

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration****49 CFR Part 571**

[Docket No. 74-14; Notice 117]

RIN 2127-AG80

Federal Motor Vehicle Safety Standards; Occupant Crash Protection**AGENCY:** National Highway Traffic Safety Administration (NHTSA), DOT.**ACTION:** Interim final rule; request for comments.

SUMMARY: In March 1997, NHTSA temporarily amended the agency's occupant crash protection standard to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less aggressively. More specifically, the agency adopted an unbelted sled test protocol as a temporary alternative to the standard's full scale unbelted barrier crash test. NHTSA took this action to provide an immediate, but interim, solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants. This document makes a further amendment to the agency's occupant crash protection standard, so that certain exclusions from requirements in two other safety standards that are available for vehicles certified to the unbelted barrier test will also be available for vehicles certified to the alternative sled test. This action is necessary to prevent a delay in depowering. NHTSA also solicits comments on this amendment.

DATES: Effective date: The amendments made by this interim final rule are effective May 9, 1997.

Comments: Comments must be received on or before July 14, 1997.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. (Docket Room hours are 9:30 a.m.-4 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT:

For information about air bags and related rulemakings: Visit the NHTSA web site at <http://www.nhtsa.dot.gov> and select "AIR BAGS: Information about air bags."

For non-legal issues: Mr. Clarke Harper, Chief, Light Duty Vehicle Division, NPS-11, National Highway

Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2264. Fax: (202) 366-4329.

For legal issues: J. Edward Glancy, Office of Chief Counsel, NCC-20, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. Telephone: (202) 366-2992. Fax: (202) 366-3820.

SUPPLEMENTARY INFORMATION: On March 19, 1997, NHTSA published in the **Federal Register** (62 FR 12960) a final rule temporarily amending Standard No. 208, *Occupant Crash Protection*, to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less aggressively. More specifically, the agency adopted an unbelted sled test protocol, recommended by the American Automobile Manufacturers Association (AAMA), as a temporary alternative to Standard No. 208's full scale unbelted barrier crash test. The agency did not change the standard's full scale belted barrier crash test.

NHTSA took this action to provide an immediate, but interim, solution to the problem of the fatalities and injuries that current air bag designs are causing in relatively low speed crashes to small, but growing numbers of children, and occasionally to adult occupants. The sled test alternative will be available for vehicles manufactured before September 1, 2001, by which time the agency expects the vehicle manufacturers to be able to adopt more advanced air bags that will address these problems.

In early April 1997, AAMA advised the agency that its member companies had discovered that certain provisions in Standard No. 203, *Impact protection for the driver from the steering control system*, and Standard No. 209, *Seat belt assemblies*, could prevent or substantially delay depowering. In each case, the other standard specified an exclusion from certain requirements for vehicles certified to meet Standard No. 208's barrier crash test requirements. The exclusion would thus not be available for a vehicle which was certified to Standard No. 208's alternative sled test requirement.

NHTSA notes that neither it nor the commenters on the depowering proposal identified the issue of whether these exclusions in standards other than Standard No. 208 should be available for vehicles certified to the alternative sled test requirement. The agency did, however, make it clear that it believes it is critical to ensure that vehicle manufacturers can quickly depower all air bags so that they inflate less

aggressively. NHTSA therefore does not want the vehicle manufacturers to face any unnecessary impediments to depowering.

In that context, the agency has considered whether the exclusions in Standards No. 203 and 209 should be made available for vehicles certified to the alternative sled test requirement. The agency's analysis for each of the standards is set forth below.

Standard No. 203, Impact Protection for the Driver From the Steering Control System

Standard No. 203 specifies requirements for steering control systems to minimize chest, neck, and facial injuries to the driver as a result of impact. The standard does not apply to "vehicles that conform to the frontal barrier crash requirements (S5.1) of Standard No. 208 (49 CFR 571.208) by means of other than seat belt assemblies."

The agency adopted this exclusion in 1975, in response to a petition from General Motors (GM). GM had advised that in developing driver air bags, it found that the changes in the steering control system made conformity with Standard No. 203 difficult and in some cases impossible. GM petitioned the agency to exclude vehicles which meet the frontal barrier crash requirements of Standard No. 208 from Standard No. 203 on the grounds that compliance with the latter would be redundant and design restrictive in the development of air bags.

