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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2012-0119]

Tentative Decision That Certain Canadian-Certified Vehicles Are Eligible for Importation

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

ACTION: Request for Comments.

SUMMARY: This notice requests comments on a tentative decision by the National Highway Traffic Safety Administration (NHTSA) that certain vehicles that do not comply with all applicable Federal motor vehicle safety standards (FMVSS), but that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards (CMVSS), are nevertheless eligible for importation into the United States. The vehicles in question either are substantially similar to vehicles that were certified by their manufacturers as complying with the U.S. safety standards and are capable of being readily altered to conform to those standards, or have safety features that comply with, or are capable of being altered to comply with, all U.S. safety standards.

DATES: You should submit your comments early enough to ensure that the docket receives them not later than **[INSERT DATE 21 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments to the docket number identified in the heading of this document by any of the following methods:

- Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- Mail: Docket Management Facility: U.S. Department of Transportation, 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, Washington, D.C. 20590-0001.
- Hand Delivery or Courier: 1200 New Jersey Avenue S.E., West Building Ground Floor, Room W12-140, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.
- Fax: 202-493-2251.

Instructions: For detailed instructions on submitting comment, see the Public Participation heading of the Supplementary Information section of this notice. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the “Privacy Act” heading below.

Privacy Act: 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 (65 FR 19477-78) or you may visit <http://DocketInfo.dot.gov>.

Confidential Information: If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given below under FOR FURTHER INFORMATION CONTACT. In addition, you should submit two copies, from which you have deleted the claimed confidential business

information, to Docket Management at the address given above under ADDRESSES. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

FOR FURTHER INFORMATION CONTACT: Mr. Coleman Sachs, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: (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, either pursuant to a petition from the manufacturer or registered importer or on its own initiative, (1) that the nonconforming motor vehicle is substantially similar to a motor vehicle of the same model year that was originally manufactured for importation into and sale in the United States and certified by its manufacturer as complying with all applicable FMVSS, and (2) that the nonconforming motor vehicle is capable of being readily altered to conform to all applicable FMVSS. Where there is no substantially similar U.S.-certified motor vehicle, 49 U.S.C. 30141(a)(1)(B) permits a nonconforming motor vehicle to be admitted into the United States if NHTSA decides that its safety features comply with, or are capable of being

altered to comply with, all applicable FMVSS based on destructive test data or such other evidence as NHTSA decides to be adequate.

MOST RECENT DECISION

On September 27, 2007, NHTSA published a notice in the Federal Register announcing that it had made a final decision on its own initiative that certain motor vehicles that are certified by their original manufacturer as complying with all applicable CMVSS are eligible for importation into the United States (72 FR 54975). The notice identified these vehicles as:

- (a) All passenger cars manufactured on or after September 1, 2007, and before September 1, 2008, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 138, 201, 208, 213, 214, 225, and 401;
- (b) All passenger cars manufactured on or after September 1, 2008 and before September 1, 2011 that, as originally manufactured, comply with FMVSS Nos. 110, 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401;
- (c) All passenger cars manufactured on or after September 1, 2011 and before September 1, 2012 that, as originally manufactured, comply with FMVSS Nos. 110, 118, 126, 138, 201, 202a, 206, 208, 213, 214, 225, and 401;
- (d) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2007 and before September 1, 2008, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 201, 202, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225;
- (e) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2008 and before

September 1, 2011, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; and

(f) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011 and before September 1, 2012, that, as originally manufactured, comply with FMVSS Nos. 110, 118, 126, 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225.

In the notice of tentative decision that preceded the final decision, the agency explained that the identified standards incorporated requirements that were not adopted, in whole or in part, by Canada (72 FR 45488; August 14, 2007). The notice proposed limiting the import eligibility decision to vehicles manufactured before September 1, 2012 so that the agency could assess, prior to that date, whether any other requirements were added to the FMVSS that Canada chose not to adopt. This limitation was included in the final eligibility decision published on September 27, 2007.

