

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.*

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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.

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**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]