

waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before March 1, 2004.

**ADDRESSES:** Comments should refer to docket number MARAD-2004-16957. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel STEPPING STONE is:

*Intended Use:* "Day sail charters."  
*Geographic Region:* "New Jersey Coast."

Dated: January 22, 2004.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 04-1872 Filed 1-28-04; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### Maritime Administration

[Docket Number 2004-16956]

#### Requested Administrative Waiver of the Coastwise Trade Laws

**AGENCY:** Maritime Administration, Department of Transportation.

**ACTION:** Invitation for public comments on a requested administrative waiver of the Coastwise Trade Laws for the vessel STURDY.

**SUMMARY:** As authorized by Public Law 105-383 and Public Law 107-295, the

Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below. The complete application is given in DOT docket 2004-16956 at <http://dms.dot.gov>. Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with Public Law 105-383 and MARAD's regulations at 46 CFR part 388 (68 FR 23084; April 30, 2003), that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

**DATES:** Submit comments on or before March 1, 2004.

**ADDRESSES:** Comments should refer to docket number MARAD-2004 16956. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. DOT Dockets, Room PL-401, Department of Transportation, 400 7th St., SW., Washington, DC 20590-0001. You may also send comments electronically via the Internet at <http://dmses.dot.gov/submit/>. All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at <http://dms.dot.gov>.

**FOR FURTHER INFORMATION CONTACT:** Michael Hokana, U.S. Department of Transportation, Maritime Administration, MAR-830 Room 7201, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202-366-0760.

**SUPPLEMENTARY INFORMATION:** As described by the applicant the intended service of the vessel STURDY is:

*Intended Use:* "Sailing charters."

*Geographic Region:* "Florida and U.S. Virgin Islands."

Dated: January 22, 2004.

By order of the Maritime Administrator.

**Joel C. Richard,**

*Secretary, Maritime Administration.*

[FR Doc. 04-1873 Filed 1-28-04; 8:45 am]

**BILLING CODE 4910-81-P**

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

#### Denial of Motor Vehicle Defect Petition, DP03-007

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

**ACTION:** Denial of petition for a defect investigation.

**SUMMARY:** This notice describes the reasons for denying a petition (DP03-007) submitted to NHTSA pursuant to 49 U.S.C. 30162, requesting that the agency open a defect investigation into unintended acceleration involving model year (MY) 1996 and 1997 General Motors J-cars (Chevrolet Cavaliers and Pontiac Sunbirds).

**FOR FURTHER INFORMATION CONTACT:** Bob Young, Office of Defects Investigation (ODI), NHTSA; 400 Seventh Street, SW.; Washington, DC 20590. Telephone: 202-366-4806.

**SUPPLEMENTARY INFORMATION:** On September 23, 2003, NHTSA received a petition filed by Donald Friedman of MCR/LRI, Inc.; requesting that the agency "open a defect investigation into unintended acceleration involving 1996 and 1997 model General Motors J-cars (Chevrolet Cavaliers and Pontiac Sunbirds [sic] [Subject Vehicles])."

The petitioner claims this request is based on a "report [he] received for GM" showing that it had received 660 complaints of unintended or sudden acceleration involving the subject vehicles. By comparison, the petitioner claimed, other GM models had far fewer complaints.

NHTSA has reviewed the facts claimed to establish that a defect investigation of the subject vehicles for unintended acceleration should be opened. The results of this review and our analysis of the petition is provided in the DP03-007 Petition Analysis Report, published in its entirety as an appendix to this notice.

For the reasons presented in the petition analysis report, there is no reasonable possibility that an order concerning the notification and remedy of a safety-related defect would be issued as a result of conducting the requested defect investigation. Therefore, in view of the need to

allocate and prioritize NHTSA's limited resources to best accomplish the agency's safety mission, the petition is denied.

