DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2001–8842; Notice 2]

General Motors Corporation; Denial of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) of Warren, Michigan, has determined that child restraint lower anchorages in approximately 33,916 of its model year 2001 vehicles [1] fail to comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 225, ''Child Restraint Anchorage Systems,'' and has filed an appropriate report pursuant to 49 CFR part 573, ''Defect and Noncompliance Reports.'' GM has also petitioned to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301, ''Motor Vehicle Safety,'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

On February 20, 2001, NHTSA published a notice of receipt of the application in the **Federal Register** (66 FR 10948, Docket No. NHTSA–2001–8842; Notice 1) and requested comments by March 22, 2001.

Paragraphs S9.1.1 and S15.1.2.1 of FMVSS No. 225 specify that, for each child restraint anchorage system, the lower anchorages shall consist of two bars that are 6 mm ± 0.1 mm in diameter. The lower anchorages are designed to secure the child restraint system onto the vehicle rather than using the vehicle's belt system. Child restraints will have components that attach to the bars. NHTSA established the diameter specification of the anchorages to ensure compatibility between the child seat and the anchorages so that the components on child restraints can latch securely onto the bars and will remain attached in a crash.

On November 3, 2000, GM submitted a Part 573 Noncompliance Report advising NHTSA that 75,816 model year (MY) 2001 vehicles may not comply with FMVSS No. 225. Based on measurements taken from a sample of 32 seats in GMT250 (Azteks) and 52 seats in GM200 (U Vans) vehicles, GM believes that approximately 33,916 of these vehicles actually have anchors with diameters outside the range allowed by the standard. From the sampling data, the range of the diameter of the anchorages were estimated as 5.99 mm to 6.30 mm for the first group and 5.59 mm to 6.32 mm for the second group of vehicles. The compliance range allowed by FMVSS No. 225 is 5.9 mm to 6.1 mm. The 33,916 affected vehicles include 30% of 27,901 Chevrolet Ventures (8,370), 30% of 9,845 Oldsmobile Silhouettes (2,954), 30% of 17,383 Pontiac Montanas (5,215), and 84% of 20,687 Pontiac Azteks (17,377).

On November 29, 2000, GM submitted a petition for an exemption from the recall requirements of 49 U.S.C. Chapter 301 on the basis that the noncompliance is inconsequential to motor vehicle safety.

GM explained how the noncompliance happened. ''In the case of the Aztek, this condition was caused by the inadvertent release of component drawings that allowed the lower anchorage bar material to be supplied out of compliance. For the U vans and Azteks, it was not originally known that the coating process for the lower anchorage bar was not capable of holding the required tolerance. As a result, some of the lower anchorages of the subject vehicles do not meet the diameter specification.''

In summary, GM supported its petition for a determination of inconsequential noncompliance with the following:

1. ''Child restraint manufacturers currently offer to U.S. customers two child seats with LATCH attachment mechanisms: The Fisher Price Safe Embrace [2] and the Cosco Triad. Both of these child seats use a hook mechanism to attach to the lower anchorage bars * * * [T]he integrity and performance of the [hook] attachment will not be materially affected by the small deviations from the specification for the diameter of the lower anchor * * * GM is not aware of any proposed U.S. child seat latch mechanism that would not be compatible with the anchors on the subject vehicles.''

2. ''[A]ll the child seats, in addition to the requirements for a latch mechanism, must also be designed to work with the vehicle seat belt system. Therefore, each child seat, whether LATCH compatible or not, will be able to be safely secured to each of these vehicles.''

3. GM said they ''do not foresee any problem with future designs and the anchors that are below 5.9 mm.''

4. In the future, it is possible that a slotted attachment could be designed and that the slot might be too small to accept some of these anchors that exceed 6.1 mm. To address this situation, GM plans to send a letter to owners to advise them how to handle such a situation.'' (Use the vehicle belt system to attach the child seats.)

Based on the above arguments, GM stated that the noncompliance with FMVSS No. 225 is inconsequential to motor vehicle safety and requested that NHTSA grant the inconsequentiality petition.

The agency received two comments responding to NHTSA's February 2001 notice. They were from Britax Child Safety, Inc. (8842–2, dated March 21, 2001), and Advocates for Highway and Auto Safety (8842–3, dated March 22, 2001).

Britax (8842–2) stated that its ''designed LATCH compatible connectors will *not* fit onto lower anchorage bars having a diameter greater than the tolerances specified in Standard 225.'' Britax contacted GM about the potential problem but could not arrive at a mutually agreeable solution to the problem with GM. Britax worries that it may be wrongly and unfairly blamed if consumers encounter the potential incompatibility problem between its child restraints and the GM lower anchorages. Britax also worries that a partially engaged seat connector and oversized anchorage bar could fail in a crash, and that Britax could be blamed for a faulty seat design.

Advocates (8842–3) believes that the agency should deny GM's application based on various safety concerns, and that the denial would be consistent with the agency's previous ruling on denying a petition submitted by Suzuki for inconsequential noncompliance (65 FR 57649, September 25, 2000).

On May 7, 2001, GM submitted supplemental information (8842–4) ''to document the additional information discussed and GM's position.'' GM further estimated that among the 33,916 noncompliant vehicles, 19,610 vehicles (58%) may have an anchorage diameter over 6.1 mm. Therefore, the other 14,306 vehicles (42%) may have an anchorage diameter less than 5.9 mm. GM stated that the noncompliance problem was first discovered during an ISO Working Group meeting in Canada. A demonstration of a Britax prototype child seat with a LATCH ''hard connector'' design failed to fit onto the lower anchorages in a 2001 Pontiac Aztek vehicle. The diameters of the anchorages were measured as 6.18 mm to 6.23 mm in the middle, and 6.22 mm to 6.25 mm on the sides of the anchorage bars.

