

## b. Performance Reporting

Award recipients will also collect information and report on a project's observed performance with respect to the relevant long-term outcomes that are expected to be achieved through the project. Performance indicators will not include formal goals or targets, but will include observed measures under baseline (pre-project) as well as post-implementation outcomes for an agreed-upon timeline, and will be used to evaluate and compare projects and monitor the results that grant funds achieve to the intended long-term outcomes of the AMHP. Performance reporting continues for several years after the project is completed, and MARAD does not provide Marine Highway Grant funding specifically for performance reporting.

## c. Reporting of Matters Related to Recipient Integrity and Performance

If the total value of a selected applicant's currently active grants, cooperative agreements, and procurement contracts from all Federal awarding agencies exceeds \$10,000,000 for any period of time during the period of performance of this Federal award, then the applicant during that period of time must maintain the currency of information reported to the SAM that is made available in the designated integrity and performance system (currently FAPIIS) about civil, criminal, or administrative proceedings described in paragraph 2 of 2 CFR Appendix XII to Part 200. This is a statutory requirement under Section 872 of Public Law 110-417, as amended (41 U.S.C. 2313). As required by Section 3010 of Public Law 111-212, all information posted in the designated integrity and performance system on or after April 15, 2011, except past performance reviews required for Federal procurement contracts, will be publicly available.

## G. Federal Awarding Agency Contacts

To ensure applicants receive accurate information about eligibility, the program, or in response to other questions, applicants are encouraged to contact MARAD directly, rather than through intermediaries or third parties. Please see contact information in the **FOR FURTHER INFORMATION CONTACT** section above.

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By Order of the Acting Maritime Administrator.

**T. Mitchell Hudson, Jr.,**

Secretary, Maritime Administration.

[FR Doc. 2022-04599 Filed 3-3-22; 8:45 am]

BILLING CODE 4910-81-P

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2019-0063; Notice 2]

### General Motors, LLC, Denial of Petition for Decision of Inconsequential Noncompliance

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

**SUMMARY:** General Motors, LLC, (GM) has determined that certain model year (MY) 2010-2017 GMC Terrain motor vehicles do not fully comply with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, *Lamps, Reflective Devices, and Associated Equipment*. GM filed a noncompliance report dated May 15, 2019. GM subsequently petitioned NHTSA on June 7, 2019, for a decision that the subject noncompliance is inconsequential as it relates to motor vehicle safety. This document announces the denial of GM's petition.

**FOR FURTHER INFORMATION CONTACT:** Leroy Angeles, Office of Vehicle Safety Compliance, the National Highway Traffic Safety Administration (NHTSA), telephone (202) 366-5304, [leroy.angeles@dot.gov](mailto:leroy.angeles@dot.gov).

#### SUPPLEMENTARY INFORMATION:

#### I. Overview

GM has determined that certain MY 2010-2017 GMC Terrain motor vehicles do not fully comply with paragraph S10.15.6 and Table XIX of FMVSS No. 108, *Lamps, Reflective Devices, and Associated Equipment* (49 CFR 571.108). GM filed a noncompliance report dated May 15, 2019, pursuant to 49 CFR part 573, *Defect and Noncompliance Responsibility and Reports*. GM subsequently petitioned NHTSA on June 7, 2019, for an exemption from the notification and remedy requirements of 49 U.S.C. Chapter 301 on the basis that this noncompliance is inconsequential as it relates to motor vehicle safety, pursuant to 49 U.S.C. 30118(d) and 30120(h) and 49 CFR part 556, *Exemption for Inconsequential Defect or Noncompliance*.

Notice of receipt of GM's petition was published with a 30-day public comment period, on February 12, 2020, in the **Federal Register** (85 FR 8095). No comments were received. To view the petition and all supporting documents log onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Then follow the online search instructions to

locate docket number "NHTSA-2019-0063."

## II. Equipment and Vehicles Involved

Approximately 726,959 MY 2010-2017 GMC Terrain motor vehicles manufactured between May 21, 2009, and July 13, 2017, are potentially involved.