**Authority:** 49 U.S.C. 30162(d); delegations of authority at CFR 1.50 and 501.8.

**Kenneth N. Weinstein,**

*Associate Administrator For Enforcement.*

## Appendix—Petition Analysis—DP03-007

### 1.0 Introduction

On September 23, 2003, the National Highway Traffic Safety Administration (NHTSA) received a petition filed by Donald Friedman requesting that it "open a defect investigation into unintended acceleration [UA] involving 1996 and 1997 model General Motors J-cars (Chevrolet Cavaliers and Pontiac Sunbirds [sic])." In this petition analysis, we will refer to sudden acceleration incidents as "SAIs," incidents of unintended acceleration as "UAls," and to the MY 1996-97 GM J-cars as the "Subject Vehicles."

The petitioner claims, "The basis for this request is a report we received for GM<sup>2</sup> showing that it had received 380 complaints on unintended or sudden acceleration involving 1996 models and 280 complaints involving 1997 models [a total of 660 complaints]. This compares with an average of around 20 complaints per year per model on other GM models and no more than 10 complaints per year on J-cars of years other than 1996 and 1997."

### 2.0 Background

On April 14, 1997, at approximately 11:51 a.m., 21 year-old Timothy Langston was driving his MY 1997 Chevrolet Cavalier on a two lane road in Cherokee County, Georgia with two minor passengers; Lee and Alana Anderson. It is alleged that, after cresting a hill at about 40 mph, the car accelerated to approximately 94 mph, whereupon Mr. Langston lost control of the vehicle and it crashed. Timothy and Lee were killed and Alana was injured.

On April 5, 1999 a wrongful death and personal injury lawsuit was filed in the State Court of Cobb County, Georgia on behalf of Mr. Langston and Mr. and Ms. Anderson.<sup>3</sup> The suit alleges that the vehicle crash was due to unintended acceleration.<sup>4</sup>

According to General Motors, its response to a plaintiff pre-trial discovery request included reports of alleged UA and/or SA incidents for all MY 1982 to 2000 GM passenger cars. In response to a separate discovery request, GM also produced reports

concerning alleged brake failure in the subject vehicles.<sup>5</sup>

On July 3, 2003, after receiving, reviewing, and tabulating "thousands" of GM customer complaints produced during discovery, the plaintiff introduced into evidence 235 non-duplicative reports of other incidents alleged to be substantially similar to that in *Anderson* (i.e., Other Similar Incidents or "OSI's").<sup>6</sup> Of these, 38 involved the MY 1996-1997 J-cars; 32 related to the MY 1996-1997 N-car platform,<sup>7</sup> and 84 concerned other MY 1996 and 1997 GM passenger cars. Because, according to the Plaintiffs, "there would be no residual evidence that will categorically indicate the specific defect" due to "the destruction of the [Langston Cavalier], and the nature of the potential defects, including electrical malfunctions and computer errors,"<sup>8</sup> they introduced these alleged OSI reports as "Evidence of a defect in General Motors' vehicles."<sup>9</sup>

The plaintiffs retained Donald Friedman to offer expert testimony about the cause of the Langston crash. To aid in his analysis, the plaintiffs provided him with their tabulation of the thousands of reports received during discovery and copies of the J-car OSI reports. Mr. Friedman later referred to the plaintiff's tabulation as a "report for GM" in his NHTSA petition.

After receiving his petition, NHTSA wrote to the petitioner requesting a copy of the "report" and clarification of the data he presented. Without addressing our request for a copy of the report he identified initially, Mr. Friedman responded that his data could be found in pre-trial discovery material produced by GM in the *Anderson* case and referred us to General Motors.

Subsequently, General Motors provided information concerning both the 660 complaints cited by the petitioner and the alleged OSI's identified by the plaintiff.

### 3.0 Petition Data Analysis

#### 3.1 SAI and UAI

The petitioner requested an investigation of the subject vehicles for "unintended acceleration." He then states that the foundation for his request is a "report" documenting a substantial number of alleged "unintended or [emphasis added] sudden acceleration" complaints about the subject vehicles. Therefore, our analysis relates to complaints where either a SAI or UAI (SAI/UAI) was alleged. This is consistent with the plaintiffs—and petitioner's—approach in *Anderson*. For an explanation of the difference between SAIs and UAIs, please refer to footnote 4.

