• *Mail:* Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.

• *Fax:* 1–202–493–2251.

• *Hand Delivery:* Room 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.

Privacy: We will post all comments we receive, without change, to *http://dms.dot.gov*, including any personal information you provide.

Docket: To read comments received, go to *http://dms.dot.gov* at any time or to Room 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.

FOR FURTHER INFORMATION CONTACT: Jeanne Giering, Manager, Flight Services Safety and Operations Support; Mail Drop: 1575 Eye Street, NW., Room 9405; 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 385–7627; Fax (202) 385–7617; e-mail *Jeanne.Giering@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

The FAA invites interested persons to submit written comments or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the Web address in the **ADDRESSES**.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment 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://dms.dot.gov.*

Issued in Washington, DC, on June 21, 2006.

John T. Staples,

Director, Flight Service Program Operations.

[FR Doc. 06–5734 Filed 6–27–06; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Opinion on the Transferability of Interim Operating Authority Under the National Parks Air Tour Management Act

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed opinion.

SUMMARY: This notice sets forth the FAA's proposed decision on the transferability of interim operating authority under the National Parks Air Tour Management Act.

DATES: Send your comments on or before July 28, 2006.

ADDRESSES: You may send comments [identified as ''Comments on the Transferability of IOA''] using any of the following methods:

• Sending your comments electronically to *james.whitlow@faa.gov.*

• Mail: Office of the Chief Counsel; FAA, 800 Independence Ave., SW., Washington, DC 20591.

• Fax: 1–202–267–3227.

FOR FURTHER INFORMATION CONTACT: James Whitlow, Deputy Chief Counsel, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3773.

SUPPLEMENTARY INFORMATION: This notice sets forth the FAA's proposed opinion on the transferability of interim operating authority.

On April 5, 2000, Congress passed the National Parks Air Tour Management Act (Act). The Act set up a process by which the FAA and the NPS would work together to establish air tour management plans for all units of the national park system and abutting tribal lands having commercial air tours. On October 25, 2002, the FAA published a final rule in 14 CFR part 136, National Parks Air Tour Management (67 FR 65662), pursuant to a mandate specified in the Act. This final rule completed the definition of ''commercial air tour operation'' by establishing the altitude (5,000 feet above ground level) below which an operator flying over a national park for the purpose of sightseeing is classified as a commercial air tour operator. The rule also codified provisions of the Act in the FAA's regulations at 14 CFR part 136,

Under the Act, the air tour management plan (ATMP) process is initiated when a commercial air tour operator files an application for operating authority with the FAA to conduct commercial air tours over a national park or abutting tribal land (49 U.S.C. 40128(a); 14 CFR 136.7). Once an application is filed, the FAA, in cooperation with Director of the National Park Service, must develop and implement an ATMP for the park or abutting tribal land. Operators conducting commercial air tours over a unit of the national park system or abutting tribal land during the 12 month period prior to adoption of the Act are classified under the Act as existing commercial air tour operators (49 U.S.C. 40128(f); 14 CFR 136.3). These existing operators are eligible to receive interim operating authority (IOA), under conditions set forth in the Act. IOA allows these operators to continue conducting commercial air tour over the parks or tribal lands pending completion of the ATMP. With a few limited exceptions, no other operators are permitted to operate pending completion of the ATMP.

The Act and 14 CFR part 136 limit commercial air tour operations conducted under IOA in several ways. First, IOA provides an operator with an annual authorization over a particular park or abutting tribal land for the greater of: (1) The number of flights used by the operator to provide the commercial air tour operations within the 12-month period prior to the date of the Act's enactment; or (2) the average number of flights per 12-month period used by the operator to provide such operations within the 36-month period prior to the Act's enactment. For seasonal operations, the Act calculates IOA based on the number of air tours over national parks or abutting tribal lands during the season or seasons covered by that 12-month period (49 U.S.C. 40128(c)(2)(A); 14 CFR 136.11(b)(1)).

Second, any increase in the authorized number of operations under IOA must be agreed to by the FAA and the NPS. (49 U.S.C. 40128(c)(2)(B); 14 CFR 136.11(b)(2)).

Third, the Act and part 136 also provide that IOA: (1) May be revoked by the Administrator of the FAA for cause; (2) shall terminate 180 days after the date on which an ATMP is established for the park or tribal lands; (3) shall promote protection of national park resources, visitor experiences, and tribal lands; (4) shall promote safe commercial air tour operations; (5) shall promote the

adoption of quiet technology, as appropriate; and (6) shall allow for modifications of the IOA based on experience if the modification improves protection of national park resources and values and of tribal lands (49 U.S.C. 40128(c)(2)(D)–(I); 14 CFR 136.11(b)(4)–(9)).

Since the Act does not directly address the issue of IOA transferability, the FAA must determine whether allowing transferability of IOA from one operator to another is consistent with the Act's provisions and overall goals. As discussed below, the FAA finds that permitting the transferability of IOA is neither consistent with provisions of the Act nor its overall goals.

