which is available on the Internet at *http://www.fedbizopps.gov* and *http://www.marad.dot.gov* and the hard copies of the RFP which are available in the Office of the Secretary, Maritime Administration.

FOR FURTHER INFORMATION CONTACT: Gregory V. Sparkman, Office of Insurance and Shipping Analysis, Maritime Administration, Room 8117, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366–2400; fax (202) 366–7901.

SUPPLEMENTARY INFORMATION: The supplemental notice amends the schedule contained in section I of the current RFP by extending the currently scheduled date for submission of Phase I Proposals by 45 days. This extension necessitates the extension of other deadline dates by 45 days.

Three companies submitted initial comments in response to the notice published in the **Federal Register** on February 20, 2004, on the National Defense Tank Vessel Construction Assistance Program. Two of the commenters requested a 45-day extension be granted with respect to the due date on the Phase I Proposals, which is currently set for May 4, 2004. According to the two companies making the request, the grant of the 45-day extension will ensure that MARAD receives competitive proposals that will present the best value to the government. The third commenter requested that MARAD delay responses to the RFP until funds are specifically appropriated for the National Defense Vessel Construction Program.

MARAD believes that delay of responses to the RFP until funds are specifically appropriated could seriously delay the implementation of the program. On the other hand, the grant of the 45-day extension on the due date of Phase I—Request for Competitive Proposals—should enable the proponents of extension to improve the quality of their submission.

The schedule contained in section I of the RFP shall be modified to reflect the 45-day extension, as follows:

Issue RFP—Friday, February 20, 2004
Phase I Proposals Due—Friday, June 18, 2004 (120 calendar days)
Phase I Evaluation Complete—Thursday, September 2, 2004 (76 calendar days)
Phase II Offerors Notified—Tuesday, September 7, 2004 (5 calendar days)
Phase II Proposals Due—Saturday, November 20, 2004 (75 calendar days)
Phase II Evaluation Complete—Thursday, February 3, 2005 (75 calendar days)

The RFP is available on the Internet at *http://www.fedbizopps.gov* and *http://www.marad.dot.gov.* Hard copies of the amended RFP will be available in the Office of the Secretary, Maritime Administration.

Authority: 49 CFR 1.66.

By Order of the Maritime Administrator.

Dated: April 8, 2004.

Joel C. Richard,

Secretary, Maritime Administration.

[FR Doc. 04–8409 Filed 4–13–04; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2002–12366 Notice 2]

General Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that the seat belt assemblies in approximately 1,870,000 of the company's model year (MY) 2001–2002 vehicles fail to comply with the requirements of Federal Motor Vehicle Safety Standard (FMVSS) No. 209, *Seat Belt Assemblies* (49 CFR 571.209). The identified noncompliance involves the emergency-locking retractors (ELR) [1] in the seat belt assemblies for the vehicles' front outboard seats. Some of the ELRs in these assemblies do not lock before the belt webbing extends 25 mm (1 inch) when they are subjected to an acceleration of 7 m/s2 (0.7 g), as required under paragraph S4.3(j)(1) of the standard. Pursuant to 49 CFR Part 573, GM filed a Noncompliance Information Report with the National Highway Traffic Safety Administration (NHTSA) on April 19, 2002.[2]

In general, manufacturers of motor vehicles and replacement equipment are required to notify owners of, and provide a remedy for, noncompliances with FMVSSs. 49 U.S.C. 30118–30120. However, 49 U.S.C. 30118(d) and 30120(h) authorize manufacturers to file petitions for an exemption from these notification and remedy requirements on the basis that the noncompliance is inconsequential to motor vehicle safety.

GM submitted such a petition on May 3, 2002.[3] The petition stated that the noncompliance occurs because the vehicle-sensitive ELR mechanism in a small number of seat belt assemblies can be disabled by atypical handling during transit from GM's safety belt supplier, TK Holdings, Inc. (TKH), to the seat suppliers or during installation in vehicle seats.