<sup>5</sup> *Anderson*: GM's Motion in Limine, June 3, 2003, p. 5.

<sup>6</sup> *Anderson*: Response to GM's June 3rd Motion in Limine, July 3, 2003, p. 3. ODI has not reviewed these complaints.

<sup>7</sup> Chevrolet Malibu, Pontiac Grand AM, Buick Skylark, and Oldsmobile Achieva, Cutlass, and Alero.

<sup>8</sup> *Anderson*: Response to Defendants June 3rd Motion in Limine, July 3, 2003, p. 2.

<sup>9</sup> *Ibid*, p. 3.

#### 3.2 J-cars vs. Other GM models—Complaint Count

GM's discovery production in the *Anderson* case included customer SAI/UAI allegations for all GM vehicles (including J-cars) for MY's 1982-2000. In response to a separate discovery request, GM also produced braking-related complaints for the subject vehicles. Thus, the 660 complaints cited by the petitioner include allegations of unintended and/or sudden acceleration and braking-related issues involving the MY 1996-1997 J-cars. Since the complaint count for the other GM platforms does not include braking-related complaints, the J-car count is overstated by comparison.

To overcome this shortcoming, we analyzed the OSI's identified by the plaintiffs in *Anderson*.<sup>10</sup> Based on the OSI report count prepared by the plaintiffs from complaints produced by GM in pre-trial discovery, we found the following MY 1996-97 GM passenger car platforms had these SAI/UAI report counts:

TABLE 1.—ALLEGED REPORT COUNTS FOR OTHER SIMILAR INCIDENTS INVOLVING SA OR UA

MY 1996-1997 GM platform (model)	SA/UA count
Z (Saturn) .....	8
A (Cutlass, Century) .....	10
F (Camaro, Firebird) .....	14
K (Deville, Concours, Seville, SLS, STS) .....	15
W (Lumina, Monte Carlo, Grand Prix, Cutlass Supreme, Regal, Century Custom) .....	15
N (Malibu, Grand Am, Achieva, Skylark, Cutlass, Alero) .....	32
J (Cavalier, Sunfire) .....	38

From this analysis alone, the petitioner's rationale—that the MY 1996-97 J-cars should be investigated for unintended acceleration because they have far more reports than other GM models—does not appear justified because the total number of alleged SAI/UAIs is directly related to the number of these vehicles on the road. Thus, everything else being equal, the subject vehicles may have more reports than other GM vehicle platforms but, without normalizing for variations in the on-road fleet of each model, this information can be misleading. Therefore the total number of alleged SAI/UAIs is insufficient on its own to assess risk. To overcome this problem, we normalized the report counts identified in Table 1 by dividing the number of alleged SAI/UAI reports by the number of vehicles built to obtain a report count rate. The normalized rates are presented below.

<sup>10</sup> *Anderson*: Schedules A, B, and C; Plaintiff's July 3, 2003 notice of filing documents in support of plaintiffs' response to defendants June 3, 2003 Limine motion.

<sup>1</sup> Pontiac's J-car model in MY 1996-97 was the Sunfire.

<sup>2</sup> The "report" referenced by the petitioner was a tabulation of GM customer complaints prepared by the plaintiffs in a product liability lawsuit.

<sup>3</sup> *Anderson-Barahona, et al. v. General Motors Corporation*, (case no. 99A1971-4 (*Anderson*)). Settled on September 12, 2003.

<sup>4</sup> "Unintended Acceleration" (UA) involves events that begin after the vehicle has reached an intended roadway speed. This differs from "Sudden Acceleration" (SA) where the event typically begins while the vehicle is stationary.

TABLE 2.—REPORT RATES FOR OTHER SIMILAR INCIDENTS INVOLVING ALLEGED SA OR UA

MY 1996–1997 GM platform (model)	Rate/100,000 Vehs
Z (Saturn) .....	1.39
A (Cutlass, Century) .....	5.52
F (Camaro, Firebird) .....	7.75
K (Deville, Concours, Seville) ...	5.21
W (Lumina, Monte Carlo, Grand Prix, Cutlass Supreme, Regal, Century Custom) .....	1.49
N (Malibu, Grand Am, Achieva, Skylark, Cutlass) .....	4.23
J (Cavalier, Sunfire) .....	4.99

Based on this analysis, using data produced by GM in the lawsuit prompting this petition, the risk of an alleged SAI/UAI involving the subject vehicles is within the range of other GM models.

