

SUPPLEMENTARY INFORMATION: In an August 18, 2006 **Federal Register** notice, FRA announced that it had received an application from the Dakota, Minnesota & Eastern Railroad Corporation (DM&E) for a \$2.3 billion loan under the Railroad Rehabilitation and Improvement Financing (RRIF) program to fund the railroad's Powder River Basin Expansion Project (Project) to construct approximately 280 miles of new rail line to reach the coal mines of Wyoming's Powder River Basin and to reconstruct another approximately 600 miles of DM&E's existing rail line to allow operation of unit coal trains along the reconstructed route to and from the new line. DM&E had received permission to undertake the Project from the Surface Transportation Board (STB) in a February 15, 2006 decision (see Finance Docket 33407). The STB had prepared a detailed environmental review of the Project pursuant to the National Environmental Policy Act. As authorized by Council on Environmental Quality (CEQ) Regulations, FRA decided to adopt the Environmental Impact Statement (EIS) and Supplemental Environmental Impact Statement (SEIS) issued by the STB for Project. Consistent with the CEQ regulations, FRA recirculated the STB's EIS and SEIS. EPA's publication in the **Federal Register** of the notice of availability also occurred on August 18, 2006. FRA also announced the availability of a draft section 4(f)/303 Statement prepared for the Project by the FRA pursuant to section 4(f) of the Department of Transportation Act (49 U.S.C. 303(c)) and that the FRA was seeking to participate as a concurring party in the existing section 106 Programmatic Agreement. FRA further indicated in the **Federal Register** notice that it would accept public comment on its announced actions through October 10, 2006.

FRA is now announcing that in light of the substantial volume of comments received it is creating an electronic docket containing the comments that were submitted. The electronic docket is available through the DOT Docket Management System (DMS) and is found at <http://dms.dot.gov/>. The docket number for this environmental review is FRA 2006-26099. For access to the docket to read background documents or comments received, go to <http://dms.dot.gov> at any time or to PL-401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC between 9 a.m. and 5 p.m. Monday through Friday, except Federal holidays. The electronic docket will facilitate public access to the comments and

enhance FRA's ability to evaluate and address the comments. While creation of an electronic docket is not the agency's normal practice for environmental reviews, the special circumstances present in this proceeding made this an attractive option for the agency. The DMS staff will add the submitted comments as expeditiously as possible and comments will be available as they are added to the system.

Note that comments received will be posted without change to <http://dms.dot.gov> including any personal information. All commenters should be aware that anyone is potentially able to search the electronic form of comments received into any agency docket depending on how the comments are entered into the docket system. 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>. If anyone does not want their submitted comment to be included in the Docket because they would not have submitted the comment had they been aware that it would be included in an electronic docket, please contact the DMS office at: <http://dms.dot.gov/Support/> or 1-800-647-5527.

Issued in Washington, DC on October 31, 2006.

Joseph H. Boardman,

Federal Railroad Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2006-23701; Notice 2]

Decision That Nonconforming 2005 Toyota RAV4 Multipurpose Passenger Vehicles Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice of decision by the National Highway Traffic Safety Administration that nonconforming 2005 Toyota RAV4 multipurpose passenger vehicles are eligible for importation.

SUMMARY: This document announces a decision by the National Highway Traffic Safety Administration (NHTSA) that certain 2005 Toyota RAV4 multipurpose passenger vehicles (MPVs) 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 they are substantially similar to vehicles originally manufactured for importation into and sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S. certified version of the 2005 Toyota RAV4 MPV), and they are capable of being readily altered to conform to the standards.

DATES: This decision was effective April 17, 2006. The agency notified the petitioner at that time that the subject vehicles are eligible for importation. This document provides public notice of the eligibility decision.

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 as required 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 (JK) of Baltimore, Maryland (Registered Importer 90-006), petitioned NHTSA to decide whether 2005 Toyota RAV4 MPVs are eligible for importation into the United States. NHTSA published notice of the petition on January 31, 2006 (71 FR 5115) to afford an opportunity for public comment. The reader is referred to that notice for a thorough description of the petition.