The ELR in the vehicles in question incorporates two different types of locking mechanisms. The first is a vehicle-sensitive mechanism that was used to certify compliance with FMVSS No. 209, and which, when functioning, meets the requirements of the standard. The second locking mechanism is a voluntarily supplied, webbing-sensitive one that does not meet the requirements of the standard (although webbing-sensitive ELRs can be designed to comply with FMVSS No. 209). GM asserted that the failure of the vehicle-sensitive mechanism was inconsequential to safety because the webbing-sensitive system offers a level of protection nearly equivalent to that provided by a compliant ELR under the conditions that it and TKH evaluated. GM also submitted a calculation, based on a number of assumptions, which it asserts shows that less than one person would be likely to sustain a moderate to severe injury as a result of the noncompliance.

The vehicles covered by the petition are all MY 2001 and most MY 2002 C series and K series (C/K) vehicles (such as the GMC C/K pickups, GMC Yukon, Chevrolet C/K pickups (*e.g.*, the Silverado), Chevrolet Tahoe, Chevrolet Suburban, Chevrolet Avalanche, and Cadillac Escalade), and GM's S series and T series (S/T) vehicles (such as the GMC Envoy, Chevrolet Trailblazer, and Oldsmobile Bravada). As described below, the webbing-sensitive mechanism in the ELRs in the C/K vehicles will lock up the retractor when the webbing is exposed to 2.0 g (the force of gravity), while the webbing-sensitive mechanism in the ELRs in the S/T vehicles does not lock up the retractor until the webbing experiences 3.0 g. The C/K vehicles constitute approximately 80 percent of the vehicles covered by the noncompliance determination.

[1] FMVSS No. 209 defines an "emergency-locking retractor" as "a retractor incorporating adjustment hardware by means of a locking mechanism that is activated by vehicle acceleration, webbing movement relative to the vehicle, or other automatic action during an emergency and is capable, when locked, of withstanding restraint forces." 49 CFR 571.209, S.3.

[2] Although not referred to in GM's Noncompliance Information Report, the failure of the ELRs also constitutes a noncompliance with FMVSS No. 208, *Occupant crash protection.*

[3] GM submitted a revised petition on July 30, 2002 (Docket No. NHTSA–2002–12366–4), which replaced the May 3, 2002 petition (Docket No. NHTSA–2002–12366–3) in full. However, GM stated that the subsequent petition did not change the substance, rationale, basis, or conclusion of the original petition.

On July 8, 2002, NHTSA published a **Federal Register** notice announcing the availability of GM's petition and affording the public a 30-day comment period (67 FR 45179). No comments were received. GM and TKH met with agency staff on four separate occasions to provide and discuss the results of various tests they had conducted to assess the risk of increased injury due to the noncompliance.[4]

For the reasons discussed below, NHTSA has concluded that the noncompliance with FMVSS No. 209 in the C/K vehicles is inconsequential to motor vehicle safety, while the noncompliance in the S/T vehicles (equipped with the less sensitive webbing-based mechanism) is not. Accordingly, GM's petition is granted in part and denied in part.

I. ELR Requirements of FMVSS No. 209

FMVSS No. 209 specifies certain requirements for all seat belt assemblies manufactured for use in passenger cars, multipurpose passenger vehicles, trucks and buses. Among these requirements is one requiring each belt assembly to have either an automatic-locking retractor, an ELR, or an adjusting device that is within the reach of the occupant (S4.1(g)(1)). However, all passenger cars and light trucks are equipped with ELRs pursuant to S7.1.1.3 of FMVSS No. 208, *Occupant Crash Protection,* which requires that the safety belt assemblies in all forward-facing, outboard designated seating positions in vehicles with a gross vehicle weight rating of 10,000 pounds or less be equipped with ELRs meeting the requirements of FMVSS No. 209.

ELRs are designed to provide maximum freedom of movement unless the belted occupant is subjected to a rapid acceleration or deceleration. In a vehicle-sensitive ELR, the locking mechanism is activated in response to a rapid deceleration of the vehicle, such as results from a collision or sudden braking. In a webbing-sensitive ELR, the locking mechanism is activated based on the rate at which the occupant extracts webbing from the retractor housing. In many cases, vehicle manufacturers voluntarily equip their vehicles with ELRs that have both a vehicle-sensitive mechanism and a webbing-sensitive mechanism. The two types of mechanisms do not behave identically, with each offering some advantages over the other.

