in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC, 20590.

You may call the Docket at 202–366–9324. You may visit the Docket from 10 a.m. to 5 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may call Mr. Michael Pyne, Office of Crash Avoidance Standards at (202) 366–4171. His FAX number is (202) 493–2739.

For legal issues, you may call Ms. Dorothy Nakama, Office of the Chief Counsel at (202) 366–2992. Her FAX number is (202) 366–3820.

You may send mail to both of these officials at National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

Correction

In the proposed rule document 02–18477, beginning on page 48129 in the issue of Tuesday, July 23, 2002, make the following corrections:

§ 571.124 [Corrected]

1. On page 48129, in the second column, in § 571.124, in paragraph S6.4.4, in the seventh line, correct ''S6.4.8'' to read ''S6.4.6''.

2. On the same page, in the second column, in § 571.124, in paragraph S6.4.7, in the fourth line, correct ''S6.4.6'' to read ''S6.4.5.1''.

3. On the same page, in the second column, in § 571.124, in paragraph S6.4.8, in the first line, correct ''S6.4.9'' to read ''S6.4.7''.

4. On the same page, in the second column, in § 571.124, in paragraph S6.4.8, in the sixth line, correct ''S6.4.7'' to read ''S6.4.5.2''.

Issued on: September 18, 2002.

Noble N. Bowie,

Acting Associate Administrator for Rulemaking.

[FR Doc. 02–24123 Filed 9–23–02; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 02–13393; Notice 1]

RIN 2127–AI71

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking; response to petitions for rulemaking.

SUMMARY: This document responds to petitions for rulemaking from the Alliance of Automobile Manufacturers, Toyota, and DaimlerChrysler requesting changes in the advanced air bag final rule that we published in May 2000. The requirements of that rule are being phased in during two stages, the first of which takes place from September 1, 2003 to August 31, 2006.

In response to the petitions, we are proposing in this document to reduce the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the phase-in, *i.e.*, from September 1, 2003 through August 31, 2004, from 35 percent to 20 percent. This proposed change reflects the technical challenges being faced by the vehicle manufacturers in meeting the new requirements and the fact that two of the automotive suppliers have dropped plans to offer devices that suppress the passenger air bag when a child is present. We are otherwise either denying the petitions or, as to certain requests, dismissing them because the agency has subsequently considered or is considering the same requests in the context of another rulemaking proceeding.

In addition, in response to a petition for rulemaking from Porsche, we are considering possible adjustments in the alternative phase-in requirements available to limited line manufacturers.

DATES: You should submit your comments early enough to ensure that Docket Management receives them not later than October 24, 2002.

ADDRESSES: You may submit your comments in writing to: Docket Management, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590. Alternatively, you may submit your comments electronically by logging onto the Docket Management System (DMS) Web site at *http://dms.dot.gov.* Click on ''Help & Information'' or ''Help/Info'' to view instructions for filing your comments electronically. Regardless of how you submit your comments, you should mention the docket number of this document.

FOR FURTHER INFORMATION CONTACT: The following persons at the National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590:

For technical issues:

Mr. Louis Molino, Office of Crashworthiness Standards, NPS–11, telephone (202) 366–2264, facsimile (202) 493–2739.

For legal issues:

Mr. Edward Glancy, Office of the Chief Counsel, NCC–20, telephone (202) 366–2992, facsimile (202) 366–3820.

SUPPLEMENTARY INFORMATION:

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I. Background: The Advanced Air Bag Final Rule

On May 12, 2000, we published in the **Federal Register** (65 FR 30680) a rule to require advanced air bags. (Docket No. NHTSA 00–7013; Notice 1.) The rule amended Standard No. 208, *Occupant Crash Protection,* to require that future air bags be designed so that, compared to current air bags, they create less risk of serious air bag-induced injuries, particularly for small women and young children, and provide improved frontal crash protection for all occupants, by means that include advanced air bag technology.