One comment was received in response to the notice of petition, from Toyota Motor North America, Inc.

(Toyota), the U.S. representative of the vehicle's original manufacturer. Toyota addressed issues it believed JK had overlooked in describing alterations necessary to conform non-U.S. certified 2005 Toyota RAV4 MPVs to FMVSS Nos. 135 *Light Vehicle Brake Systems*, 208 *Occupant Crash Protection*, 225 *Child Restraint Anchorage Systems*, and 301 *Fuel System Integrity*. Toyota also questioned the ability of registered importers (RIs) to conduct safety recall campaigns to notify owners and remedy safety-related defects in imported nonconforming vehicles. The agency afforded JK an opportunity to respond to the issues raised by Toyota. Toyota's comments and JK's responses are summarized below, together with NHTSA's analysis of each matter at issue.

1. Issues Involving Specific Standards

Several of Toyota's comments concerned the capability of the vehicles to be modified to meet the requirements of certain standards. Set forth below is a discussion of these comments.

The petition stated that the vehicles conformed to the requirements of FMVSS No. 135 *Light Vehicle Brake Systems* and FMVSS No. 301 *Fuel System Integrity* as originally manufactured. The petition also stated that the vehicles are capable of being readily altered to comply with FMVSS No. 225 *Child Restraint Anchorage Systems* and with FMVSS No. 208 *Occupant Crash Protection* by the installation of U.S.-model components meeting the requirements of those standards on vehicles not already so equipped.

Toyota stated that certain configurations of the 2005 Toyota RAV4 MPV may have braking system components and body construction in the area of the FMVSS No. 225 anchorage mountings different from what is found on U.S.-certified vehicles. Toyota emphasized that modifications to these systems require special attention to ensure that the vehicles, as modified, conform to all applicable safety standards.

Toyota expressed additional concerns relating to the modification or replacement of occupant protection system components. The company raised issues regarding the installation of components that contribute to meeting the requirements of FMVSS No. 208, including airbag modules, sensors and software, and related systems.

Toyota also commented that the fuel system installed in U.S.-certified 2005 Toyota RAV4 MPVs is unique to the U.S.-certified model because it is designed specifically to comply with

United States emission requirements, and, in some vehicles, with additional state of California emission requirements. Toyota described the fuel system components unique to the U.S. model as including specialized fuel and evaporative gas lines, control valves, and the fuel canister. Toyota emphasized that all nonconforming 2005 Toyota RAV4 MPVs must be examined for the existence of all U.S.-model fuel system components and that vehicles not already so equipped must have U.S.-model components installed to meet the requirements of FMVSS No. 301 *Fuel System Integrity*.

In its response, JK stated:

The required changes to meet the emissions standards for ORVR 2nd OBD II concern the gas tank, fuel lines, vapor lines, filler neck, evaporative canister, rollover valve, check valves, wiring harnesses and all associated hardware and mounting brackets for the aforementioned parts. These parts have all been changed to the U.S. parts and are mounted on the existing body mounts that were installed at the time of manufacture of the vehicle by Toyota. There have been no structural modifications of any kind to install these parts. There has been no welding or cutting of any kind and all hardware has been purchased from the Toyota dealer system. These were all completed as part of the stringent requirements including Certification Testing for [the U.S. Environmental Protection Agency], as J.K. Technologies, Inc., is also a licensed Independent Commercial Importer "ICI"

JK further noted that all vehicles imported into the United States must be inspected for the presence of a U.S.-model fuel system and braking system, as well as occupant crash protection and child restraint anchorage system components. The company stated that vehicles not already so equipped must have U.S.-model components installed to meet the requirements of FMVSS Nos. 135 *Light Vehicle Brake Systems*, 208 *Occupant Crash Protection*, 225 *Child Restraint Anchorage Systems*, and 301 *Fuel System Integrity*.

