

preemption of the WMTCs is an "unintended consequence" of Section 4306. The Agency found no evidence to support that position. In fact, one could just as easily conclude that the WMTCs are exactly the type of display Section 4306 was enacted to prohibit. Furthermore, there is no indication in the legislative history of SAFETEA-LU that Congress intended to "grandfather" existing display requirements, other than those specifically listed in 49 U.S.C. 14506(b). In consideration of the above, the State of Oregon may no longer require interstate motor carriers to display weight-mile tax credentials on CMVs.

Issued on: February 26, 2007.

**John H. Hill,**  
*Administrator.*

[FR Doc. E7-3806 Filed 3-5-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2005-21323]

#### Withdrawal of Regulatory Guidance Concerning the Use of Surge Brakes on Commercial Motor Vehicles

**AGENCY:** Federal Motor Carrier Safety Administration (FMCSA), DOT.

**ACTION:** Notice; withdrawal of regulatory guidance.

**SUMMARY:** FMCSA withdraws all prior regulatory guidance, previously in the **Federal Register**, as well as memoranda and letters issued by the Agency, indicating that surge brakes do not meet certain provisions of the Federal Motor Carrier Safety Regulations (FMCSRs). Elsewhere in today's issue of the **Federal Register**, FMCSA amends the FMCSRs to allow the use of automatic hydraulic inertia brake systems (surge brakes) on trailers when the ratios of gross vehicle weight ratings for the towing-vehicle and trailer are within certain limits.

**FOR FURTHER INFORMATION CONTACT:** Mr. Luke Loy, Federal Motor Carrier Safety Administration, Office of Policy and Program Development, Vehicle and Roadside Operations Division, Washington, DC 20590, phone (202) 366-0676, fax (202) 366-8842, e-mail [luke.loy@dot.gov](mailto:luke.loy@dot.gov).

**SUPPLEMENTARY INFORMATION:** On November 17, 1993, the Federal Highway Administration (FHWA) <sup>1</sup>

published "Regulatory Guidance for the Federal Motor Carrier Safety Regulations," at 58 FR 60734. The publication included interpretations of 49 CFR 393.48, a rule that requires brakes to be operable at all times, and 49 CFR 393.49, the requirement that the braking system on CMVs be designed such that one brake application valve controls all the brakes on the vehicle. The Agency interpreted the regulations to prohibit the use of surge brakes on Commercial Motor Vehicles (CMVs) operated in interstate commerce. The regulatory guidance was republished on April 4, 1997, at 62 FR 16370.

The FMCSA subsequently issued an Enforcement Policy memorandum on September 14, 2004, directing Federal enforcement staff, and requesting State and local enforcement officials, temporarily to allow surge brakes on CMVs operated in interstate commerce, under certain conditions, pending completion of a notice-and-comment rulemaking proceeding through which a determination would be made whether surge brakes should be allowed on a permanent basis. A copy of that Enforcement Policy memorandum is in the docket cited at the beginning of this notice.

A final rule issued by FMCSA, published elsewhere in today's issue of the **Federal Register**, amends the FMCSRs to allow the use of surge brakes. The final rule defines the term "surge brake", identifies the requirements for a surge brake system, and allows the use of automatic hydraulic inertia brake systems (surge brakes) on trailers when the ratios of gross vehicle weight ratings for the towing-vehicle and trailer are within certain limits. Therefore, in consideration of the final rule on surge brakes, the Agency withdraws all prior interpretations and regulatory guidance, issued previously in the **Federal Register**, as well as FMCSA memoranda and letters, stating that surge brakes do not meet the requirements of 49 CFR 393.48 and 393.49.

Issued on: February 26, 2007.

**John H. Hill,**  
*Administrator.*

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(December 9, 1999)] established the FMCSA in the Department of Transportation. On January 4, 2000, the Office of the Secretary published a final rule delegating to the FMCSA Administrator the motor carrier safety functions required by MCSIA, which included certain motor carrier safety functions previously delegated to the FHWA (65 FR 200).

## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-26555]

#### The New Car Assessment Program; Suggested Approaches for Enhancements

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

**ACTION:** Correction of Public Hearing Time.

#### Correction

In notice document Volume 72 Number 16 beginning on page 3473 on the issue date of January 25, 2007, make the following correction to the meeting time posted:

1. On page 3473, under Public Hearing, the beginning time is corrected to read as 8:30 a.m.

**Authority:** 49 U.S.C. 30111, 30168; delegation of authority at 49 CFR 1.50 and 501.8.

Issued on: February 27, 2007.

**Stephen R. Kratzke,**

*Associate Administrator for Rulemaking.*

[FR Doc. E7-3814 Filed 3-5-07; 8:45 am]

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

[Docket No. NHTSA-2007-27376]

#### Notice of Receipt of Petition for Decision That Nonconforming 2004 Volkswagen Passat Sedan and Wagon Model Passenger Cars Are Eligible for Importation

**AGENCY:** National Highway Traffic Safety Administration, DOT.

**ACTION:** Notice of receipt of petition for decision that nonconforming 2004 Volkswagen Passat sedan and wagon model passenger cars are eligible for importation.

