

- and Identify Issues for Resolution.
- Global Positioning System (GPS)/3rd Civil Frequency (WG-1).
- GPS/Wide Area Augmentation System (WAAS) (WG-2).
- GPS/GLONASS (WG-2A).
- GPS/Inertial (WG-2C).
- GPS/Precision Landing Guidance (WG-4).
- GPS/Airport Surface Surveillance (WG-5).
- Review of EUROCAE activities.
- Closing Plenary Session (Assignment/Review of Future Work, Other Business, Date and Place of Next Meeting).

Attendance is open to the interested public but limited to space availability. With the approval of the chairmen, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on December 12, 2003.

**Robert Zoldos,**

*FAA System Engineer, RTCA Advisory Committee.*

[FR Doc. 04-498 Filed 1-9-04; 8:45 am]

**BILLING CODE 4910-13-M**

## DEPARTMENT OF TRANSPORTATION

### Federal Highway Administration

#### Environmental Impact Statement: San Diego County, CA

**AGENCY:** Federal Highway Administration (FHWA), DOT.

**ACTION:** Notice of intent.

**SUMMARY:** The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in San Diego County, California.

**FOR FURTHER INFORMATION CONTACT:**

Cesar Perez, South Region Team Leader, Federal Highway Administration, 650 Capitol Mall Suite 4-100, Sacramento, California 95814, Telephone: (916) 498-5065.

**SUPPLEMENTARY INFORMATION:** The FHWA, in cooperation with the California Department of Transportation will prepare an environmental impact statement (EIS) on a proposal to improve Interstate 5 (I-5) in San Diego County, California. The proposed improvement would involve the addition of high occupancy vehicle (HOV) lanes/Managed Lanes and

general purpose lanes to existing I-5 from the City of San Diego to the City of Oceanside for a distance of approximately 28 miles.

Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also, included in this proposal are the addition of auxiliary lanes, direct access ramps (DARs), and interchange improvements where needed. Alternatives under consideration include (1) taking no action; (2) adding two HOV lanes in each direction plus one general purpose lane in each direction. Incorporated into and studied with the build alternative will be design variations at the six lagoons along the corridor. Alternatives associated with those areas will include (1) retaining walls within existing fill slopes; (2) widening on existing fill slopes; (3) removing existing fill in lagoons and bridging the lagoons; (4) elevated HOV lanes on an independent structure.

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public scoping meetings will be held in each city along the north coast I-5 corridor between January and February 2003. Public notice will be provided indicating the time and place of the scoping meetings.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments, and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: January 5, 2004.

**Cesar E. Perez,**

*South Region Team Leader.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA 2000-7744, Notice 4]

#### General Motors Corporation; Denial of Appeal of Decision on Inconsequential Noncompliance

General Motors Corporation (GM), of Warren, Michigan, has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) that denied its application for a determination that the noncompliance of certain GM vehicles with Federal Motor Vehicle Safety Standard (FMVSS) No. 108, "Lamps, Reflective Devices, and Associated Equipment," be deemed inconsequential to motor vehicle safety. GM had applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—"Motor Vehicle Safety." Notice of receipt of the original petition was published in the **Federal Register** on August 14, 2000, (65 FR 49632). On July 23, 2001, NHTSA published a notice in the **Federal Register** denying GM's petition (66 FR 38340), stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety.

GM appealed, and notice of the appeal was published in the **Federal Register** on April 2, 2002 (67 FR 15669). Opportunity was afforded for public comment until May 2, 2002. The only comment received was from Advocates for Highway and Auto Safety (Advocates). Advocates restated its previous position recommending that the agency deny the application.

GM manufactured 201,472 Buick Century and Buick Regal models between October 1998 and June 1999; some of whose headlamps did not meet the minimum photometric requirements for test points above the horizontal (intended for overhead sign illumination). GM tested ten pairs of headlamps and submitted photometric data with its original petition. The agency has reviewed this data from 2000 again and notes substantial evidence of noncompliance in this data. For the right side lamps, there was a total of 6 noncompliant test points (all upward). For the left side lamps, there was a total of 28 noncompliant test points (25 upward test points and 3 downward test points). While Standard 108 allows 1/4 degree of re-aim for each test point to account for equipment variation, the data show that the left side lamps originally failed an additional 21 test points (12 upward and 9 downward) before passing through the use of re-aim.

GM unsuccessfully argued in its original petition that the test points at issue were intended to measure illumination of overhead signs and did not represent areas of the beam pattern that illuminate the road surface. GM also contended that a general "rule of thumb" implied that a 25% difference in light intensity is not significant to motor vehicle safety. The 25% rule of thumb cited by GM in its original petition has been applied to the observation of signal lamps, and not reflected light from lower beam headlamps.