FMVSS No. 209 permits both webbing-sensitive and vehicle-sensitive ELRs, and either type may be used for certification as long as it meets the conditions set forth in S4.3(j) of the standard. S4.3(j)(1) requires an ELR to lock before the webbing extends 25 mm (one inch) when the retractor is subjected to an acceleration of 0.7 g (7 meters/second^2). S4.3(j)(2) prohibits the locking of a webbing-sensitive retractor at 0.3 g or less; and S4.3(j)(3) prohibits the locking of a vehicle-sensitive retractor when the retractor is rotated 15 degrees or less from its orientation in the vehicle.

The test procedure under which the compliance of ELRs is assessed is found at S5.2(j) of FMVSS No. 209. The ELR is subject to an acceleration of 0.7 g within a period of 50 ms while the attached belt webbing is extended to 75 percent of its total length. The test is conducted differently depending on whether the ELR is webbing-sensitive or vehicle-sensitive, but both types of ELRs must lock in response to the specified acceleration at different angles to account for various possible crash scenarios.

When FMVSS No. 209 was first adopted, the standard required ELRs to lock when subjected to an acceleration of 0.5 g, and not to lock in an acceleration of 0.2 g. In 1970, the agency proposed to increase this 0.5 g level to 2.0 g and to increase the no-lock level to 1.0 g because it was concerned the then-existing requirements resulted in safety belts that cinched up on the user to a degree that was uncomfortable, possibly inhibiting belt use. 35 FR 4641 (March 17, 1970). In response to comments that the proposed acceleration levels were too high, the agency decided to set the acceleration level at which locking is required at 0.7 g and to set the no-lock level at 0.3 g. 36 FR 4607 (March 10, 1971). Those were the levels that GM had suggested in its comments on the Notice of Proposed Rulemaking.

II. The Noncompliance

From May 2000 to May 2002, GM installed front seat belt assemblies in almost two million MY 2001 and 2002 C/K series and S/T series vehicles with ELRs manufactured by TKH that were equipped with a vehicle-sensitive mechanism that, when functioning, met the requirements of S4.3(j) of FMVSS No. 209. However, as GM subsequently discovered, these ELRs could be damaged during handling and installation. In assemblies with damaged retractors, the plastic cross bar at the top of the weight pendulum interferes with the ELR actuator and renders it inoperative. As a result, these vehicle-sensitive mechanisms do not function at all, and they would not lock the safety belt in the event of sudden vehicle deceleration or rollover. However, the ELRs in these vehicles were also equipped with a second, webbing-sensitive locking mechanism, which functions as designed, notwithstanding the breakage of the vehicle-sensitive mechanism. This mechanism will limit the webbing payout of the safety belt, although not in precisely the same manner or under the same conditions as the vehicle-sensitive locking mechanism.

The webbing-sensitive mechanisms in the ELRs installed in the C/K series vehicles were designed to lock up the retractor at 2.0 g, with the objective of meeting the requirements of the Economic Commission for Europe's Regulation No. 16, *Uniform Provisions Concerning the Approval of: Safety-belts and Restraint Systems for Occupants of Power-driven Vehicles; Vehicles Equipped with Safety-belts* (ECE R16) and be sold in Europe.[5] The webbing-sensitive mechanism in the ELRs installed in the S/T series vehicles were designed to lock up the retractor at 3.0 g, since these vehicles were only produced for the U.S. market and were not designed to meet ECE requirements. GM has not claimed that the webbing-sensitive mechanism would allow the ELRs on any of the noncompliant vehicles to meet the 0.7 g acceleration requirements of FMVSS No. 209.

According to GM, the noncompliance was initially discovered by TKH in January 2002. Seat belt assemblies that had been shipped to a Belgian test facility for type approval under ECE R16 were returned to the manufacturer because the vehicle-sensitive locking mechanisms of the ELRs were broken. During inspections of completed seating units at seat assembly plants, TKH discovered that the vehicle-sensitive ELR mechanism was not functioning in a small number of seat belt assemblies. TKH concluded that atypical handling during transit likely damaged the vehicle-sensitive mechanism so that it would not function. To address this, on January 15, 2002, TKH initiated a 100 percent inspection of the seat belt assemblies upon their arrival at the seat-manufacturing facilities.

