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The petition, supporting materials, and all comments received before the close of business on the closing date indicated below will be filed and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice of the decision will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: July 14, 2006.

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

Issued on: June 8, 2006.

Daniel C. Smith,

Associate Administrator for Enforcement.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA 2006-24137; Notice 2]

General Motors Corporation, Grant of Petition for Decision of Inconsequential Noncompliance

General Motors Corporation (GM) has determined that certain 2006 model year Cadillac XLR vehicles do not comply with S7.8.2.1(c) of 49 CFR 571.108, Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, reflective devices, and associated equipment." 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." Notice of receipt of a petition was published, with a 30-day comment period, on April 5, 2006, in the **Federal Register** (71 FR 17159). NHTSA received no comments.

Affected are a total of approximately 1,074 model year 2006 Cadillac XLR vehicles produced between July 26, 2005 and November 3, 2005. S7.8.2.1(c) of FMVSS No. 108 requires that if visually/optically (VO) aimable headlamps are equipped with a horizontal adjustment mechanism, then the mechanism must meet the applicable headlamp aim requirements

in S7.8.5.2. That standard requires that a headlamp system that is capable of being aimed include a Vehicle Headlamp Aiming Device that includes the necessary references and scales to assure correct aim and that a label containing aiming instruction be affixed adjacent to the device. The noncompliant headlamps are equipped with a horizontal adjustment but do not meet the S7.8.5.2 requirements. GM explains that during the assembly process the horizontal adjuster is supposed to be disabled but in the case of the subject lamps, the disabling was not done. GM has corrected the problem that caused these errors so that they will not be repeated in future production.

GM believes that the noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. GM offers several bases for this assertion.

First, GM states that the location of the horizontal adjuster makes it difficult to access, because it is recessed six inches behind the opening under the top of the fender and there is no information in the owner's manual indicating the location.

Second, GM states that the horizontal adjuster requires a different tool than the vertical adjuster, a tool which is not commonly available to the public.

Third, GM states that the lamps are properly aimed and the need for re-aiming is unlikely. GM explains that VO headlamps have a wider beam pattern, making horizontal aiming unnecessary, supported by the fact that GM is not aware of warranty claims or customer complaints regarding the headlamps' horizontal aim.

Fourth, GM states that it is unlikely that owners will try to adjust headlamp aim for the following reasons. The owner's manual instructs drivers to take the vehicle to the dealer if the lamps need to be re-aimed, a four-year 50,000 mile warranty on the vehicle makes it more likely that owners will seek to have any adjustments performed by the dealer, the wide beam reduces the need for headlamp adjustment, and it is unlikely that luxury car customers would make their own repairs.

Fifth, GM asserts that it is unlikely that dealers will try to horizontally adjust the lamps because they are not aware of the horizontal adjustment. Instead, dealers are likely to replace lamps that develop an incorrect horizontal aim.

Sixth, GM states that the lamps are designed to compensate for build variation and vehicle repair, and it conducted additional testing which it believes validates that road vibration

will not result in the lamps being out of aim.

Seventh, GM states that it is not aware of crashes, injuries, complaints, or field reports related to the noncompliance.

NHTSA agrees with GM that the noncompliance is inconsequential to motor vehicle safety. The only possible safety risk is that someone could locate and improperly adjust the horizontal adjustment mechanism. That risk is extremely small. The location of the horizontal adjuster makes it difficult to access and there is no information in the owner's manual or given to the dealer which indicates the location. Further, the lamps are properly aimed and the need for re-aiming is unlikely since these headlamps have a wider beam pattern which makes horizontal aiming unnecessary. In addition, as GM points out, it is unlikely that owners will try to adjust the headlamp aim since the owner's manual instructs drivers to take the vehicle to the dealer if the lamps need to be re-aimed, and a four-year, 50,000-mile warranty on the vehicle makes it more likely that owners will seek to have any adjustments performed by the dealer. Because dealers are generally not aware that the horizontal aim can be adjusted, they are likely to replace the lamps that may need adjustment. Moreover, to the extent this notice increases awareness on the part of owners or dealers that the horizontal adjustment mechanism is present on these vehicles, the notice will also inform them that any horizontal adjustment issue should be addressed by replacing the lamps and/or contacting GM.

In consideration of the foregoing, NHTSA has decided that the petitioner has met its burden of persuasion that the noncompliance described is inconsequential to motor vehicle safety. Accordingly, GM's petition is granted and the petitioner is exempted from the obligation of providing notification of, and a remedy for, the noncompliance.

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

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Daniel C. Smith,

Associate Administrator for Enforcement.

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