In deciding to provide the requested exclusion, NHTSA stated that it had determined that the redundant protection offered by Standard No. 203 is not justified where it directly interferes with the development of a more advanced, convenient and effective restraint system. 40 FR 17992, April 24, 1975. In the notice of proposed rulemaking, the agency explained that the level of protection offered by Standard No. 208's frontal barrier crash test is at least equivalent to that of the 15-mile-per-hour body impact of Standard No. 203. The agency also explained that Standard No. 208's barrier crash test requirements alone are designed to provide adequate protection to the driver from impact forces. NHTSA noted that in the case of an air bag, this protective level must be met by the uncushioned steering control system below the system's deployment level and by the air bag above the deployment level, at any speed up to 30 mph.

NHTSA believes that the rationale for Standard No. 203's exclusion for vehicles certified to Standard No. 208's barrier test is also applicable to vehicles

certified to the alternative sled test. The concern about the need to meet Standard No. 203 interfering with the design of air bags would not differ depending on whether an air bag is depowered or not. Moreover, the need to meet Standard No. 203 would particularly interfere with depowering.

It is NHTSA's understanding, based on its discussions with AAMA, that the vehicle manufacturers do not test their air-bag-equipped vehicles to Standard No. 203, based on the current exclusion. Thus, the manufacturers do not know whether their vehicles would pass Standard No. 203's requirements.

In the absence of an exclusion for vehicles certified to the alternative sled test, the vehicle manufacturers would need to conduct significant testing to determine whether a vehicle could comply with Standard No. 203. To the extent that a vehicle could not comply, the manufacturer would then need to determine whether it was possible to make design changes that would result in compliance. All of this would result in significant delays to depowering.

NHTSA also believes that the protection specified by Standard No. 203 is redundant to that offered by depowered air bags certified to the alternative sled test. The agency notes that the alternative sled test addresses the same safety problems as the full scale barrier test.

In the depowering rulemaking, the agency recognized that a full scale barrier test does offer a number of advantages over a sled test. However, the agency decided to allow the sled test as a temporary measure given the need to provide manufacturers with maximum flexibility to respond rapidly to the risk posed by air bag activation in low speed crashes. See 62 FR 12965-66, March 19, 1997.

The agency believes that this same consideration leads to applying the Standard No. 203 exclusion to vehicles certified to the alternative sled test, even if the degree of redundancy is somewhat less than that afforded by the barrier test requirement. NHTSA notes that the sled test requirement need only be met at a single change in velocity, rather than at all speeds up to 30 mph. However, the agency believes that a depowered air bag will provide protection at speeds above the deployment level, and does not believe manufacturers will reduce the protection currently being offered by steering control systems at speeds below the deployment level.

Standard No. 209, Seat Belt Assemblies

One of the performance requirements specified by Standard No. 209 limits the amount that the webbing of a belt

assembly is permitted to extend or elongate when subjected to certain forces. This requirement does not apply to seat belt assemblies that include a load limiter and that are installed at designated seating positions subject to the requirements of S5.1 of Standard No. 208.

This exclusion had its origin in a petition for rulemaking submitted by Mercedes-Benz (Mercedes). That company petitioned the agency to exclude from the elongation requirement seat belt assemblies installed in conjunction with air bags.

Mercedes was considering the use of a belt system that incorporates a load-limiting device. A load-limiter is a seat belt assembly component or feature that controls tension on the seat belt to modulate the forces that are imparted to occupants restrained by the belt assembly during a crash. These load-limiting systems are intended to reduce head and upper torso injuries through increased energy management.

Mercedes indicated that the webbing in its belt system would elongate beyond the limits that were specified in Standard No. 209. However, Mercedes argued that this type of belt system should be allowed in vehicles equipped with air bags since the two systems used in conjunction with one another can be designed to achieve the maximum reduction in head injuries and upper torso injuries.

NHTSA adopted the exclusion requested by Mercedes in 1981. The agency limited the exclusion to vehicles equipped with automatic restraints since there were then no dynamic performance requirements or injury criteria for manual belt systems used alone. See 46 FR 2618-19, January 12, 1981. Later, however, after it established dynamic testing requirements for manual safety belt systems in passenger cars and light trucks, the agency extended this exclusion to permit the use of load limiters on all safety belts installed at seating positions subject to dynamic testing. See 56 FR 15295, April 16, 1991.