To achieve these goals, the rule added a wide variety of new requirements, test procedures, and injury criteria, based on the use of an assortment of new dummies. Among other things, it replaced the current optional sled test with a rigid barrier crash test for assessing the protection of unbelted occupants.

The issuance of the rule completed the implementation of our 1996 comprehensive plan for reducing air bag risks. It was also required by the Transportation Equity Act for the 21st Century (TEA 21), which was enacted in 1998. That Act required us to issue a rule amending Standard No. 208:

> to *improve occupant protection* for occupants of different sizes, belted and unbelted, under Federal Motor Vehicle Safety Standard No. 208, *while minimizing the risk* to infants, children, and other occupants

from injuries and deaths caused by air bags, *by means that include advanced air bags.* (Emphasis added.)

The rule will improve protection and minimize risk by requiring new tests and injury criteria and specifying the use of an entire family of test dummies: the existing dummy representing 50th percentile adult males, and new dummies representing 5th percentile adult females, 6-year-old children, 3-year-old children, and 1-year-old infants. With the addition of those dummies, Standard No. 208 will more fully reflect the range in sizes of vehicle occupants.

The rule will be phased in during two stages. The first stage phase-in will improve protection by requiring vehicles to be certified as passing the unbelted test requirements [1] for both the 5th percentile adult female and 50th percentile adult male dummies in a 32–40 km/h (20–25 mph) rigid barrier crash, and belted test requirements [2] for the same two dummies in a rigid barrier crash with a maximum test speed of 48 km/h (30 mph). In addition, the first stage will minimize the risk of injury from air bags by requiring vehicles to include technologies that will minimize the risk of air bag-induced injuries for young children and small adults.

During the first stage phase-in, from September 1, 2003 to August 31, 2006, increasing percentages of motor vehicles will be required to meet requirements for minimizing air bag risks, primarily by either automatically turning off the air bag when young children are present or deploying the air bag more benignly so that it is much less likely to cause serious or fatal injury to out-of-position occupants.[3] If they so wish, manufacturers may choose to use a combination of those approaches. All of the petitions addressed in this notice asked for modifications to the risk minimization requirements.

Manufacturers that decide to turn off the passenger air bag will use weight sensors and/or other means of detecting the presence of young children. To test the ability of those means to detect the presence of children, the rule specifies that child dummies be placed in child seats that are, in turn, placed on the passenger seat in both proper and (to simulate misuse) improper ways. It also specifies tests that are conducted with unrestrained child dummies sitting, kneeling, standing, or lying on the passenger seat.

The ability of air bags to deploy in a low-risk manner will be tested using child dummies on the passenger side and the small adult female dummy on the driver side. For manufacturers that decide to design their passenger air bags to deploy in a low risk manner, the rule specifies that unbelted child dummies be placed against the instrument panel in two different positions. The air bag is then deployed with the dummies in each position. This placement was specified because pre-crash braking can cause unrestrained children to move forward into or near the instrument panel before the air bag deploys. The ability of driver air bags to deploy in a low risk manner will be tested by placing the 5th percentile adult female dummy against the steering wheel in two different positions and then deploying the air bag with the dummy in each position.

The second stage phase-in will require vehicles to be certified as passing the belted test requirements for the 50th percentile adult male dummy at a test speed up to 56 km/h (35 mph). This requirement will provide improved protection for belted occupants.

On December 18, 2001, we published in the **Federal Register** (66 FR 65376) a final rule that responded to petitions for reconsideration of the advanced air bag final rule. We granted portions of the petitions and denied other portions of the petitions. We made several changes to the advanced air bag final rule in response to the petitions. These changes included a number of refinements to the positioning procedures for the low risk deployment tests and, to a lesser degree, for the automatic suppression tests. We also changed the test duration for the low risk deployment tests. In addition, the test used for determining the stage(s) of the air bag to be used for the passenger side low risk tests was modified. Other changes included modifying the definition of ''small volume manufacturer'' for the purpose of the rule's phase-in schedule and adding an option to use human children instead of the newborn or 12-month-old dummies to test a vehicle's occupant recognition system.