## III. Noncompliance

GM explains that the noncompliance is that the subject vehicles are equipped with lower beam headlamps that do not meet the photometry requirements of paragraph S10.15.6 and Table XIX of FMVSS No. 108. Specifically, a reflection from the headlamps' housing is directed 80 degrees outboard and 45 degrees upward, as measured from each lamp's optical axis, which illuminates two small areas high above the vehicle. When tested by GM, this reflection from a single point on each lamp measured approximately 450-470 candela (cd). This is more than three times brighter than the designated maximum of 125 cd at test points 10°U to 90°U, as stated in Table XIX-a.

## IV. Rule Requirements

Paragraph S10.15.6 and Table XIX of FMVSS No. 108 include the requirements relevant to this petition. Each replaceable bulb headlamp must be designed to conform to the photometry requirements of Table XVIII for upper beam and Table XIX for lower beam as specified in Table II-d for the specific headlamp unit and aiming method when tested according to the procedure of paragraph S14.2.5 using any replaceable light source designated for use in the system under test.

## V. Summary of GM's Petition

The following views and arguments presented in this section, "V. Summary of GM's Petition," are the views and arguments provided by GM and do not reflect the views of the Agency. GM described the subject noncompliance and contends that the noncompliance is inconsequential as it relates to motor vehicle safety.

In support of its petition, GM submitted the following reasoning:

1. *The noncompliance caused by this reflection has no effect on vehicle safety for oncoming or surrounding vehicles.* The narrow reflection in question does not create a safety risk for oncoming or surrounding drivers, due to the extreme angle of the reflection. This angle, 80 degrees outboard and 45 degrees upward from each lamp's optical axis, is far above the range where the reflection could cause glare for oncoming or surrounding drivers, including the industry-recognized "glare points" referenced in Table XIX of FMVSS No. 108 at the following

ranges: 0.5°U–1.5°L to L, 1°U–1.5°L to L, 0.5°U–1°R to R, 1.5°U–°R to R.

2. *The noncompliance caused by this reflection has no effect on vehicle safety for drivers of the subject vehicles.* The areas illuminated by the narrow reflections in question are not visible to drivers of the subject vehicles. These two small areas appear high above the vehicle, one to the far left and the other to the far right of the vehicle, well outside of the driver's view.

GM says, while these reflections may be somewhat perceptible in certain extremely dense fog or snow conditions, there would be no effect on vehicle safety due to the small size and far outboard location in the driver's peripheral field of view. GM claims that any detectable light due to such reflection would be negligible compared to other outside sources of illumination such as glare from oncoming traffic or fog glare forward of the vehicle.

3. *GM is aware of only a single customer inquiry associated with this condition and is not aware of any crashes or injuries.* GM reviewed all relevant field data and found just a single customer inquiry within the US and Canadian vehicle population of nearly 820,000 vehicles sold, 726,595 of which were sold in the US and 92,747 were sold in Canada, over eight model years. The customer stated, "Left head lamp seems to have a portion of the light that shines up in the trees at near a 45-degree angle." GM identified no other related field reports, including in warranty, Transportation Recall Enhancement, Accountability and Documentation (TREAD), Vehicle Owner Questionnaire (VOQ), and legal data.

4. *GM claims that the headlamps comply with recognized industry standards.* GM cited S6.1.1 of the SAE International Standard J1383, *Performance Requirements for Motor Vehicle Headlamps* (May 26, 2010), which sets forth certain industry-recognized intensity and size limits on headlamp photometrics. Specifically, for a zone extending 20° left to 20° right, and 10° to 60° up from the lamp optical axis, the light projected cannot exceed 550 candelas and cannot occupy more than five percent of the zone's total area. The reflection from the subject lamps is well outside of this zone. Even if the reflections were within this zone, the headlamps would remain compliant, as the reflection would not exceed the maximum of five percent of the total area or the maximum of 550 candelas.

5. *According to GM, the headlamps comply with applicable requirements for global regions, including UNECE R1123.* S6.2.4 and Annex 3, Figure B of UNECE R112 specify photometric test points for the passing beam (*i.e.*, lower beam headlamp). The photometric points extend to 4° above the lamp optical axis. The subject reflection is well above those test points.

6. *The subject condition has been corrected for service parts and does not affect current-generation vehicles.* GM is purging all affected service and replacement headlamps from dealer stock. The supplier, Stanley, has redesigned service and replacement headlamps to eliminate the reflections that cause the issue by adding graining to specific portions of the reflector. At the time of the

original submission, GM projected the redesigned lamps would be available on June 12, 2019. Current-generation GMC Terrain vehicles (model years 2018 and newer) use a different headlamp design and are not affected by this condition.