This inspection practice was intended to, and apparently did, identify failures

[4] GM requested, and was granted, confidentiality for the presentations made to NHTSA during these meetings. This document will include some general information about the test results shared with the agency, but will not reveal detailed information about the confidential materials. All non-confidential documents related to the inconsequentiality petition are posted in the DOT Docket Management System Web site at *http://dms.dot.gov* in Docket No. 2002–12366.

[5] We offer no opinion as to whether these C/K vehicles would satisfy all of the European requirements.

that arose during transit. However, based on its inspection of some seat belt assemblies after their installation in seats, TKH discovered that handling of the assemblies at the seat-manufacturing facilities during installation also could disable the vehicle-sensitive ELR mechanism. Consequently, during March and April of 2002, TKH initiated a 100 percent inspection of the safety belts in assembled seats. Beginning in April 2002, TKH also implemented a design change to the vehicle-sensitive mechanism to improve its robustness, in order to prevent breakage during shipping or installation. GM and TKH are confident that all vehicles produced after April 30, 2002 are equipped with belt assemblies that comply with the emergency locking requirements of FMVSS No. 209.

On the basis of its inspections, TKH has estimated that the mishandling during transit could cause the failure of the vehicle-sensitive mechanism in 58 out of every one million retractors and that mishandling during seat assembly could lead to the failure of this mechanism in an additional 32 out of every one million retractors.

III. GM's Petition for an Inconsequentiality Determination

GM's petition for a determination that the noncompliance is inconsequential to motor vehicle safety took two separate approaches.

First, GM submitted a "risk analysis'' in which it estimated that of the approximately 3,740,000 seat belt assemblies in 1,870,000 vehicles produced between May 2000 (*i.e.*, the earliest vehicle production start date among the affected vehicles) and April 29, 2002 (*i.e.*, the date after which it has confidence that the noncompliance was eliminated), there were approximately 271 noncomplying assemblies. It then contended that very few occupants would actually be exposed to any possible increased risk due to the absence of a vehicle-sensitive ELR.

Second, GM submitted the results of a series of frontal sled tests comparing the performance of C/K and S/T vehicles with compliant ELR systems to those vehicles equipped with ELRs with only a webbing-sensitive mechanism. GM asserted that this data demonstrated that the webbing-sensitive locking mechanisms performed nearly identically to a properly functioning vehicle-sensitive ELR mechanism.

In GM's opinion, the existence of the webbing-sensitive locking mechanism, combined with the very low frequency of potentially noncomplying retractors, renders this noncompliance inconsequential with respect to vehicle safety.

IV. NHTSA's Consideration of the GM Inconsequentiality Petition

A. General Principles

Federal motor vehicle safety standards are adopted only after the agency has determined, following notice and comment, that the performance requirements are objective and practicable and "meet the need for motor vehicle safety.'' See 49 U.S.C. 30111(a). Thus, there is a general presumption that the failure of a motor vehicle or item of motor vehicle equipment to comply with a FMVSS increases the risk to motor vehicle safety beyond the level deemed appropriate by NHTSA through the rulemaking process. To protect the public from such risks, manufacturers whose products fail to comply with a FMVSS are normally required to conduct a safety recall under which they must notify owners, purchasers, and dealers of the noncompliance and provide a remedy without charge. 49 U.S.C. 30118–30120.

However, Congress has recognized that, under some limited circumstances, a noncompliance could be "inconsequential'' to motor vehicle safety. It therefore established a procedure under which NHTSA may consider whether it is appropriate to exempt the manufacturer from the duty to conduct a notification and remedy (*i.e.*, recall) campaign. 49 U.S.C. 30118(d) and 30120(h). The agency's regulations governing the filing and consideration of petitions for inconsequentiality exemptions are set out at 49 CFR part 556.

Under the statute and regulations, inconsequentiality exemptions may be granted only in response to the petition of a manufacturer, and then only after publication of a notice in the **Federal Register** and an opportunity for interested members of the public to present information, views, and arguments on the petition. When NHTSA does not receive any public comments, as in the present case, the agency will draw upon its own understanding of safety-related systems and its experience in deciding the merits of a petition. An absence of opposing argument and data does not require us to grant a manufacturer's petition.