II. Petitions for Rulemaking

In October 2001, NHTSA received three petitions for rulemaking requesting changes in the advanced air bag final rule that we published in May 2000. The Alliance of Automobile Manufacturers (Alliance), Toyota, and DaimlerChrysler submitted these petitions.[4]

A. Alliance Petition

The Alliance made four requests in its petition for rulemaking.

First, that organization requested that implementation of the static out-of-position requirements using dummies representing 6-year-old children be temporarily deferred for three years. The Alliance argued that the development of occupant classification technologies has not advanced as rapidly as expected, and that prototype occupant classification systems currently available for installation in September 2003 are not able to consistently and reliably distinguish between the Hybrid III 6-year-old child dummy and the Hybrid III 5th percentile adult female dummy. That organization argued that manufacturers choosing suppression as the means to reduce the risk to children are faced with the probability that, in the real world, the air bag will not deploy in some instances when it is potentially beneficial for a small adult, or will deploy in some instances when it is not wanted because a child is present. The Alliance argued that a delay in the requirements using dummies representing 6-year-old children would permit optimization of the advanced air bag system to make it more likely that the air bag will deploy when it is needed for small adults in the real world.

Second, the Alliance asked that the specified 300 millisecond time period for measuring injury criteria in the low risk deployment tests be adjusted to 10 milliseconds after dummy interaction with the air bag ceases, to facilitate the adoption of low risk deployment air bags as either a compliance option or as a redundant protection system for vehicles certified under the suppression option.

Third, the Alliance requested that manufacturers be permitted to provide a manual three-way override switch (on-off-automatic) for passenger-side air bags in vehicles with three-position front seating systems. That petitioner argued that currently available prototype occupant classification systems cannot detect and classify right front occupants consistently and properly when a center occupant is present on a three-position front bench seat. According to the Alliance, the most serious risk is that the sensor will misunderstand the weight distribution of the two passengers and erroneously conclude that one adult is present

[1] ''Unbelted test requirements'' are requirements that specify the use of unbelted dummies in testing vehicles.

[2] ''Belted test requirements'' are requirements that specify the use of belted dummies in testing vehicles.

[3] The rule also establishes very general performance requirements for dynamic automatic suppression systems (DASS) and a special expedited petitioning and rulemaking process for considering procedures for testing advanced air bag systems incorporating a DASS.

[4] DaimlerChrysler's petition was submitted on behalf of DaimlerChrysler and Mercedes-Benz USA.

instead of two children. Under these circumstances, the sensor will direct the air bag system to deploy when it should have been suppressed. A manual three-way override switch would enable the driver to override the occupancy classification decision by manually setting the switch to ''on'' or ''off.''

Fourth, the Alliance petitioned that we revise the first year's phase-in requirement from 35 percent to 10 percent of a manufacturer's production. The petitioner stated that this change is necessitated by the unanticipated technical challenges of making occupant sensing technology work properly in reasonable foreseeable real world conditions, and by the departure from the market of some major suppliers.

B. Toyota Petition

Toyota requested that manufacturers be permitted to provide a manual three-way override switch (on-off-automatic) for passenger-side air bags in all vehicles with advanced air bags. It stated that while occupant classification systems exist which comply with the technical requirements of Standard No. 208, manufacturers have serious concerns with the ability of these systems to adequately characterize all real-world situations. Toyota stated that air bag systems which are designed to assure suppression for six-year-old child dummies while providing deployment for 5th percentile adult female dummies will sometimes suppress the air bag for small statured adults in the real world. That company stated that if manufacturers choose to drop the sensor output to ensure deployment for all adults, the air bag will no longer reliably suppress the air bag for six-year-old children and will in many cases deploy for larger and older children. Toyota argued that, given these limitations, customers should have the ability to override the ''decision'' made by the suppression system by means of a manual three-way override switch.

