



DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0062]

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 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 15 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and be submitted by any of the following methods:

- Mail: Send comments by mail addressed to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590.
- Hand Delivery: Deliver comments by hand to U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE, Washington, DC 20590. The Docket Section is open on weekdays from 10 am to 5 pm except Federal Holidays.
- Electronically: Submit comments electronically by logging onto the Federal Docket Management System (FDMS) website at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493-2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to https://www.regulations.gov, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

Notice of the final decision will also be published in the Federal Register pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov> by following the online instructions for accessing the dockets. The docket identification number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a Federal Register notice published on April 11, 2000, (65 FR 19477-78).

FOR FURTHER INFORMATION CONTACT: Mr. Neil Thurgood, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: (202) 366-0712.

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 November 26, 2012, 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 (77 FR 70538). The notice identified these vehicles as:

- (a) All passenger cars manufactured on or after September 1, 2009, and before September 1, 2010, that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, 225, and 401;
- (b) All passenger cars manufactured on or after September 1, 2010, and before September 1, 2011, that, as originally manufactured, comply with FMVSS Nos. 118, 138, 201, 202a, 206, 208, 213, 214, and 225;
- (c) All passenger cars manufactured on or after September 1, 2011 and before September 1, 2017, that, as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225;
- (d) All multipurpose passenger vehicles, trucks, and buses with a gross vehicle weight rating (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. 201, 202a, 206, 208, 213, 214, and 216, and insofar as they are applicable, with FMVSS Nos. 138 and 225; and

(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, 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.

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 (77 FR 57641; September 18, 2012). The notice proposed limiting the import eligibility decision to vehicles manufactured before September 1, 2017, 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 November 26, 2012.

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

On January 19, 2011, NHTSA published a final rule to establish FMVSS No. 226 *Ejection Mitigation* to mitigate occupant ejection from side windows in rollovers and side impacts (76 FR 3212). This final rule becomes effective September 1, 2017, except for altered and multistage vehicles for which it will be effective September 1, 2018. As Canada has yet to adopt or fully align the requirements of its regulations with those of FMVSS No. 226, the agency has tentatively decided to limit the import eligibility of passenger cars, multipurpose passenger vehicles, and trucks and buses with a GVWR of 4536 kg (10,000 lb) or less, excepting vehicles manufactured in more than one stage, manufactured on or after September 1, 2017, to those that were originally manufactured to comply with FMVSS 226. Eligibility for subject vehicles that are altered (within the meaning of 49 CFR 567.7) or manufactured in two or more stages on or

after September 1, 2018, will be limited to vehicles manufactured to comply with FMVSS No. 226.

On April 7, 2014, NHTSA published a final rule that amended FMVSS No. 111 *Rear Visibility* to reduce the risk of backover crashes involving vulnerable populations (including very young children) and to satisfy the mandate of the Cameron Gulbransen Kids Transportation Safety Act of 2007 (79 FR 19178). The amended rule specifies an area behind the vehicle which must be visible to the driver when the vehicle is placed into reverse and establishes other related performance requirements. Owing to this final rule, the U.S. and Canadian versions of Standard No. 111 are no longer harmonized. Full compliance with this standard will be required for passenger cars, multipurpose passenger vehicles, and trucks and buses with a gross vehicle weight of less than 4536 kg (10,000 lb) starting May 1, 2018. The agency has therefore tentatively decided to limit the import eligibility of such vehicles manufactured on or after May 1, 2018, to those that were originally manufactured to comply with the standard.

On June 23, 2015, NHTSA published a final rule to adopt FMVSS No. 136 *Electronic Stability Control Systems for Heavy Vehicles* (80 FR 36050), which establishes requirements for electronic stability control systems in trucks and certain buses with a GVWR greater than 11,793 kilograms (26,000 lb). This final rule will apply to all such vehicles manufactured on or after August 1, 2019. As Canada has not yet adopted this requirement, NHTSA has tentatively decided to limit the import eligibility of trucks and buses with a GVWR greater than 11,793 kg (26,000 lb) manufactured on or after August 1, 2019, to those that were originally manufactured to comply with FMVSS No. 136.