GM concluded that the subject noncompliance is inconsequential as it relates to motor vehicle safety and that its petition to be exempted from providing notification of the noncompliance, as required by 49 U.S.C. 30118, and a remedy for the noncompliance, as required by 49 U.S.C. 30120, should be granted.

## VI. NHTSA's Analysis

The burden of establishing the inconsequentiality of a failure to comply with a *performance requirement* in a standard—as opposed to a *labeling requirement*—is more substantial and difficult to meet. Accordingly, the Agency has not found many such noncompliances inconsequential.<sup>1</sup> Potential performance failures of safety-critical equipment, like seat belts or air bags, are rarely deemed inconsequential.

An important issue to consider in determining inconsequentiality is the safety risk to individuals who experience the type of event against which the recall would otherwise protect.<sup>2</sup> The Safety Act is preventive, and manufacturers cannot and should not wait for deaths or injuries to occur in their vehicles before they carry out a recall. *See, e.g., United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977). Indeed, the very purpose of a recall is to protect individuals from risk. *See id.*

NHTSA does not consider the absence of complaints or injuries to show that the issue is inconsequential to safety. "Most importantly, the absence of a complaint does not mean there have not been any safety issues, nor does it mean that there will not be safety issues in the future."<sup>3</sup> "[T]he fact that in past

<sup>1</sup> *Cf. Gen. Motors Corporation; Ruling on Petition for Determination of Inconsequential Noncompliance*, 69 FR 19897, 19899 (Apr. 14, 2004) (citing prior cases where noncompliance was expected to be imperceptible, or nearly so, to vehicle occupants or approaching drivers).

<sup>2</sup> *See Gen. Motors, LLC; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 35355 (June 12, 2013) (finding noncompliance had no effect on occupant safety because it had no effect on the proper operation of the occupant classification system and the correct deployment of an air bag); *Osram Sylvania Prods. Inc.; Grant of Petition for Decision of Inconsequential Noncompliance*, 78 FR 46000 (July 30, 2013) (finding occupant using noncompliant light source would not be exposed to significantly greater risk than occupant using similar compliant light source).

<sup>3</sup> *Morgan 3 Wheeler Limited; Denial of Petition for Decision of Inconsequential Noncompliance*, 81 FR 21663, 21666 (Apr. 12, 2016).

reported cases good luck and swift reaction have prevented many serious injuries does not mean that good luck will continue to work."<sup>4</sup>

Motor vehicle headlamps are, among other things, required to provide forward illumination for driving conditions in a manner that does not cause safety consequences for the driver of the vehicle, or other roadway drivers. In particular, this can include sources of glare caused by light reflected back to the driver or other roadway drivers.

Paragraph S10.15.6 with Table XIX of FMVSS No. 108 requires a maximum luminous intensity of 125 cd at test points within the boundaries of 10°U to 90°U and 90°L to 90°R. GM explains that in the subject vehicles, the lower beam headlamps have a reflection from the headlamp housing that is 80 degrees outboard and 45 degrees upward, which when measured has a luminous intensity of 450–470 cd that exceeds the 125 cd limit.

NHTSA concurs with GM's argument that the operator of the noncompliant vehicle will not likely be affected as the reflection is directed outboard. However, NHTSA does not concur with GM's argument that the narrow reflection has no effect on oncoming or surrounding vehicles due to its extreme angle. The requirement of having a maximum of 125 cd at test points 10°U to 90°U and 90°L to 90°R reduces the presence of glare and veiling glare from oncoming or surrounding vehicles. The beam of light coming from the noncompliant headlamp exceeds the photometric requirement by more than three times, and may cause glare or be distracting to surrounding vehicles. Furthermore, certain weather conditions such as snow and fog could result in light from the noncompliant lamp causing veiling glare to other motorists driving in the proximity of the vehicle having the noncompliant lamp.