C. DaimlerChrysler Petition

DaimlerChrysler requested the following five changes to the advanced air bag requirements:

(1) Allow passenger air bag ''on/off/auto'' switches for vehicles with three-across front seating;

(2) Allow transponder technology for reliable child restraint system detection;

(3) Provide at least a 9 mph speed separation between the low risk deployment threshold and lowest speed unbelted rigid barrier test *and* for the 16 mph threshold test, specify the 5th percentile adult female dummy or allow, at the manufacturer's option, the same dummy as the one used in the static low risk deployment test;

(4) Revise the ''low risk'' deployment out-of-position test duration to less than 100 milliseconds; and

(5) Revise the percentage phase-in requirements from 35–65–100 percent to 10–40–100 percent for Phase I of the new requirements.

III. Response to Petitions and Proposal To Revise Percentage Phase-In Requirement for First Year of Phase-In

A. Requests That Have Been Overtaken by Events

In responding to the petitions for rulemaking, we begin by noting that several of the requests have been overtaken by events. When the three petitions for rulemaking were submitted, *i.e.*, in October of 2001, the agency was still in the process of considering a number of petitions for reconsideration of the May 2000 final rule on advanced air bags. As indicated above, in December of 2001, we published a final rule responding to those petitions for reconsideration. Moreover, we have now received, and are in the process of considering, several petitions for reconsideration of the December 2001 final rule.

One of the issues that we addressed in the December 2001 final rule was the appropriateness of the 300 millisecond time period for measuring injury criteria in the low risk deployment tests. In response to the petitions, we changed that time period. We note, however, that petitions for reconsideration of our December 2001 final rule have requested further changes. Given that we addressed this issue in the December 2001 final rule, subsequent to the filing of the petitions for rulemaking addressed in this document, and are also considering the issue in the context of the petitions for reconsideration of the December 2001 final rule, we are dismissing the Alliance's petition with respect to its second request identified above, and DaimlerChrysler's petition with respect to its fourth request identified above.

We are similarly dismissing DaimlerChrysler's petition with respect to its third request identified above, *i.e.*, its request that we provide at least a 9 mph speed separation between the low risk deployment threshold and lowest speed unbelted rigid barrier test *and* for the 16 mph threshold test, specify the 5th percentile adult female dummy or allow, at the manufacturer's option, the same dummy as the one used in the static low risk deployment test. We addressed these issues in the December 2001 final rule and decided to specify use of the 5th percentile adult female dummy on the passenger side for the 16 mph threshold test. We are also considering the speed separation issue further in the context of a petition for reconsideration of the December 2001 final rule submitted by DaimlerChrysler.

B. Request for Deferral of Requirements Using 6-year-old Child Dummies

As noted earlier, the Alliance requested that implementation of the static out-of-position requirements using dummies representing 6-year-old children be temporarily deferred for three years. That organization argued that the development of occupant classification technologies has not advanced as rapidly as expected, and that prototype occupant classification systems currently available for installation in September 2003 are not able to consistently and reliably distinguish between the Hybrid III 6-year-old child dummy and the Hybrid III 5th percentile adult female dummy. The Alliance cited a June 2001 report of the United States General Accounting Office, titled ''Vehicle Safety: Technologies, Challenges, and Research and Development Expenditures for Advanced Air Bags,'' in support of this position.

The Alliance argued that manufacturers choosing suppression as the means to reduce the risk to children are faced with the probability that, in the real world, the air bag will not deploy in some instances when it is potentially beneficial for a small adult, or will deploy in some instances when it is not wanted because a child is present. The Alliance argued that a delay in the requirements using dummies representing 6-year-old children would permit optimization of the advanced air bag system to make it more likely that the air bag will deploy when it is needed for small adults in the real world.