**SUMMARY:** This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that 2004 Volkswagen Passat sedan and wagon model passenger cars that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS) are eligible for importation into the United States because (1) they are substantially similar to vehicles that were originally manufactured for importation into and

<sup>1</sup> The Motor Carrier Safety Improvement Act of 1999 [Public Law 106-159, 113 Stat. 1748]

sale in the United States and that were certified by their manufacturer as complying with the safety standards, and (2) they are capable of being readily altered to conform to the standards.

**DATE:** The closing date for comments on the petition is April 5, 2007.

**ADDRESSES:** Comments should refer to the docket number and notice number, and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. Anyone is able to search the electronic form of all comments received into any of our 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>.

**FOR FURTHER INFORMATION CONTACT:** Coleman Sachs, Office of Vehicle Safety Compliance, NHTSA (202-366-3151).

**SUPPLEMENTARY INFORMATION:**

**Background**

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or importers who have registered with NHTSA pursuant to 49 CFR Part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

J.K. Technologies, LLC, of Baltimore, Maryland ("J.K.") (Registered Importer 90-006) has petitioned NHTSA to decide whether nonconforming 2004 Volkswagen Passat sedan and wagon model passenger cars are eligible for

importation into the United States. The vehicles which J.K. believes are substantially similar are 2004 Volkswagen Passat sedan and wagon model passenger cars that were manufactured for importation into, and sale in, the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it carefully compared non-U.S. certified 2004 Volkswagen Passat sedan and wagon model passenger cars to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

J.K. submitted information with its petition intended to demonstrate that non-U.S. certified 2004 Volkswagen Passat sedan and wagon model passenger cars, as originally manufactured, conform to many FMVSS in the same manner as their U.S. certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that non-U.S. certified 2004 Volkswagen Passat sedan and wagon model passenger cars are identical to their U.S. certified counterparts with respect to compliance with Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 109 *New Pneumatic Tires*, 113 *Hood Latch System*, 116 *Motor Vehicle Brake Fluids*, 124 *Accelerator Control Systems*, 135 *Passenger Car Brake Systems*, 201 *Occupant Protection in Interior Impact*, 202 *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield Mounting*, 214 *Side Impact Protection*, 216 *Roof Crush Resistance*, 219 *Windshield Zone Intrusion*, and 302 *Flammability of Interior Materials*.

In addition, the petitioner claims that the vehicles comply with the Bumper Standard found in 49 CFR Part 581.

The petitioner also contends that the vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 *Controls and Displays*: Installation of a U.S.-model instrument cluster.

Standard No. 108 *Lamps, Reflective Devices and Associated Equipment*: (a) Installation of U.S.-model headlamp assemblies which incorporate front side-

mounted marker lamps; and (b) installation of U.S.-model taillamp assemblies which incorporate rear side-mounted marker lamps.

Standard No. 110 *Tire Selection and Rims*: Installation of a tire information placard.

Standard No. 111 *Rearview Mirrors*: Installation of a U.S.-model passenger side rearview mirror, or inscription of the required warning statement on the face of that mirror.

Standard No. 114 *Theft Protection*: Installation of U.S.-version software to meet the requirements of this standard.

Standard No. 118 *Power-Operated Window, Partition, and Roof Panel Systems*: Installation of U.S.-version software to meet the requirements of this standard.

Standard No. 208 *Occupant Crash Protection*: (a) Inspection of all vehicles and replacement of any non U.S.-model seat belts, air bag control units, air bags, and sensors with U.S.-model components on vehicles that are not already so equipped; and (b) installation of U.S.-version software to ensure that the seat belt warning system meets the requirements of this standard.

The petitioner states that the crash protection system used in these vehicles consists of dual front airbags and knee bolsters, and combination lap and shoulder belts at the front and rear outboard seating positions. These manual systems are automatic, self-tensioning, and are released by means of a single red push-button.

Standard No. 225 *Child Restraint Anchorage Systems*: Inspection of all vehicles and installation of U.S.-model components on vehicles that are not already so equipped.

Standard No. 301 *Fuel System Integrity*: Inspection of all vehicles and replacement of non-U.S.-model fuel system components with U.S.-model components on vehicles not already so equipped.

Standard No. 401 *Interior Trunk Release*: Inspection of all vehicles and installation of U.S.-model components on vehicles that are not already so equipped.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicles near the left windshield post to meet the requirements of 49 CFR Part 565.

Interested persons are invited to submit comments on the petition described above. Comments should refer to the docket number and be submitted to: Docket Management, Room PL-401, 400 Seventh St., SW., Washington, DC 20590. [Docket hours are from 9 a.m. to 5 p.m.]. It is requested but not required that 10 copies be submitted.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered.

Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

**Authority:** 49 U.S.C. 30141(a)(1)(A) and (b)(1); 49 CFR 593.8; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: February 27, 2007.

**Claude H. Harris,**

*Director, Office of Vehicle Safety Compliance.*

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