

dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, *etc.*). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78) or you may visit <http://dms.dot.gov>.

FRA expects to be able to determine these matters without an oral hearing. However, if a specific request for an oral hearing is accompanied by a showing that the party is unable to adequately present his or her position by written statements, an application may be set for public hearing.

Issued in Washington, DC on November 26, 2003.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2003–16462; Notice 1]

General Motors Corporation, Receipt of Application for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain model year 2003 and 2004 Saturn Ion Sedan and Coupe vehicles it produced and sold are not in full compliance with 49 CFR 571.118, Federal Motor Vehicle Safety Standard (FMVSS) No. 118, “Power-Operated Window, Partition, and Roof Panel Systems.”

Pursuant to 49 U.S.C. 30118(d) and 30120(h), GM 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.”

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.

GM has determined that all 2003 and 2004 Model Year Saturn Ion Sedan and Coupe vehicles built before September 5, 2003, and with a Vehicle Identification Number (VIN) less than 1G8AG52F24Z121302 and equipped with either power windows or a power sunroof do not conform to the requirements of S4(e) of FMVSS No. 118.

S4 provides that “power operated window, partition, or roof panel systems may be closed only in the following circumstances:”

(e) During the interval between the time the locking device which controls the activation of the vehicle's engine is turned off and the opening of either of a two-door vehicle's doors or, in the case of a vehicle with more than two doors, the opening of either of its front doors.

GM states that opening the passenger side door on these vehicles, following the ignition key being turned to “OFF,” does not cancel the Retained Accessory Power (RAP) function, allowing the power-operated windows and roof panel to continue to operate for up to ten minutes or until the driver's door is opened. Opening the driver's door on these vehicles does cancel this RAP function. FMVSS 118, S4(e) requires that the RAP function be cancelled when either of the front doors is opened once the ignition key has been turned off.

GM believes that the noncompliance is inconsequential to motor vehicle safety, and that no corrective action is warranted. GM supports this assertion on the basis that NHTSA has acted on three petitions involving vehicles in which power windows or roofs could be operated after the front door was opened:

- In 1995, NHTSA granted a Volkswagen petition involving passenger cars. It agreed that the purpose of the requirement was still highly likely to be met because (1) if the operator exited by the driver's door, the system was disabled and (2) it was unlikely that the driver would exit by the passenger door because that would require passing over the console between the front seats. 60 FR 48197 (Sept. 18, 1995).

- In 1997, NHTSA denied a Ford petition involving Mercury and Nissan minivans. NHTSA distinguished these vehicles from the Volkswagen passenger cars because (1) there was no console or other impediment to the driver exiting the passenger door, (2) the higher floor pan to ceiling height made it easier for the driver to exit the passenger door, and (3) the minivans were promoted for family use. 62 FR 51500 (Oct. 1, 1997).

- In 1999, NHTSA granted a Mitsubishi petition involving passenger cars. NHTSA agreed that the Mitsubishi situation was comparable to the Volkswagen situation and unlike the Ford minivan situation. 64 FR 1650 (Jan. 11, 1999).

GM states that the Saturn situation is like those presented in the Volkswagen and Mitsubishi petitions. The power windows and roof remain operable only

when the front passenger door is opened, a time when the operator presumably remains behind the wheel. The Saturn Ion Sedans and Coupes are equipped with bucket seats, a floor-mounted transmission selector lever, a center console, and a center-mounted parking brake lever. These components and the low roofline make it very difficult for a driver to exit from the passenger door.

GM has received no customer complaints or claims concerning this issue. Furthermore, the owner's manual cautions against leaving unattended children in the vehicle:

Caution: Leaving children in a vehicle with the ignition key is dangerous for many reasons. A child or others could be badly injured or even killed. They could operate power windows or other controls or even make the vehicle move. Don't leave keys in a vehicle with children.

The owner's manual also has a caution about the risk of injury or death from heat exposure if a child is left unattended in a closed vehicle. GM states that, based primarily on that concern, there has been a substantial public awareness effort during the past few years by NHTSA, safety organizations, and vehicle manufacturers to discourage adults from leaving children in vehicles at any time.

For these reasons, GM believes it is very unlikely that unsupervised children will be injured from operation of the power-operated windows and roof panel in these vehicles after the passenger door has been opened.

Interested persons are invited to submit written data, views, and arguments on the application described above. Comments must refer to the docket and notice number cited at the beginning of this notice and be submitted by any of the following methods: Mail: Docket Management Facility; U.S. Department of Transportation, Nassif Building, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. Hand Delivery: Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC. It is requested, but not required, that two copies of the comments be provided. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal holidays. Comments may be submitted electronically by logging onto the Docket Management System Web site at <http://dms.dot.gov>. Click on “Help” to obtain instructions for filing the document electronically. Comments may be faxed to 1–202–493–2251, or may be submitted to the Federal eRulemaking Portal: Go to <http://>