agency to deny the GM petition. CAS stated, "FMVSS 118 seeks to minimize child injury risks from the inadvertent operation of power accessory devices." However, CAS appears to have misunderstood the nature of the noncompliance and overstated the risk involved. It stated, "If this petition is granted, a child could depress the hazard warning switch to its limit while another child remains in the path of a closing window or panel. Similarly, a driver could activate the hazard lights and exit the vehicle to check on a problem and leave the child inside free to operate the power windows." Neither of these scenarios accurately reflects the actual risk. In the first scenario described by CAS, the RAP may be activated by the child pressing the hazard flasher switch, but this would not cause the power windows to move. It would merely enable the power window buttons. In the second scenario, in which the driver activates the hazard flashers and then exits the vehicle, the RAP would be canceled when the driver opened the door to get out, and so the windows would not be operable by a child left behind in the vehicle, as CAS suggested.

CAS mentions the related problem of the potential for illumination of the CHMSL on the affected GM vehicles when the hazard flasher switch is used. CAS cites this as evidence that an effective remedy is required, not an exemption from remedy.

#### Petition Analysis

The subject GM petition is being denied because FMVSS No. 118 is very specific regarding the conditions under which power windows may be operable. A requirement in the Standard, stated in S4(e), seeks to prevent conditions like the one that exists in the noncomplying GM vehicles. GM contends that there is only a very small likelihood of an injury resulting from this noncompliance, considering all the unlikely events that must first take place. The GM human factors trial in which children were observed as occupants of affected GM vehicles was supposed to demonstrate that RAP activation is exceedingly unlikely. In our view, it showed that the behavior of children is unpredictable,

and the possibility of RAP activation is not negligible. Therefore, existing safeguards in FMVSS No. 118 should be adhered to.

In determining inconsequentiality, the agency traditionally has considered whether a noncompliance is likely to increase the risk that occupants will experience the type of injury that the requirement is designed to protect against (*Cosco, Inc., Denial of Application for Decision of Inconsequential Noncompliance*, 64 FR 29408 (June 1, 1999) (NHTSA-98-4033-2)). The main purpose of requiring power windows to be inoperative without the ignition key is to eliminate the possibility of unsupervised children operating them. The subject noncompliance makes RAP activation possible by means other than those allowed for in Standard No. 118, and it therefore increases the risk to occupants, particularly children, of an event that the standard is designed to protect against.

In addition, NHTSA denied a somewhat similar 1996 Ford Motor Company petition (62 FR 51500) in part because the involved vehicles were minivans which are considered family vehicles in which the presence of children is more likely than in other types of vehicles. The same argument applies to many of the subject GM vehicle models. According to GM, 569,163 of the affected vehicles, or more than 58 percent, are sport utility vehicles with passenger and cargo capacity that makes them suitable as family vehicles.

We also note that the NHTSA grant of the related petition involving CHMSL illumination by the same "sneak" circuit mechanism which can cause RAP activation does not influence our decision. In the case of the CHMSL problem, the lamp could be inadvertently illuminated by use of the hazard flasher switch, but the illumination was only momentary. That is, it only occurred while the switch was being held in the bottomed-out position. Release of the switch always turned the lamp off. In contrast, RAP activation caused by the "sneak" circuit condition results in a timed interval of 20 minutes in which the power windows can be used. This condition can result even if only momentary bottoming of the switch occurs. Once activated, the RAP is set to an "on" status and, unlike the CHMSL, releasing the hazard flasher pushbutton as occurs in normal use does not deactivate the RAP feature.

For the reasons expressed above, it is hereby decided that GM has not met its burden of persuasion that the subject noncompliance is inconsequential to

motor vehicle safety, and its petition is denied.

(Authority: 49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: September 27, 2001.

**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2001-9036; Notice 2]

#### **Mazda Motors Corporation; Grant of Application for Decision That Noncompliance Is Inconsequential to Motor Vehicle Safety**

Mazda Motors Corporation (Mazda) has determined that certain 1994 model Mazda Navajos and 1994 through 2000 model Mazda B-Series trucks do not meet the rim marking requirements of paragraphs S5.2(a) and S5.2(c) of Federal Motor Vehicle Safety Standard (FMVSS) No. 120, "Tire Selection and Rims for Motor Vehicles Other Than Passenger Cars." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Mazda petitioned for a determination that these noncompliance are inconsequential to motor vehicle safety and filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports."