JK specifically stated that the front passenger seat belt system did not meet the requirements of FMVSS No. 208 and that U.S.-model seat belts would have to be installed at that seating position to meet the requirements of the standard.

Agency Analysis: NHTSA has concluded that all 2005 Toyota RAV4 vehicles imported into the United States must be inspected for the presence of U.S.-model fuel system, braking system, occupant crash protection, and child restraint anchorage system components. Vehicles not already so equipped must have U.S.-model components installed to meet the requirements of FMVSS Nos. 135 *Light Vehicle Brake Systems*, 208 *Occupant Crash Protection*, 225

Child Restraint Anchorage Systems, and 301 *Fuel System Integrity*.

Conformity packages submitted for vehicles imported under the decision must demonstrate that the vehicle is equipped with components that allow it to achieve compliance with all standards at issue. Any modification or replacement of components necessary to meet the requirements of the standard must be shown to bring the vehicle into compliance. Such proof must be submitted by an RI as part of any conformity package submitted for nonconforming vehicles.

2. Safety-Related Defect Recall Campaigns

Toyota also questioned the ability of parties other than Toyota authorized agents to conduct safety recall campaigns to notify owners of safety-related defects and to remedy such defects.

JK responded by noting that all vehicles certified by RIs must be covered by a mandatory service insurance policy to assure that recall notification and remedies are provided.

Agency Analysis: RIs are by definition "manufacturers" under the National Traffic and Motor Vehicle Safety Act of 1966, as amended (the Act), 49 U.S.C. 30101 *et seq.* As such, RIs have the same recall responsibilities as motor vehicle and replacement equipment manufacturers under the Act. RIs have the duty to ensure that there are no outstanding safety recalls on the vehicles they import before they sell or release custody of those vehicles. Once a vehicle has been sold or released, an RI has a continuing duty—extending through the life of the vehicle—to provide its owner with notification of any safety-related defects or noncompliances with the FMVSS that are determined to exist in the vehicle. RIs also have a continuing obligation to provide a free remedy for any such defects or noncompliances for a period of up to ten (10) years after the sale of the vehicle to its first purchaser. For any recall campaigns that may be conducted, RIs have the added responsibility of providing NHTSA with periodic reports on the progress of those campaigns. These responsibilities are explained in greater detail below.

In the statement of conformity that it submits to NHTSA for each vehicle that it imports, an RI must certify and substantiate that the vehicle either is not subject to any safety recalls or that all noncompliances and defects that are the subject of those safety recalls have been remedied. The RI must substantiate this certification by furnishing with the statement of conformity documentation

from the vehicle's original manufacturer verifying that the vehicle is not subject to any outstanding safety recalls.

For each vehicle for which it furnishes a statement of conformity to the agency, an RI must also maintain a mandatory service insurance policy in the amount of \$2,000, written or underwritten by an independent insurance company, to ensure that the RI is financially capable of remedying any safety-related defect or noncompliance with an FMVSS that is determined to exist in the vehicle. The policy must be furnished with the vehicle at or before the time the RI sells or releases custody of the vehicle.

RIs have notification and remedy responsibilities as well. As specified in 49 CFR 592.6(i)(1), an RI must notify NHTSA under 49 CFR part 573 and notify owners under 49 CFR part 577 if a vehicle that the RI has imported, or for which it furnished the agency with a statement of conformity, is substantially similar to one that has been found to contain a safety-related defect or a noncompliance with an applicable FMVSS. In this circumstance, the RI also has the duty to provide the affected owner with a remedy without charge (assuming it has not been more than ten years since the first sale of the vehicle). However, notification and remedy is not required if the vehicle's manufacturer or the RI demonstrates that the defect or noncompliance is not present in the vehicle, or that the defect or noncompliance was remedied before the statement of conformity was submitted to NHTSA's Office of Vehicle Safety Compliance. An RI also is not required to provide notification and remedy where the vehicle's fabricating manufacturer has undertaken those responsibilities.

For all recall campaigns it conducts, an RI must also submit to NHTSA two progress reports identifying the number of vehicles remedied in response to its notice.