ADDITIONAL ACTIONS BY THE UNITED STATES AND CANADA SINCE THE PRIOR ELIGIBILITY DECISION

Since the last eligibility decision covering Canadian-certified vehicles was issued, NHTSA published a final rule that amended FMVSS No. 222 *School Bus Passenger Seating and Crash Protection* that raised the seat back height for school buses from 20 inches to 24 inches; required lap/shoulder belts for all passenger seats in small school buses, specified performance requirements for school bus seats with seat belts, and required self-latching mechanism for seat bottoms that are designed to flip up (73 FR 62744; October 21, 2008). The height requirements

were effective April 20, 2009 and the belt requirements October 21, 2011. Since this final rule, the US and Canadian versions of Standard No. 222 are no longer harmonized. The agency has therefore tentatively decided to limit the import eligibility of school buses with Gross Vehicle Weight Ratings of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2008 to those that were originally manufactured to comply with FMVSS No. 222.

In addition, NHTSA has adopted a new FMVSS No. 226 *Ejection Mitigation*. On January 19, 2011 NHTSA published a final rule to establish this new standard to mitigate occupant ejection from side windows in rollovers and side impacts (76 FR 3212). This final rule will be effective September 1, 2017, except for altered and multistage vehicles for which it will be effective September 1, 2018. If Canada does not adopt a substantially similar CMVSS by those dates, this standard would be added to the list of FMVSS that a vehicle must be originally manufactured to meet to be eligible for importation.

On September 17, 2008, Canada amended its regulations to align the requirements of CMVSS 110 with those of FMVSS No. 110 *Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kg (10,000 lb) or Less*. The newly aligned requirements became effective on August 1, 2009.

On May 2, 2009, Canada amended its regulations to align the requirements of CMVSS 118 with those of FMVSS No. 118 *Power-Operated Window, Partition, and Roof Panel Systems*. The newly aligned requirements became effective on October 1, 2010.

On December 10, 2009, Canada adopted CMVSS 126 incorporating the requirements of FMVSS No. 126 *Electronic Stability Control Systems*. The newly adopted requirements became effective for passenger cars, multi-purpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured after August 31, 2011.

On July 9, 2011, Canada published a Technical Standards Document (TSD) that adopts the requirements of FMVSS No. 202a *Head Restraints*. The newly adopted requirements become effective on September 1, 2012.

On July 24, 2010, Canada published a revision to a TSD that incorporates the requirements of FMVSS No. 216 *Roof Crush Resistance*. The newly adopted requirements become effective on September 1, 2016.

On August 22, 2007, Canada amended its regulations to align the requirements of CMVSS 401 with those of FMVSS No. 401 *Interior Trunk Release*. The newly aligned requirements became effective on September 1, 2010.

Canada has yet to adopt or fully align the requirements of its regulations with those of FMVSS Nos. 138 *Tire Pressure Monitoring Systems*, 201 *Occupant Protection in Interior Impact*, 208 *Occupant Crash Protection*, 213 *Child Restraint Systems*, 214 *Side Impact Protection*, and 225 *Child Restraint Anchorage Systems*.

The tables below summarize the current state of harmonization between the CMVSS and the FMVSS. Table 1 is a list of all FMVSS that are harmonized to the CMVSS, or for which the differences are such that compliance with the US standard can be readily achieved. Table 2 is a list of all FMVSS which are not harmonized. Table 3 is a list of FMVSS that have been adopted and are not yet effective, but will be in the future.