Congress required ATMPs to be established over units of the national park system and abutting tribal lands to ensure that the agencies analyze the environmental impact of commercial air tours upon such land and ''develop acceptable and effective measures to mitigate or prevent the significant adverse impacts, if any, of commercial air tour operations upon the natural and cultural resources, visitor experiences and tribal lands'' (49 U.S.C. 40128(b)(1)(B); 14 CFR 136.9(a)). Under the Act, commercial air tours are not permitted until an ATMP is completed for the park, unless the operator is an existing air tour operator as defined in the Act and receives IOA, has received authority to operate under a part 91 letter of authority (49 U.S.C. 40128(a)(3); 14 CFR 136.7(g)), or has received authority to operate as a new entrant prior to the completion of the ATMP (49 U.S.C. 40128(c)(3)(C); 14 CFR 136.11(c)).

Congress set up the IOA process as a way of ensuring that those commercial air tour operators conducting commercial air tours over national parks at the time of Act's enactment would not be put out of business while the FAA, in cooperation with NPS, analyzed the environmental impact of the air tours on the national park unit and developed an ATMP. The IOA then ends 180 days after the ATMP is adopted.

IOA is granted to specific operators over specific parks. Those operators who conducted commercial air tour operations in the 12 months preceding enactment (April 5, 2000) over the particular units of the park system for which they are applying for authority qualify for IOA. Those operators receive an allocation equal to the number of operations they conducted in the 12-month period preceding enactment, or an average, based on the three years preceding enactment. Thus, under the terms of the Act, only existing operators initially quality for IOA.

Additionally, a particular operator's IOA may not exceed the number of allocations earned by that operator for a calendar year, unless it was increased pursuant to the Act's provisions, which require concurrence between the FAA and NPS. The FAA and NPS may grant such increases under limited circumstances, and the allocations involved in the increase are not subject to sale.

Given the specificity of the IOA authority and the limitations placed on that authority, FAA has concluded that Congress did not intend for the operators to possess it as a valuable right to be bought and sold. IOA was designed as a temporary solution to allow operators already conducting air tours at the time of the enactment of the Act to continue to operate pending completion of the ATMP. If we allow IOA to be transferred, however, then operators may grow an existing business by adding allocations to their current allotment without FAA and/or NPS approval.

Issued in Washington, DC, on June 22, 2006.

James W. Whitlow,

Deputy Chief Counsel.

[FR Doc. 06–5746 Filed 6–23–06; 3:24 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA–2005–21859; Notice 4]

Toyota Motor North America, Inc., Denial of Appeal of Decision on Inconsequential Noncompliance

Toyota Motor North America, Inc. (Toyota) has appealed a decision by the National Highway Traffic Safety Administration (NHTSA) that denied its petition for a determination that its noncompliance with Federal Motor Vehicle Safety Standard (FMVSS) No. 225, ''Child restraint anchorage systems,'' is inconsequential to motor vehicle safety. Toyota had applied to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301, ''Motor Vehicle Safety.'' This notice announces and explains our denial of Toyota's appeal.

Background

NHTSA's notice of receipt of Toyota's original petition was published on July 19, 2005 in the **Federal Register** (70 FR 41476). On September 26, 2005, NHTSA published a notice in the **Federal Register** denying Toyota's petition (70 FR 56207), stating that the petitioner had not met its burden of persuasion that the noncompliance is inconsequential to motor vehicle safety. Toyota appealed, and notice of the agency's receipt of the appeal was published in the **Federal Register** on November 1, 2005 (70 FR 65970). NHTSA received two public comments. One was from Advocates for Highway and Auto Safety and the second was from Toyota, the petitioner.

Affected are a total of approximately 156,555 model year (MY) 2003 to 2005 Toyota Tundra access cab vehicles produced between September 1, 2002 and April 22, 2005, referred to in this notice as ''the subject vehicles.''

A child restraint anchorage system consists of two lower anchorages and a tether anchorage that can be used to attach a child restraint system to a vehicle. These systems are sometimes referred to as LATCH (Lower Anchorages and Tethers for Children) systems and are intended to help ensure proper installation of child restraint systems.

NHTSA's regulations require the installation of a LATCH system in the front passenger seats of vehicles that have an optional on-off switch for the front passenger air bag and that satisfy certain other requirements. Specifically, S4.5.4 of FMVSS No. 208 allows installation of an air bag on-off switch under one of two conditions—the vehicle has no forward-facing rear seating positions or there is not enough room in the rear seat (less than 720 mm) to permit the proper installation of a rear-facing child seat.

Further, S5(c)(2) of FMVSS No. 225 requires that each vehicle that

> (i) Has a rear designated seating position and meets the conditions in S4.5.4.1(b) of Standard No. 208 * * * and, (ii) Has an air bag on-off switch meeting the requirements of S4.5.4 of Standard 208 * * * shall have a child restraint anchorage system for a designated passenger seating position in the front seat, instead of a child restraint anchorage system that is required for the rear seat* * *

The subject vehicles have an air bag on-off switch but do not have the child restraint lower anchorage in the front seat as required by S5(c)(2). As Toyota recognizes, the vehicles are noncompliant.

Toyota contends that this noncompliance is inconsequential to motor vehicle safety and that no corrective action is warranted. In its petition, Toyota stated that rear-facing child restraints could be used in the noncompliant vehicles, and ''is unaware of any rear-facing child restraints that require lower anchorages in the vehicle.'' Toyota further stated,