These requirements ensure that the owners of vehicles imported by RIs receive proper notification and remedy in the event that a safety-related defect or noncompliance is found to exist in their vehicle.

In view of these considerations, the agency decided to grant the petition.

Vehicle Eligibility Number for Subject Vehicles

The importer of a vehicle admissible under any final decision must indicate on the form HS-7 accompanying entry the appropriate vehicle eligibility number indicating that the vehicle is eligible for entry. VSP-480 is the vehicle eligibility number assigned to

vehicles admissible under this notice of final decision.

Final Decision

Accordingly, on the basis of the foregoing, NHTSA has decided that 2005 Toyota RAV4 multipurpose passenger vehicles that were not originally manufactured to comply with all applicable FMVSS are substantially similar to 2005 Toyota RAV4 multipurpose passenger vehicles originally manufactured for importation into and sale in the United States and certified under 49 U.S.C. 30115, and are capable of being readily altered to conform to all applicable FMVSS.

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: November 1, 2006.

Harry Thompson,

Acting Director, Office of Vehicle Safety Compliance.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-23090]

Revised Highway Safety Program Guidelines Nos. 3, 8, 14, 15, 19, and 20

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

ACTION: Revisions to highway safety program guidelines.

SUMMARY: Section 402 of title 23 of the United States Code requires the Secretary of Transportation to promulgate uniform guidelines for State highway safety programs.

This notice revises six of the existing guidelines to reflect program methodologies and approaches that have proven to be successful and are based on sound science and program administration. The guidelines the agency is revising today are Guideline No. 3—Motorcycle Safety, Guideline No. 8—Impaired Driving, Guideline No. 14—Pedestrian and Bicycle Safety, Guideline No. 15—Traffic Enforcement Services (formerly Police Traffic Services), Guideline No. 19—Speed Management (formerly Speed Control), and Guideline No. 20—Occupant Protection.

DATES: The revised guidelines are effective on November 7, 2006.

FOR FURTHER INFORMATION CONTACT: Susan Kirinich, Research and Program

Development, NHTI-100, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; Telephone: (202) 366-1755; Facsimile: (202) 366-7149.

SUPPLEMENTARY INFORMATION:

I. Background

Section 402 of title 23 of the United States Code requires the Secretary of Transportation to promulgate uniform guidelines for State highway safety programs. As the highway safety environment changes, it is necessary for NHTSA to update the guidelines to provide current information on effective program content for States to use in developing and assessing their traffic safety programs. Each of the revised guidelines reflects the best available science and the real-world experience of NHTSA and the States in developing and managing traffic safety programs. NHTSA will update the guidelines periodically to address new issues and to emphasize program methodology and approaches that have proven to be effective in these program areas.

The guidelines offer direction to States in formulating their highway safety plans for highway safety efforts that are supported with section 402 grant funds as well as safety activities funded from other sources. The guidelines provide a framework for developing a balanced highway safety program and serve as a tool with which States can assess the effectiveness of their own programs. NHTSA encourages States to use these guidelines and build upon them to optimize the effectiveness of highway safety programs conducted at the State and local levels.

The revised guidelines emphasize areas of nationwide concern and highlight effective countermeasures. The six guidelines NHTSA is revising today are the first in a series of planned revisions. As each guideline is updated, it will bear the date of its revision.

All the highway safety program guidelines, including the six guidelines revised today, will be available soon on the NHTSA Web site in the Highway Safety Grant Management Manual.

In a Notice published in the **Federal Register** on February 9, 2006 (71 FR 6830), the agency proposed to amend six highway safety program guidelines and requested comments on the proposed revisions. These guidelines included Guideline No. 3—Motorcycle Safety, Guideline No. 8—Impaired Driving, Guideline No. 14—Pedestrian and Bicycle Safety, Guideline No. 15—Traffic Enforcement Services (formerly Police Traffic Services), Guideline No. 19—Speed Management (formerly Speed Control), and Guideline No. 20—