

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). The Statement may also be found at <http://dms.dot.gov>.

Issued in Washington, DC on September 19, 2005.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

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DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Notice Publishing Substantive Criteria for Evaluation of Applications under the Railroad Rehabilitation and Improvement Financing Program (RRIF)

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of Evaluation Criteria for RRIF Program.

SUMMARY: FRA is publishing this notice in response to Congressional direction contained in section 9003(j) of the recently enacted Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) requesting the agency to identify the substantive criteria and standards used by the DOT/FRA to determine whether to approve or disapprove applications submitted under the RRIF Program. This information is being provided by publication in the **Federal Register** and posting on the DOT/FRA website, as required by the statute.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

Background

Congress recently amended sections 502 and 503 of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 821 *et seq.*), in SAFETEA-LU (Pub. L. 109-59). These amendments address DOT's RRIF program, which authorizes the Secretary of Transportation (Secretary) to disburse money through direct loans and loan guarantees to various entities. RRIF loans and loan guarantees are used to acquire, improve or rehabilitate intermodal or rail equipment and facilities, refinance debt that was undertaken for such purposes, or to develop or establish new rail or intermodal facilities. The SAFETEA-LU amendments expand the total available program obligations from \$3.5 billion to \$35 billion and make several other program changes. The Secretary's authority to administer this program has been delegated to the Administrator of FRA (49 CFR sections 1.49(t) and 260.1, Program Authority).

In addition to the RRIF program changes, SAFETEA-LU requires the Department, within thirty days after enactment of the statute, to publish in the **Federal Register** and post on the Department's Web site the substantive criteria and standards used by the Secretary to determine whether applications will be approved or disapproved for RRIF loans. The substantive criteria responsive to the request of Congress are the subject of this notice and are described below.

FRA's Substantive Criteria for Evaluation of RRIF Applications

FRA is providing the criteria and standards used to determine whether to approve or disapprove an application submitted under section 502 of the Railroad Revitalization and Regulatory Reform Act of 1976. These criteria are drawn from the legislation authorizing the RRIF program (45 U.S.C. 821 *et seq.*) and program implementing regulations (49 CFR part 260). The words used below to describe the criteria differ from the statute and the regulations only for purposes of brevity. This notice does not contain any new criteria or impose any new legal requirements or have any legal effect other than to satisfy the mandate from Congress to issue this notice. Determinations are made based on the following criteria and standards, as more fully set forth in the statute or the regulations, evaluated individually and considered collectively.

- The statutory eligibility of the applicant and the project (49 CFR 260.3, definition of applicant and 49 CFR 260.5, eligible purposes);

- The creditworthiness of the project, including the present and probable demand for rail services and a reasonable likelihood that the loan will be repaid on a timely basis. (49 CFR part 260, Subpart B-FRA policies and procedures for Evaluating Applications for Financial Assistance)

- The extent to which the project will enhance safety. (49 CFR 260.7(a))

- The significance of the project on a local, regional, or national level in terms of generating economic benefits and improving the railroad transportation system. (49 CFR 260.7(c))

- The improvement to the environment that is expected to result directly or indirectly by the implementation of the project. (49 CFR 260.7(b)) and

- The improvement in service or capacity in the railroad transportation system or the reduction in service-or capacity-related problems that is expected to result directly or indirectly from the implementation of the project (45 U.S.C. 822(c))

Issued in Washington, DC on September 19, 2005.

Joseph H. Boardman,

Federal Railroad Administrator.

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2005-21859; Notice 2]

Toyota Motor North America, Inc., Denial of Petition for Decision of Inconsequential Noncompliance

Toyota Motor North America (Toyota) has determined that certain model year 2003 through 2005 vehicles that it produced do not comply with S5(c)(2) of 49 CFR 571.225, Federal Motor Vehicle Safety Standard (FMVSS) No. 225, "Child restraint anchorage systems." Pursuant to 49 U.S.C. 30118(d) and 30120(h), Toyota has petitioned for a determination that this noncompliance is inconsequential to motor vehicle safety and has filed an appropriate report pursuant to 49 CFR Part 573, "Defect and Noncompliance Reports." Notice of receipt of the petition was published, with a 30 day comment period, on July 19, 2005 in the **Federal Register** (70 FR 41476). NHTSA received one comment, from Advocates for Highway and Auto Safety (Advocates).

Affected are a total of approximately 156,555 model year 2003 to 2005 Toyota