NHTSA reviewed GM's other arguments that their products met other standards (SAE J1383 and UNECE R112) and did not find these arguments compelling because those standards are not substitutes for the requirements contained in FMVSS No. 108. Additionally, GM's explanation that the subject condition has been corrected for service parts and does not affect current-generation vehicles does not address the vehicles in the recall population and is

<sup>4</sup> *United States v. Gen. Motors Corp.*, 565 F.2d 754, 759 (D.C. Cir. 1977) (finding defect poses an unreasonable risk when it "results in hazards as potentially dangerous as sudden engine fire, and where there is no dispute that at least some such hazards, in this case fires, can definitely be expected to occur in the future").

therefore not a basis to not carry out a recall.

## VII. NHTSA's Decision

In consideration of the foregoing, NHTSA has decided that GM has not met its burden of persuasion that the subject FMVSS No. 108 noncompliance is inconsequential to motor vehicle safety. Accordingly, GM's petition is hereby denied, and GM is consequently obligated to provide notification of and free remedy for that noncompliance under 49 U.S.C. 30118 and 30120.

(Authority: 49 U.S.C. 30118, 30120; Delegations of authority at 49 CFR 1.95 and 501.8)

Anne L. Collins,

Associate Administrator for Enforcement.

[FR Doc. 2022-04540 Filed 3-3-22; 8:45 am]

BILLING CODE 4910-59-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Comment Request for Passive Activity Credit Limitations

**AGENCY:** Internal Revenue Service (IRS), Treasury.

**ACTION:** Notice and request for comments.

**SUMMARY:** The Internal Revenue Service, 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 continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning reporting requirements for passive activity credit limitations.

**DATES:** Written comments should be received on or before May 3, 2022 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [omb.unit@irs.gov](mailto:omb.unit@irs.gov). Include OMB control number 1545-1034 or Passive Activity Credit Limitations in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the form should be directed to Kerry Dennis at (202) 317-5751, or at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at [Kerry.L.Dennis@irs.gov](mailto:Kerry.L.Dennis@irs.gov).

**SUPPLEMENTARY INFORMATION:**

*Title:* Passive Activity Credit Limitations.

*OMB Number:* 1545-1034.

*Form Number:* 8582-CR.

*Abstract:* Under Internal Revenue Code section 469, credits from passive activities, to the extent they do not exceed the tax attributable to net passive income, are not allowed, Form 8582-CR is used to figure the passive activity credit allowed and the amount of credit to be reported on the tax return.

*Current Actions:* There is no change to the regulation or burden at this time.

*Type of Review:* Extension of a currently approved collection.

*Affected Public:* Individuals or households, business or other for-profit organizations, and farms.

*Estimated Number of Respondents:* 300,000.

*Estimated Time per Respondent:* 7 hours, 53 minutes.

*Estimated Total Annual Burden Hours:* 2,370,600 hours.

The following paragraph applies to all 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 if 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: March 1, 2022.

**Kerry L. Dennis,**

Tax Analyst.

[FR Doc. 2022-04630 Filed 3-3-22; 8:45 am]

BILLING CODE 4830-01-P

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### Proposed Collection; Requesting comments on Enhanced Oil Recovery Credit

**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. Currently, the IRS is soliciting comments concerning enhanced oil recovery credit.

**DATES:** Written comments should be received on or before May 3, 2022 to be assured of consideration.

**ADDRESSES:** Direct all written comments to Andres Garcia, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or by email to [omb.unit@irs.gov](mailto:omb.unit@irs.gov). Include OMB Number 1545-1292 or Enhanced Oil Recovery Credit in the subject line of the message.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of this collection should be directed to LaNita Van Dyke, at (202) 317-6009, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet at [Lanita.VanDyke@irs.gov](mailto:Lanita.VanDyke@irs.gov).

#### SUPPLEMENTARY INFORMATION:

*Title:* Enhanced Oil Recovery Credit.

*OMB Number:* 1545-1292.

*Form Number:* 8830.

*Abstract:* This regulation provides guidance concerning the costs subject to the enhanced oil recovery credit, the circumstances under which the credit is available, and procedures for certifying to the Internal Revenue Service that a project meets the requirements of section 43(c) of the Internal Revenue Code.

*Current Actions:* There are no changes being made to the regulations, at this time. Form 8830 was not issued for 2019-2020 because the section 43 credit was completely phased out and the form was not needed due to the continued high price of crude oil; however, it will apply again for tax years beginning in 2021. The changes made to Form 8830, reflect Notice 2021-47. This will increase the number of responses by