Although GM acknowledged the noncompliance of the anchorage bars in

[1] Noncompliant GM vehicles include approximately 17,377 Pontiac Azteks, 5,215 Pontiac Montanas, 8,370 Chevrolet Ventures, and 2,954 Oldsmobile Silhouettes (U-vans). These vehicles were built with lower anchorage bars that are either above or below the 6.0 ± 0.1 mm diameter requirement.

[2] Fisher Price has recently announced that it will cease the production of child restraints, including the Safe Embrace. [*Footnote added by NHTSA.*]

the Aztek vehicle, GM also complained that the opening of Britax's ''hard connector'' deviated too much from the 6.5 mm diameter designation for the Static Force Application Device 2 (SFAD 2), a test fixture used to test compliance with one aspect of FMVSS No. 225. The SFAD 2 is referenced in S9.4 and S15.3 of FMVSS No. 225 and is illustrated in Figures 17 and 18 of the standard.

GM had already orally presented these comments during a GM-requested meeting with NHTSA on April 25, 2001. A meeting record has been entered into the docket.

NHTSA has thoroughly evaluated the data GM provided, carefully considered its subsequent explanations about the data, and also considered the comments submitted by Britax and Advocates. We disagree with GM's position. We consider the incompatibility problem to be very much safety related. When a child seat fails to latch onto the lower anchorages, the entire latch system will not work, regardless of how well the components are designed.

GM has acknowledged that the lower anchorages do not comply with FMVSS No. 225, but also blamed the deviation of the opening of the ''hard connectors'' on the Britax child seat. However, GM has not shown, and cannot show, that the Britax seat has an improper connector design or dimensions, since the dimensions for the SFAD do not apply to child restraint systems.

Moreover, we disagree with each of the four ''reasons'' asserted by GM in support of the petition. First, we disagree with GM's assertion that there is no ''proposed U.S. child seat latch mechanism that would not be compatible with the anchors on the subject vehicles.'' As GM stated in its May 7, 2001 supplemental petition, the incompatibility problem was discovered when a demonstration of a Britax child seat with a LATCH ''hard connector'' failed to fit onto the lower anchorages in a 2001 Pontiac Aztek vehicle. Based on the Britax comments, it is certainly possible, if not likely, that such a mechanism would be used on child restraint systems sold in the U.S. In any case, such a mechanism is clearly legal, and the current market decisions of all child restraint manufacturers do not preclude future restraints with ''hard connectors.''

GM's argument that since every child restraint is designed to work with the vehicle belt system in addition to the latch system, the child restraint will be able to be safely secured to the vehicle regardless of whether the latch mechanism works or not misses the point. The primary basis for the adoption of the LATCH requirements is to enhance safety beyond the level provided by the vehicle belt systems. The May 7, 2001 GM supplement noted that ''[n]ational studies reflect an approximately 80% incorrect use rate. Many local checkups report misuse rate over 90%.'' (Attachment B, H.2., page C–5). Because of this high rate of misuse of the vehicle belt system, NHTSA adopted FMVSS No. 225 to make it easier to properly attach a child seat to the vehicle by means of the lower bar system. The requirement in FMVSS No. 213 that a child seat must be designed to be restrained by means of the vehicle belt system is not an alternative, equivalent means for restraining a child. This provision was kept in the standard to ensure that new child restraint systems equipped with a latch system can also be used in older motor vehicles that are not equipped with a latch system and in aircraft.

As to GM's statement that they ''do not foresee any problem with future designs and the anchors that are below 5.9 mm,'' neither we nor GM can predict future child restraint system designs. There may be a system that cannot properly attach to bars that are less than 5.9 mm in diameter, and remain engaged during a crash. The fact that a problem has not occurred does not mean that the problem will not occur in the future.

GM acknowledged in its petition that in the future, ''it is possible that a slotted attachment could be designed and that the slot might be too small to accept some of these anchors that exceed 6.1 mm.'' However, GM's proposal ''to address this situation'' by sending a letter to vehicle owners to advise them to ''use the vehicle belt system to attach the child seats'' would be inadequate for several reasons. First, for the reasons noted above, this would not provide an equivalent level of safety. Second, a consumer might fail to heed the warning against using the lower bars. Third, a consumer forced to use the vehicle belts might attach the seat incorrectly. And finally, such a letter would not warn subsequent owners of the vehicle.

For the reasons stated above, NHTSA has decided that GM has not met its burden of persuasion that the noncompliance described herein is inconsequential to motor vehicle safety, and the application is denied. Therefore, GM is required to provide notification of, and a remedy for, the noncompliance as required by 49 U.S.C. 30118–30120.

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

Issued on: December 3, 2001.

Stephen R. Kratzke,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF THE TREASURY

Internal Revenue Service

[IA–41–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, IA–41–93, (TD 8703), Automatic Extension of Time to File Partnership return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return (§ 1.6081–4).

DATES: Written comments should be received on or before February 5, 2002, to be assured of consideration.

ADDRESSES: Direct all written comments to George Freeland, Internal Revenue Service, room 5575, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Allan Hopkins, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Automatic Extension of Time for Filing Individual Income Tax Returns; Automatic Extension of Time To File Partnership Return of Income, Trust Income Tax Return, and U.S. Real Estate Mortgage Investment Conduit Income Tax Return.

OMB Number: 1545–1479.

Regulation Project Number: IA–41–93.

Abstract: Internal Revenue Code section 6081(a) provides that the Secretary may grant a reasonable extension of time for filing any return.