"Inconsequential'' is not defined either in the statute or in NHTSA's regulations. Rather, the agency determines whether a particular non-compliance is inconsequential to motor vehicle safety based on the specific facts before it.

There have been instances in the past in which NHTSA has determined that a manufacturer has met its burden of demonstrating that a noncompliance is inconsequential to safety. For example, a label intended to provide safety advice to an owner or occupant may have a misspelled word, or it may be printed in the wrong format or the wrong type size. If the manufacturer shows that the discrepancy with the safety requirement is unlikely to lead to any misunderstanding, we have granted an inconsequentiality exemption, especially where other sources of correct information are available (*e.g.*, in the vehicle owner's manual). See *IMPCO Technologies; Grant of Application for Decision of Inconsequential Noncompliance,* 65 FR 14009 (March 15, 2000) (NHTSA–99–6269–2); *TRW, Inc.; Grant of Petition for Determination of Inconsequential Noncompliance,* 58 FR 7171 (February 4, 1993).

The burden of establishing the inconsequentiality of a failure to comply with a performance requirement in a standard is more substantial and difficult to meet, and the agency has not found many such noncompliances to be inconsequential. One area in which the agency has granted such petitions has been where the noncompliance is expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers. For example, NHTSA has determined that the following three noncompliances with FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment,* were inconsequential: where certain headlamps had a slight decrease in long-range visibility and a slight broadening of beam patterns, where the photometric output of certain center high-mounted stop lamps (CHMSL) was blocked by blackout paint, and where a CHMSL illuminated briefly absent braking when the hazard button was fully depressed. In these cases, there was deviation from the performance requirements of the standard, but in each case, the noncompliance was determined to be so minor as to be inconsequential. *See General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance,* 63 FR 70179 (December 18, 1998) (NHTSA–98–3813–2); *Subaru of America, Inc.; Grant of Application for Decision of Inconsequential Noncompliance,* 66 FR 18354 (April 6, 2001) (NHTSA–2000–8201–2); *General Motors Corporation; Grant of Application for Decision of Inconsequential Noncompliance,* 66 FR 32871 (June 18, 2001) (NHTSA–2000–7312–2).

Arguments that only a small number of vehicles or items of motor vehicle equipment are affected by a noncompliance will not justify granting an inconsequentiality petition. Likewise, we have rejected petitions based on the assertion that only a small percentage of the vehicles or items of equipment covered by a noncompliance determination are likely to actually exhibit the noncompliance. In many cases, it may not be readily apparent which vehicles or items of equipment are actually noncompliant. More importantly, the key issue in determining inconsequentiality is not the aggregate safety consequences of the noncompliance as a percentage of all drivers, but instead, whether the noncompliance in question is likely to increase the safety risk to individual occupants who experience the type of injurious event against which the standard was designed to protect. *See Cosco, Inc.; Denial of Application for Decision of Inconsequential Noncompliance,* 64 FR 29408 (June 1, 1999) (NHTSA–98–4033–2).

B. Assessment of GM's Arguments in Support of Its Petition

GM's attempt, through its "risk analysis,'' to minimize the potential safety impact of the noncompliance by arguing that there is a very low likelihood of any particular individual being exposed to an increased risk is not compelling, and we reject it for the reasons discussed above and in previous agency denials of inconsequentiality petitions (*e.g.*, *Cosco, Inc., ibid*). The percentage of potential occupants that could be adversely affected by a noncompliance is irrelevant to the consequentiality of the noncompliance. Rather, the question is whether an occupant who is affected by the noncompliance is likely to be exposed to a significantly greater risk than an occupant in a compliant vehicle.

However, on the basis of the sled test and simulation data provided by GM, the agency has concluded that GM has adequately demonstrated that the potential safety consequences of the failure of the vehicle-sensitive locking mechanisms in the ELRs in the C/K vehicles to function properly are inconsequential. While the webbing-sensitive systems in these vehicles do allow slightly increased belt payout compared to a functional vehicle-sensitive system, and lock slightly later in a crash event, these differences do not appear to expose a vehicle occupant to a significantly greater risk of injury. Conversely, the absence of a properly functioning vehicle-sensitive retractor in the seat belt assemblies installed in the S/T vehicles results in a significant derogation of their performance compared to their performance with a complying assembly, which precludes a determination that the noncompliance is inconsequential in those vehicles.