In the notice denying GM's first application, the agency stated that the photometric minima above the horizon were added to headlighting performance requirements in the 1993 final rule for the purpose of ensuring that headlamps would sufficiently illuminate overhead signs. Because States were choosing to use retroreflectorized overhead signs rather than the more expensive self-illuminated ones, there was an increasing need for illumination of overhead signs. Without any test point minima specified, some manufacturers were designing headlamps that provided very little light above the horizontal. These photometric minima were established through a rulemaking proceeding. As part of that rulemaking, research by the Federal Highway Administration (FHWA) linking required sign detection distances needed to initiate proper motorist reactions to the overhead signs was considered. Based on this research, the FHWA had proposed photometric minima approximately double those that were established. In the final rule published January 12, 1993 [58 FR 3856], the agency indicated that the rulemaking addresses a safety issue, a conclusion also supported by the Society of Automotive Engineers (SAE) Beam Pattern Task Force. Specifically, SAE J1383 "Performance Requirements for Motor Vehicles Headlamps" was modified in June of 1990 to include the same photometric minima (the SAE document lists minima for inclusive test zones instead of just test points) adopted by this agency in the 1993 final rule.

In its appeal, GM stated the following to support its petition:

GM recently obtained and tested twenty-one pairs of headlamps from used 1999 Regal and Century vehicles built between August 1998 and March 1999. The 42 headlamps all exceed the minimum photometric requirements of FMVSS 108. This was true for the sign illumination test points as well as all other test points. The weathering of the lenses over the past two to three years accounts for this change in performance.

Because overhead sign illumination is affected by the output of both headlamps,

GM asked two independent lighting research experts to analyze overhead sign illumination based on the test results of [a separate] ten pairs of [new, unused] headlamps. Their report shows that the combined sum of the illumination from any combination of two of those headlamps exceeds twice the minimum illumination from each headlamp required by FMVSS 108. The system light output, therefore, exceeds the implicit functional requirement of the standard.

GM concluded that the new data indicate that customers driving these vehicles are and have been experiencing no less than the amount of overhead sign illumination that FMVSS 108 requires. On this basis, GM argued the noncompliance is inconsequential and thus, GM requested NHTSA to reverse its earlier decision.

Advocates restated its previous opposition to granting the application. In its view, the issue is not whether the lamps eventually came into compliance, but whether they were compliant at the time of manufacture and sale. It asserts that GM's rationale is mooted by GM's own admission that the lamps were noncompliant at the time of manufacture. Advocates concludes that adoption of such a stance by the agency would render compliance with a standard contingent upon fortuitous, later in-service conditions.

After considering the arguments presented by GM, the comment of Advocates, and other relevant facts in this proceeding, we have decided to deny GM's appeal.

First, we believe that GM's argument about changed performance of the headlamps due to two or three years of weathering of the lenses is not relevant to whether the noncompliance is inconsequential to motor vehicle safety. Just as the issue of whether a vehicle complies, or does not comply, with a safety standard is determined based on the performance of the vehicle when it is new, the issue of whether a noncompliance is inconsequential to motor vehicle safety is determined based on the performance of the vehicle when it is new. However, we will consider the current performance of these headlamps in the context of whether it is appropriate to require GM to replace all of the noncompliant lamps.

Second, we do not accept GM's argument about combining values for the sign light test points on a set of lamps. GM did not present any evidence that sign light at a right side test point complements the light from a left side test point in the real world. The consultants cited by GM do not address this issue. Their report assumes that the lateral offset of the two lamps from each other is relatively small in relation to

the distances at which traffic signs are typically viewed. Consequently, the report assumes that a given traffic sign will be located at only slightly different horizontal angles in relation to the left and right headlamp. However, GM did not present any data to justify this assumption in a real world testing environment, or to demonstrate that light from the right hand lamp is complementary to the intensities for sign light test points of a left hand lamp. Furthermore, the agency previously rejected the argument that other lamps can compensate for noncompliant lamps, in a denial of an inconsequentiality petition filed by Nissan in 1997.

In that denial [62 FR 63416], NHTSA rejected Nissan's argument that a bright Center High Mounted Stop Lamp (CHMSL) can compensate for a noncompliant stop lamp. The agency found that the Nissan noncompliance could lead drivers following the subject vehicles to mistake the dim stop lamps as tail lamps, increasing the risk of a crash.

In consideration of the foregoing, NHTSA has decided that the applicant has not met its burden of persuasion that the noncompliance it describes is inconsequential to motor vehicle safety. Accordingly, GM's appeal is hereby denied.

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

Issued on: January 5, 2004.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. 04-500 Filed 1-9-04; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Surface Transportation Board

[STB Ex Parte No. 290 (Sub No. 4)]

### Railroad Cost Recovery Procedures-Productivity Adjustment

**AGENCY:** Surface Transportation Board.

**ACTION:** Proposed adoption of a Railroad Cost Recovery Procedures productivity adjustment.

**SUMMARY:** The Surface Transportation Board proposes to adopt 1.022 (2.2%) as the measure of average change in railroad productivity for the 1998-2002 (5-year) period. The current value of 1.9% was developed for the 1997 to 2001 period.

**DATES:** Comments are due 15 day after the date of this decision.