Table 1
Harmonized Standards

FMVSS	Canadian Equivalent	Date Harmonized Since Last Determination
102 - Transmission Shift Position Sequence, Starter Interlock, and Transmission Braking Effect	CMVSS 102 – Transmission Control Functions	
103 – Windshield Defrosting and Defogging Systems	CMVSS 103 – Windshield Defrost and Defog	
104 – Windshield Wiping and Washing Systems	CMVSS 104 – Windshield Wiping and Wash	
105 – Hydraulic and Electric Brake Systems	CMVSS 105 – Hydraulic and Electric Brakes; TSD 105	
106 – Brake Hoses	CMVSS 106 – Brake Hoses; TSD 106	
108 – Lamps, Reflective Devices and Associated Equipment	CMVSS 108 – Lighting Systems and Retroreflective Devices; TSD 108	
110 - Tire Selection and Rims for Motor Vehicles with a GVWR of 4,536 kg (10,000 lb) or Less	CMVSS 110 – Tire Selection and Rims; TSD 110	September 1, 2009
111 – Rearview Mirrors	CMVSS 111 – Mirrors	
113 – Hood Latch Systems	CMVSS 113 – Hood Latch System	
114 – Theft Protection and Rollaway Prevention	CMVSS 114 – Locking and Immobilization; TSD 114	
116 – Motor Vehicle Brake Fluids	CMVSS 116 - Hydraulic Brake Fluids; TSD 116	
118 - Power-Operated Window, Partition, and Roof Panel Systems	CMVSS 118 – Power-operated Windows; TSD 118	September 1, 2011
120 - Tire Selection and Rims and Motor Home/Recreation Vehicle Trailer Load Carrying Capacity Information for Motor Vehicles with a GVWR of More Than 4,536 Kilograms (10,000 pounds)	CMVSS 120 – Tire Selection and Rims for Vehicles Other Than Passenger Cars; TSD 120	
121 – Air Brake Systems	CMVSS 121 – Air Brakes for Trucks; TSD 121	
122 – Motorcycle Brake Systems	CMVSS 122 – Motorcycle Brake Systems; TSD 122	

FMVSS	Canadian Equivalent	Date Harmonized Since Last Determination
123 – Motorcycle Controls and Displays	CMVSS 123 – Motorcycle Control & Displays; TSD 123	
124 – Accelerator Control Systems	CMVSS 124 – Accelerator Control Systems; TSD 124	
126 – Electronic Stability Control Systems	CMVSS 126 – Electronic Stability Control; TSD 126	September 1, 2011
131 – School Bus Pedestrian Safety Devices	CMVSS 131 – School Bus Pedestrian Safety Devices; TSD 131	
135 – Light Vehicle Brake Systems	CMVSS 135 – Light Vehicle Brake Systems; TSD 135	
202 – Head Restraints; Applicable unless a vehicle is certified to §571.202a	CMVSS 202 – Head Restraints; TSD 202	
202a – Head Restraints	CMVSS 202 – Head Restraints; TSD 202	September 1, 2012
203 – Impact protection for the driver from the steering control system	CMVSS 203 – Driver Impact Protection	
204 – Steering control rearward displacement	CMVSS 204 – Steering Column Rearward Displacement	
205 – Glazing materials	CMVSS 205 – Glazing Materials	
205a – Glazing materials before September 1, 2006 and glazing materials used in vehicles manufactured before November 1, 2006	CMVSS 205 – Glazing Materials	
207 – Seating systems	CMVSS 207 – Anchorage of Seats	
210 – Seat belt assembly anchorages	CMVSS 210 – Seat Belt Assembly Anchorages	
212 – Windshield mounting	CMVSS 212 – Windshield Mounting	
216 – Roof crush resistance; Applicable unless a vehicle is certified to §571.216a	CMVSS 216 – Roof Intrusion Protection; TSD 216	
216a – Roof crush resistance; Upgraded standard	CMVSS 216 – Roof Intrusion Protection; TSD 216	
217 – Bus emergency exits and window retention and release	CMVSS 217 – Bus Window Retention and Emergency Exits	
219 – Windshield zone intrusion	CMVSS 219 – Windshield Zone Intrusion	
220 – School bus rollover protection	CMVSS 220 – Rollover Protection; TSD 220	
221 – School bus body joint strength	CMVSS 221 – School Bus Body Joint Strength	