For both the C/K and S/T vehicles, GM estimated the performance differences between a vehicle with a fully functional, compliant ELR and a vehicle with an ELR that has a broken, non-functioning vehicle-sensitive mechanism and a functioning webbing-sensitive locking mechanism. This analysis was based upon a series of tests conducted by TKH. GM analyzed three scenarios in which there could conceivably be an increased risk: (1) Injuries due to an occupant moving closer to the front of the vehicle following pre-crash braking; (2) injuries in frontal crashes; and (3) injuries in rollover crashes.

With respect to the first scenario, GM presented confidential test data from in-vehicle panic braking tests conducted by TKH in an S/T vehicle at three different speeds with test dummies and human volunteers, as well as simulated sled tests for both C/K and S/T vehicles. Although there is a very slight increase in the amount of belt payout when the vehicle-sensitive mechanism is disabled, we have concluded that it is unlikely to significantly increase the risk of injury during pre-crash braking events in any of these vehicles.

To assess the potential increase in risk in a frontal crash, GM analyzed the results of 30 frontal sled tests at differing test speeds.[6] The tests were conducted with both a 50th percentile adult male test dummy and a 6-year-old child test dummy. The webbing payout, estimated lock time, and dummy head excursion were recorded in each test. In eight of the tests, maximum chest acceleration readings were recorded in accordance with the procedures in FMVSS No. 208. The noncompliance consistently had a greater effect in the S/T vehicles than in the C/K vehicles, although with both types of vehicles, the dummy injury measurements did not increase significantly and were well below the maximum values permitted under FMVSS No. 208.

For example, in two 16 km/h (10 mph) frontal sled tests of the C/K vehicles with a 50th percentile male dummy, the webbing payout of the 2.0 g webbing-sensitive locking mechanism averaged only 2.5 mm (0.1 inch) more than that allowed by the compliant vehicle-sensitive ELRs, the average estimated lock time increased by 5 ms, and there was no difference in forward head excursion. In two 16 km/h (10 mph) frontal sled tests of the S/T vehicles with a 50th percentile male dummy, the webbing payout of the 3.0 g webbing-sensitive locking mechanism averaged 25.0 mm (1.0 inch) more than that allowed by the compliant vehicle-sensitive ELRs, the average estimated lock time increased by approximately 6 ms, and there was an average increase in forward head excursion of 47 mm (1.85 inches).

Similarly, in a 32 km/h (20 mph) frontal sled test of a C/K vehicle with a 50th percentile male dummy, the webbing payout was only 5.0 mm (0.2 inches) more than that allowed by the compliant ELR, there was no increase in the lock time, and there was no difference in forward head excursion. But in two 32 km/h (20 mph) frontal sled tests of the S/T vehicles with a 50th percentile male dummy, the webbing payout averaged 39.4 mm (1.55 inches) more than that allowed by the compliant ELRs, the average estimated lock time increased by 6 ms, and there was an average increase in forward head excursion of 21 mm (0.8 inches).

Sled tests using the 6-year-old child test dummy were conducted at 16 km/h (10 mph). In the C/K vehicles, the webbing payout of the 2.0 g webbing sensitive locking mechanism was, on average, 3.8 mm (0.15 inches) more than that allowed by the compliant ELRs, the average estimated lock time increased by 3.5 ms, and the head excursion increased by an average of 3.8 mm (0.15 inches). In the S/T vehicles, the webbing payout of the 3.0 g webbing sensitive locking mechanism was, on average, 25 mm (1.0 inch) more than that allowed by the compliant ELRs, the average lock time increased by 13 ms, and the head excursion increased by an average of 65 mm (0.65 inches).