Notice of receipt of the application was published on May 1, 2001, with a 30-day comment period (66 FR 21820). NHTSA received no comments on this application.

Mazda stated that approximately 218,000 vehicles were manufactured with rims that are not marked with the letter "T", identifying The Tire and Rim Association as the source of the rims' nominal dimensions. Paragraph S5.2(a) requires that rims be marked with a designation indicating a publication in which the rims' dimension specifications are available.

Also, the rims on these vehicles are not marked with the "DOT" symbol, indicating certification of compliance with all applicable motor vehicle safety standards, as required by paragraph 5.2(c).

According to Mazda, the marking required in paragraph S5.2(a) to identify the source of the rim dimension specifications has no effect on the tire/rim performance. The tires and rims on the noncompliant vehicles are properly

matched and are appropriate for the load carrying characteristics of these vehicles. Paragraph S5.2(a) lists several publications in which vehicle rim dimension specifications may be published, including "The Tire and Rim Association," "Japanese Automobile Tire Manufacturers' Association, Inc.," and the "European Tyre and Rim Technical Organization." According to Mazda, a comparison of the dimension specifications for rims of the appropriate size and type indicated that the dimensions listed in these publications are essentially identical. Therefore, rims of the correct size, with dimension specifications listed in several of the sources designated in paragraph S5.2(a), would be appropriate for these vehicles. The rims in question are 14X6.0J and 15X7.0J, which Mazda stated are commonly available in the U.S. With respect to the DOT symbol marking, Mazda stated that the rims comply with all federal requirements that may have an impact on motor vehicle safety and, therefore, it does not believe this noncompliance with paragraph S5.2(c) would result in safety related problems.

The agency believes the true measure of inconsequentiality with respect to the noncompliance with paragraph S5.2(a) is the likelihood that inappropriate rims may be installed on these vehicles, since the rims are not marked to indicate the source of the rims' dimension specifications. Based on the information provided by Mazda, the omission of the symbol designating the publication in which the rim dimension specifications will not likely result in the use of rims with dimensions that are not appropriate for the vehicle. The rim size is properly labeled on these rims and the dimension specifications for these rims are essentially identical in several of the publications listed in the standard. Since it is highly unlikely that a replacement rim of the proper size and type would have dimensions that are unsuitable for the Mazda vehicles, and the recommended tire size(s) and associated rim size(s) are stated on the certification and/or tire information labels, the agency believes the noncompliance is inconsequential to motor vehicle safety.

The "DOT" symbol is marked on tires, tire rims, motor vehicle equipment items, and motor vehicles to certify compliance with various safety standards. The agency regards the noncompliance with paragraph S5.2(c) as a failure to comply with the certification requirements of 49 U.S.C. 30115, and not a compliance failure requiring notification and remedy.

In consideration of the foregoing, NHTSA has decided that the applicant has met the burden of persuasion that noncompliance with FMVSS No. 120, paragraph S5.2(a) is inconsequential to motor vehicle safety. Additionally, the noncompliance with paragraph S5.2(c) is inconsequential to motor vehicle safety and a failure to comply with certification requirements. Accordingly, Mazda's application is granted and the company is exempted from providing the notification of the noncompliance that would be required by 49 U.S.C. 30118, and from remedying the noncompliance, as would be required by 49 U.S.C. 30120.

(49 U.S.C. 301118, 301120; delegations of authority at 49 CFR 1.50 and 501.8)

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**Stephen R. Kratzke,**

*Associate Administrator for Safety Performance Standards.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2001-10696; Notice 1]

#### **Volkswagen of America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance**

Volkswagen of America, Inc. (Volkswagen), has determined that approximately 225,000 vehicles produced from 1977 to August 6, 2001, do not meet the labeling requirements of paragraph S5.3(b) of Federal Motor Vehicle Safety Standard (FMVSS) No. 120 "Tire Selection and Rims for Motor Vehicles Other than Passenger Cars". Pursuant to 49 U.S.C. 30118(d) and 30120(h), Volkswagen has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR 573, "Defect and Noncompliance Reports."

This notice of receipt of an application 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 application.

The noncompliant vehicles were produced by Volkswagen AG and were imported by Volkswagen. The noncompliance relates to multipurpose passenger vehicles produced and imported under the Vanagon and Eurovan model designations. In these vehicles, Volkswagen did not include