FMVSS	Canadian Equivalent	Date Harmonized Since Last Determination
224 – Rear impact protection	CMVSS 223 – Rear Impact Guards	
301 – Fuel system integrity	CMVSS 301 – Fuel System Integrity; TSD 301	
302 – Flammability of interior materials	CMVSS 302 – Flammability; TSD 302	
303 – Fuel system integrity of compressed natural gas vehicles	CMVSS 301.2 – CNG Fuel System Integrity	
304 – Compressed natural gas fuel container integrity	CMVSS 301.2 – CNG Fuel System Integrity	
305 – Electric-powered vehicles: electrolyte spillage and electrical shock protection	CMVSS 305 – Electrolyte Spillage and Electrical Shock Protection; TSD 305	
401 – Internal trunk release	CMVSS 401 – Interior Trunk Release; TSD 401	September 1, 2010
500 – Low-speed vehicles	CMVSS 500 – Low-speed Vehicles; TSD 500	

Table 2
Standards that Have Not Been Harmonized

US Standard	Canadian Standard	Passenger Cars	Multipurpose Passenger Vehicles, Trucks, and Buses With A GVWR of 4,536 Kg (10,000 Lb) or Less
FMVSS 101 – Controls and Displays	CMVSS 101 – Controls and Displays	X	X
FMVSS 138 – Tire Pressure Monitoring Systems		X	X
FMVSS 201 – Occupant Protection in Interior Impact	CMVSS 201 - Occupant Protection	X	X
206 – Door locks and door retention components	CMVSS 206 – Door Locks and Door Retention Components	X	X
FMVSS 208 – Occupant Crash Protection	CMVSS 208 – Occupant Restraint Frontal Impact	X	X
FMVSS 213 – Child Restraint Systems	CMVSS 213.4 – Built-in Child Restraint Systems	X	X
FMVSS 214 – Side Impact Protection	CMVSS 214 – Side Door Strength	X	X
FMVSS 222 - School Bus Passenger Seating And Crash Protection	CMVSS 222 - School Bus Passenger Seating and Crash Protection		School buses only
FMVSS 225 – Child restraint anchorage systems		X	X

Table 3
FMVSS That Have Been Adopted But are Not Yet Effective

FMVSS	Federal Register Notice	Description	Effective date
226 – Ejection Mitigation	76 FR 3212; 1/19/2011	New standard to mitigate occupant ejection from side windows in rollovers and side impacts.	9/1/17, except for altered and multistage vehicles 9/1/18.

In light of these developments, NHTSA has tentatively decided to require, as a condition for import eligibility, that Canadian-certified passenger cars manufactured on or after September 1, 2012 and before September 1, 2017 comply, as originally manufactured, with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225. The agency has also tentatively decided to require, as a condition for import eligibility, that Canadian-certified multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2012 and before September 1, 2017 comply, as originally manufactured, with FMVSS Nos. 201, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225. The agency has also tentatively decided to require, as a condition for import eligibility, that Canadian-certified school buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2012 and before September 1, 2017 also comply with FMVSS No. 222.

The agency has also tentatively decided to revise its prior import eligibility decisions to eliminate references to the following harmonized standards for the vehicles identified below:

- FMVSS No. 110 for all passenger cars and all multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2009;
- FMVSS No. 118 for all passenger cars and all multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011;
- FMVSS No. 126 for all passenger cars and all multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2011; and

- FMVSS No. 401 for all passenger cars manufactured on or after September 1, 2010.

FUTURE CUT-OFF DATE

To avoid the need to amend any existing eligibility decisions in the event that there are any further requirements imposed under the FMVSS that are not carried into the corresponding CMVSS, NHTSA has tentatively decided to limit its import eligibility decisions for Canadian-certified passenger cars and for multipurpose passenger vehicles, trucks, and buses with a GVWR of 10,000 pounds or less to such vehicles manufactured before September 1, 2017. Prior to that date, the agency will assess whether there is a need to condition the import eligibility of any subsequently manufactured Canadian-certified vehicles on compliance with any additional FMVSS. The agency intends to issue new decisions covering vehicles manufactured on or after September 1, 2017 within a sufficient period before that date is reached.