4.0 ODI Data

ODI also looked at complaint counts in NHTSA’s consumer complaint database. Our review identified 256 complaints coded as “Vehicle Speed Control” (VSC)<sup>11</sup> for the models identified in Tables 1 and 2. We then normalized this data to account for exposure, based on the number of vehicles built within each platform in MY 1996 and 1997, to determine whether incidents involving vehicle speed control malfunctions are more frequently reported to NHTSA by J-car owners.

TABLE 3.—NHTSA REPORT RATE—VEHICLE SPEED CONTROL

MY 1996–1997 GM platform (model)	Rate/100,000 Vehs
Z (Saturn) .....	4.71
A (Cutlass, Century) .....	7.72
F (Camaro, Firebird) .....	6.64
K (Deville, Concours, Seville) ...	5.95
W (Lumina, Monte Carlo, Grand Prix, Cutlass Supreme, Regal, Century Custom) .....	7.05
N (Malibu, Grand Am, Achieva, Skylark, Cutlass) .....	10.15
J (Cavalier, Sunfire) .....	6.04

This analysis does not indicate that the subject vehicles (MY 1996–1997 GM J-cars) are experiencing vehicle speed control-related problems more frequently than other GM models.

<sup>11</sup> With NHTSA’s recent rollout of the ARTEMIS consumer complaint repository, all complaints that may involve a SAI and/or UAI are coded (or in the case of reports pre-dating the roll-out, re-coded) as Vehicle Speed Control-related. These SAI/UAI complaints form a subset of all complaints where a problem related to vehicle (e.g., engine) speed control was alleged (including, for example, stalling complaints).

5.0 Conclusion

Based on the foregoing analysis, there is no reasonable possibility that an order concerning the notification and remedy of a safety-related defect would be issued as a result of granting Mr. Friedman’s petition. Therefore, in view of the need to allocate and prioritize NHTSA’s limited resources to best accomplish the agency’s safety mission, the petition is denied.

[FR Doc. 04–1864 Filed 1–28–04; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2004–16949]

Decision That Certain Nonconforming Motor Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of decision by NHTSA that certain nonconforming motor vehicles are eligible for importation.

SUMMARY: This document announces decisions by NHTSA that certain motor vehicles not originally manufactured to comply with all applicable Federal motor vehicle safety standards are eligible for importation into the United States because they are substantially similar to vehicles originally manufactured for importation into and/or sale in the United States and certified by their manufacturers as complying with the safety standards, and they are capable of being readily altered to conform to the standards.

DATES: These decisions are effective as of the date of their publication in the Federal Register.

FOR FURTHER INFORMATION CONTACT: Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202–366–3151).

SUPPLEMENTARY INFORMATION:

Background

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable Federal motor vehicle safety standards shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the Federal Register of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the Federal Register.

NHTSA received petitions from registered importers to decide whether the vehicles listed in Annex A to this notice are eligible for importation into the United States. To afford an opportunity for public comment, NHTSA published notice of these petitions as specified in Annex A. The reader is referred to those notices for a thorough description of the petitions. No comments were received in response to these notices. Based on its review of the information submitted by the petitioners, NHTSA has decided to grant the petitions.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS–7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. Vehicle eligibility numbers assigned to vehicles admissible under this decision are specified in Annex A.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA hereby decides that each motor vehicle listed in Annex A to this notice, which was not originally manufactured to comply with all applicable Federal motor vehicle safety standards, is substantially similar to a motor vehicle manufactured for importation into and/or sale in the United States, and certified under 49 U.S.C. 30115, as specified in Annex A, and is capable of being readily altered to conform to all applicable Federal motor vehicle safety standards.

Authority: 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.