NHTSA has concluded that the extremely small increases in webbing payout and lock time, with little or no increased head excursion, reflected in the tests of the ELRs installed in the C/K vehicles do not demonstrate a significant likelihood of increased injury due to the absence of a complying ELR in these vehicles. Accordingly, the agency has determined that the risk of

[6] The highest test speed was 32 km/h (20 mph). TKH explained that "higher severity pulses will increase [the] web extraction rate, causing [the] web sensor to lock faster, and [be] more similar to [the] vehicle sensor.'' To support this statement, TKH's May 30, 2002 presentation stated that the differences in webbing payout and in the estimated lock times recorded in the 16 km/h (10 mph), 24 km/h (15 mph), and 32 km/h (20 mph) sled tests generally decreased as the test speed increased. NHTSA agrees that it is likely that a webbing-sensitive ELR mechanism will lock up more quickly in a severe frontal crash than in a low-to-moderate severity frontal crash.

injury posed by the noncompliant systems in these vehicles in a frontal crash is not significantly greater than if they had a compliant ELR. However, the differences in the amount of webbing payout, lock time, and head excursion between compliant and noncompliant ELRs in the S/T vehicles were significantly greater than the differences experienced in the C/K vehicles.

With respect to the performance of the noncompliant vehicles in a rollover crash, in its July 30, 2002 submission, GM acknowledged that, in a rollover, "We would expect that the noncomplying belt would not lock up as early as the complying belt, but we have no way to be sure how great a difference there would be.'' However, during a November 19, 2002 meeting at the agency, TKH presented confidential test data from a rollover simulation that it performed. TKH asserts that this simulation represents the worst-case scenario relative to the ability of these vehicles' webbing-sensitive systems to adequately restrain an occupant in the event of a rollover.[7] These tests yielded data with respect to webbing payout, final belt position, and head and chest displacement.

The data indicates that, in both cases, ELRs with only a webbing-sensitive locking mechanism allowed somewhat more head and chest displacement than the compliant vehicle-sensitive ELRs. However, the increases in the S/T vehicles (with a 3.0 g webbing-sensitive mechanism), was significantly greater than the increases experienced in the C/K vehicles (with a 2.0 g webbing-sensitive mechanism); *e.g.*, the increase in head displacement was approximately twice as large in the S/T vehicles as in the C/K vehicles. This data leads us to conclude that the absence of a vehicle-sensitive locking mechanism in the ELRs installed in the S/T vehicles will significantly increase the safety risk to occupants in a rollover crash, while the increased risk associated with the noncompliance in the C/K vehicles is not likely to be significant.

On the basis of the foregoing, NHTSA has determined that GM has adequately demonstrated that, under the specific facts and circumstances presented here, the noncompliance with FMVSS No. 209 in the C/K vehicles is inconsequential to motor vehicle safety. Conversely, the noncompliance in the S/T vehicles is not inconsequential. Accordingly, GM's petition for an exemption from the duty to recall these noncompliant vehicles is granted in part and denied in part.

Authority: 49 U.S.C. 30118, 30120; delegations of authority at 49 CFR 1.50 and 501.8.

Kenneth N. Weinstein,

Associate Administrator for Enforcement.

[FR Doc. 04–8418 Filed 4–13–04; 8:45 am]

BILLING CODE 4910–59–P

[7] Although the simulated rollover utilized by TKH is relatively benign in terms of crash severity, we agree with GM and TKH that it presents a "worst case'' scenario for the purpose of assessing the likelihood that an occupant of a vehicle with only a webbing-sensitive ELR would be adversely affected by additional webbing payout in a rollover, since a more violent crash would likely cause the webbing-sensitive system to lock more quickly than in the simulation.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5330

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 Form 5330, Return of Excise Taxes Related to Employee Benefit Plans.

DATES: Written comments should be received on or before June 14, 2004, to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6411, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6407, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Return of Excise Taxes Related to Employee Benefit Plans.

OMB Number: 1545–0575.

Form Number: Form 5330.

Abstract: Internal Revenue Code sections 4971, 4972, 4973(a), 4975, 4976, 4977, 4978, 4978A, 4978B, 4979, 4979A, and 4980 impose various excise taxes in connection with employee benefit plans. Form 5330 is used to compute and collect these taxes. The IRS uses the information on the form to verify that the proper amount of tax has been reported.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Pubic: Individuals and business or other for-profit organizations.

Estimated Number of Respondents: 8,403.

Estimated Time Per Respondent: 37 hours, 14 minutes.

Estimated Total Annual Burden Hours: 312,844.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 5, 2004.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. 04–8476 Filed 4–13–04; 8:45 am]

BILLING CODE 4830–01–P