TENTATIVE DECISION

Pending its review of any comments submitted in response to this notice, NHTSA hereby tentatively decides that--

- (a) All passenger cars manufactured on or after September 1, 2012 and before September 1, 2017 that, as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225; and
- (b) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after September 1, 2012 and before September 1, 2017, that, as originally manufactured, comply with FMVSS Nos. 201, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138, 222, and 225;

that are certified by their original manufacturer as complying with all applicable Canadian motor vehicle safety standards, are eligible for importation into the United States on the basis that either:

1. They are substantially similar to vehicles of the same make, model, and model year originally manufactured for importation into and sale in the United States, or originally manufactured in the United States for sale therein, and certified as complying with all applicable FMVSS, and are capable of being readily altered to conform to all applicable FMVSS, or
2. They have safety features that comply with, or are capable of being altered to comply with, all applicable FMVSS.

VEHICLE ELIGIBILITY NUMBER

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. Vehicle Eligibility Number VSA-80 is currently assigned to Canadian-certified passenger cars and Vehicle Eligibility Number VSA-81 is currently assigned to Canadian-certified multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less. If this tentative decision is made final, all passenger cars admissible under the final decision will be assigned vehicle eligibility number VSA-80, and all multipurpose passenger vehicles, trucks, and buses admissible under the final decision will be assigned vehicle eligibility number VSA-81.

PUBLIC PARTICIPATION

How do I prepare and submit comments?

Your comments must be written and in English. To ensure that your comments are correctly filed in the Docket, please include the docket number of this document in your comments.

Your comments must not be more than 15 pages long. (49 CFR 553.21). We established this limit to encourage you to write your primary comments in a concise fashion. However, you may attach necessary additional documents to your comments. There is no limit on the length of the attachments.

Comments may be submitted to the docket electronically by logging onto the Docket Management System website at <http://www.regulations.gov>. Follow the online instructions for submitting comments.

You may also submit two copies of your comments, including the attachments, to Docket Management at the address given above under **ADDRESSES**.

Please note that pursuant to the Data Quality Act, in order for substantive data to be relied upon and used by the agency, it must meet the information quality standards set forth in the OMB and DOT Data Quality Act guidelines. Accordingly, we encourage you to consult the guidelines in preparing your comments. OMB's guidelines may be accessed at <http://www.whitehouse.gov/omb/fedreg/reproducible.html>. DOT's guidelines may be accessed at http://www.bts.gov/programs/statistical_policy_and_research/data_quality_guidelines.

How can I be sure that my comments were received?

If you wish Docket Management to notify you upon its receipt of your comments, enclose a self-addressed, stamped postcard in the envelope containing your comments. Upon receiving your comments, Docket Management will return the postcard by mail.

How do I submit confidential business information?

If you wish to submit any information under a claim of confidentiality, you should submit three copies of your complete submission, including the information you claim to be confidential business information, to the Chief Counsel, NHTSA, at the address given above under **FOR FURTHER INFORMATION CONTACT**. In addition, you should submit two copies, from which you have deleted the claimed confidential business information, to Docket Management at the address given above under **ADDRESSES**. When you send a comment containing information claimed to be confidential business information, you should include a cover letter setting forth the information specified in our confidential business information regulation. (49 CFR Part 512.)

Will the agency consider late comments?

We will consider all comments that Docket Management receives before the close of business on the comment closing date indicated above under **DATES**. To the extent possible, we will also consider comments that Docket Management receives after that date. If Docket Management receives a comment too late for us to consider in developing a determination (assuming that one is issued), we will consider that comment as an informal suggestion for future action.

How can I read the comments submitted by other people?

You may read the comments received by Docket Management at the address given above under **ADDRESSES**. The hours of the Docket are indicated above in the same location. You may also see the comments on the Internet. To read the comments on the Internet, go to <http://www.regulations.gov>. Follow the online instructions for accessing the dockets.

Please note that even after the comment closing date, we will continue to file relevant information in the Docket as it becomes available. Further, some people may submit late

comments. Accordingly, we recommend that you periodically check the Docket for new material.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.8; delegation of authority at 49 CFR 1.95.

Issued on: September 12, 2012

Daniel C. Smith
Senior Associate Administrator
for Vehicle Safety

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