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 U.S. standard can be readily achieved. Table 2 is a list of all FMVSS that are not harmonized.

Table 1
Harmonized Standards

U.S. Standard (FMVSS)	Canadian Equivalent (CMVSS)
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
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
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
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
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
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

U.S. Standard (FMVSS)	Canadian Equivalent (CMVSS)
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
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
500 – Low-speed vehicles	CMVSS 500 – Low-speed Vehicles; TSD 500

Table 2
Standards that Have Not Been Harmonized (X denotes “applicable”)

U.S. Standard (FMVSS)	Canadian Standard (CMVSS)	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 111 – Rear Visibility	CMVSS 111 – Mirrors	X	X
FMVSS 136 – Electronic Stability Control Systems for Heavy Vehicles			Trucks/buses with GVWR greater than 11,793 Kg (26,000 lb) only
FMVSS 138 – Tire Pressure Monitoring Systems		X	X
FMVSS 201 – Occupant Protection in Interior Impact	CMVSS 201 - Occupant Protection	X	X
FMVSS 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
FMVSS 226 – Ejection Mitigation		X	X

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, 2017, and before September 1, 2022, comply, as originally manufactured, with FMVSS Nos. 138, 201, 206, 208, 213, 214, and 225, and insofar as they are applicable, with the updated requirements of FMVSS Nos. 111 and 226. 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, 2017, and before September 1, 2022, comply, as originally manufactured, with FMVSS Nos. 138, 201, 206, 208, 213, and 214, and insofar as they are applicable, with FMVSS No. 225, and the updated requirements of FMVSS Nos. 111 and 226. Finally, NHTSA has tentatively decided to require that trucks and buses with a GVWR greater than 4,536 kg (10,000 lb) manufactured on or after August 1, 2019, that are subject to FMVSS No. 136 to comply, as originally manufactured, with that standard in order to be eligible to import. Effective dates for the updated or newly enacted standards are outlined below.

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 motor vehicles to those manufactured before September 1, 2022. 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, 2022, 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, 2017, and before May 1, 2018, that as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, 214, 225, and insofar as it is applicable with FMVSS No. 226; and

(b) All passenger cars manufactured on or after May 1, 2018, and before September 1, 2022, that as originally manufactured, comply with FMVSS Nos. 111, 138, 201, 206, 208, 213, 214, 225, and insofar as it is applicable, with FMVSS No. 226; and

(c) 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, 2017, and before May 1, 2018, that as originally manufactured, comply with FMVSS Nos. 138, 201, 206, 208, 213, and 214, and insofar as they are applicable, with FMVSS Nos. 222, 225, and 226; and

(d) All multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less manufactured on or after May 1, 2018, and before September 1, 2022, that as originally manufactured, comply with FMVSS Nos. 111, 138, 201, 206, 208, 213, and 214, and insofar as they are applicable, with FMVSS Nos. 222, 225, and 226; and

(e) All multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb) manufactured on or after August 1, 2019, and before September 1, 2022, that as originally manufactured, comply with FMVSS No. 136 insofar as it is applicable; that are certified by their original manufacturer as complying with all applicable CMVSS, 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

In order to import a vehicle made admissible under any final decision, the importer must indicate to U.S. Customs and Border Protection that the vehicle has been determined eligible for importation. This is done by indicating the eligibility number, published under that final decision, on the U.S. Department of Transportation declaration form HS-7. Vehicle Eligibility Number VSA-80 is currently assigned to Canadian-certified passenger cars, 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, and Vehicle Eligibility Number VSA-82 is currently assigned to Canadian-certified multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb). If this tentative decision is made final, all passenger cars admissible under the final decision will be assigned vehicle eligibility number VSA-80, all multipurpose passenger vehicles, trucks, and buses with a GVWR of less than 4,536 kg (10,000 lb) admissible under the final decision will be assigned vehicle eligibility number VSA-81, and all multipurpose passenger vehicles, trucks, and buses with a GVWR greater than 4,536 kg (10,000 lb) admissible under the final decision will be assigned vehicle eligibility number VSA-82.

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.

Jack Danielson

Acting Deputy Administrator

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