With respect to whether this exclusion should apply to vehicles certified to the alternative sled test, the key point is that these vehicles will continue to have to be certified to Standard No. 208's full scale *belted* barrier crash test. Thus, safety belts will continue to be subject to the same dynamic performance requirements as before the depowering final rule was issued. The agency therefore believes there is no reason why this exclusion should not be available for vehicles certified to the alternative sled test,

which addresses unbelted, rather than belted, performance.

NHTSA finds that the issuance of this interim final rule without prior opportunity for comment is necessary in view of the fact that depowering would be significantly delayed if the standard were not amended. For the same reason, the agency finds for good cause that it is in the public interest to establish an immediate effective date for this amendment. The amendment imposes no new requirements but instead provides additional flexibility to manufacturers by removing a design restriction.

NHTSA is requesting comments on this amendment. Because there has not been a prior opportunity for comment, the agency is limiting application of this interim final rule to vehicles manufactured before September 1, 1998. However, NHTSA contemplates making the amendment apply for the same duration as the depowering amendment, i.e., for vehicles manufactured before September 1, 2001. The agency will announce a final decision as soon as possible after the comment closing date.

Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under E.O. 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking document was not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be "nonsignificant" under the Department of Transportation's regulatory policies and procedures. The amendment does not impose any new requirements but simply ensures that the vehicle manufacturers do not face previously unidentified impediments in depowering air bags. The agency concludes that the impacts of the amendment are so minimal that a full regulatory evaluation is not required. Readers who are interested in the costs and benefits of depowering are referred to the agency's regulatory evaluation for that rulemaking action, which remains valid.

B. Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule does not have a significant economic impact on a substantial number of small entities. The amendment does not impose any new requirements but simply ensures that the vehicle manufacturers do not

face previously unidentified impediments in depowering air bags. Further, since no price increases are associated with the rule, small organizations and small governmental units are not to be affected in their capacity as purchasers of vehicles.

C. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (P.L. 96-511), there are no requirements for information collection associated with this rule.

D. National Environmental Policy Act

NHTSA has also analyzed this rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

E. Executive Order 12612 (Federalism)

NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have significant federalism implications to warrant the preparation of a Federalism Assessment.

F. Civil Justice Reform

This rule does not have any retroactive effect. Under 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a State may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

Comments

Interested persons are invited to submit comments on this document. It is requested but not required that 10 copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the

complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the NHTSA Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received by NHTSA before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to this rulemaking action will be considered as suggestions for further rulemaking action. Comments on the document will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, 49 CFR part 571 is amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 of title 49 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50.

2. Section 571.208 is amended by revising S3 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S3. *Application.* This standard applies to passenger cars, multipurpose passenger vehicles, trucks, and buses. In addition, S9, *Pressure vessels and explosive devices*, applies to vessels designed to contain a pressurized fluid

or gas, and to explosive devices, for use in the above types of motor vehicles as part of a system designed to provide protection to occupants in the event of a crash. Notwithstanding any language to the contrary, any vehicle manufactured after March 19, 1997 and before September 1, 2001 that is subject to a dynamic crash test requirement conducted with unbelted dummies may meet the requirements specified in S13 instead of the applicable unbelted requirement. For vehicles manufactured before September 1, 1998, compliance with S13 shall, for purposes of Standards No. 203 and 209, be deemed as compliance with the unbelted frontal barrier requirements of S5.1 of this section.

* * * * *

Issued on: May 8, 1997.

Ricardo Martinez,
Administrator.

[FR Doc. 97-12640 Filed 5-9-97; 2:01 pm]

BILLING CODE 4910-59-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[I.D. 112696C]

RIN 0648-AI23

Atlantic Swordfish Fishery; Request for Comments on Drift Gillnet Emergency Closure

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency closure; request for comments.

SUMMARY: On December 5, 1996, NMFS published an emergency closure for the drift gillnet fishery for swordfish in the Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, from December 1, 1996, through May 29, 1997. NMFS is requesting comments from the public on this emergency closure.

DATES: Comments must be submitted on or before May 29, 1997.

ADDRESSES: Comments on the emergency rule should be sent to Rebecca Lent, Chief, Highly Migratory Species Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910-3282.

FOR FURTHER INFORMATION CONTACT: John Kelly, 301-713-2347 or Mark Murray-Brown, 508-281-9260.