According to the Alliance, it is at least 15 times more likely that an adult or teenager will be sitting in front of a passenger-side air bag, when those seating positions are occupied during a frontal crash, than a sub teen (children between 5 and 12 years old). The Alliance stated that this fact, in combination with the current development status of prototype occupant classification technology, leads it to believe that the prudent public policy choice is to suspend temporarily the test requirements applicable to the Hybrid III 6-year-old child dummy, because of the compromise in safety to small adults in the real world under those requirements. The Alliance stated that it

anticipates that improvements in occupant classification sensor technology are likely to permit the test requirements to be met by MY 2007.

In responding to the Alliance, it is helpful to distinguish between compliance issues and real world safety issues. Our concern about compliance issues arises in part from our statutory mandate to ensure that our safety standards are ''objective'' and ''practicable.'' To the extent that vehicles can't be built to achieve the specified performance requirement or there is uncertainty about what performance is required, the American public does not realize the expected benefit of the performance requirement.

It is our understanding that there are not currently any compliance issues with respect to occupant classification sensors. This understanding is based in part on meetings we have had with vehicle manufacturers to discuss the status of their plans for meeting the advanced air bag requirements, which have included the discussion of confidential information. The Alliance petition notes these meetings. Toyota's petition acknowledged in its discussion of suppression systems that ''systems exist which have demonstrated an ability to 'comply' with the technical requirements of FMVSS 208 in a laboratory test environment under tightly controlled test conditions.'' Thus, we do not understand that there are compliance issues related to the ability of occupant classification sensor technology to distinguish between 6-year-old child dummies and small adult dummies.

However, being able to demonstrate compliance in a laboratory is important primarily because it is expected to translate into effective safety protection to real people in real traffic situations. To the extent that the vehicle manufacturers are suggesting in their petitions that the real world effectiveness of occupant classification sensor technology is inadequately assessed by the current compliance test procedures, we are very concerned.

First, the real world data make it clear that a technology to distinguish between 6-year-old children and small adults is needed, so long as suppression is the selected means for minimizing risks to children. As we discussed in the preamble to the May 2000 final rule on advanced air bags, while air bags have been highly effective in reducing fatalities from frontal crashes, they have sometimes caused fatalities, especially to children, in relatively low speed crashes. As of April 1, 2002, NHTSA's Special Crash Investigation (SCI) program had confirmed a total of 208 fatalities induced by the deployment of an air bag. Of that total, 129 were children, 69 were drivers, and 10 were adult passengers.

Deferring the requirements using the 6-year-old child dummy could eliminate, for the duration of the deferral, nearly two-thirds of the benefits for children age 1 to 12 that we expect from advanced air bags.

In the agency's Final Economic Assessment (FEA), we estimated that, assuming all vehicles in the on-road fleet had pre-MY 1998 air bags, a total of 105 children aged 1 to 12 years old would be projected to be killed by air bags annually. This figure provided a baseline for estimating potential benefits from the various advanced air bag requirements.

The static suppression tests would not address all of the 105 children. First, the tests would only address children who weighed 54 pounds or less, as the 6-year-old child dummy weighs 54 pounds. Since suppression devices classify occupants based on weight or similar factors, they are assumed to be effective for occupants up to the weight of the specified dummy, but not for occupants above that weight. About 83 of the 105 children were estimated to weigh 54 pounds or less. Moreover, eight of these children were estimated to be sitting on the lap of an adult passenger and would thus not likely be identified as a child. Therefore, in the FEA, the agency estimated that the static suppression tests would save 75 children (the 83 children minus the eight on adult laps).

If we deferred the tests using the 6-year-old child dummy, however, the remaining tests would only directly address children who weighed 36 pounds or less, as the 3-year-old child dummy weighs 36 pounds. Of the 75 children aged 1 to 12 who were estimated to be saved by suppression, about 49 weighed between 36 and 54 pounds. If the tests using the 6-year-old child dummy were eliminated, we could no longer assume that these 49 children (nearly two-thirds of the total of 75) would be saved.

We note that, due to a combination of air bag design changes and behavioral changes, the number of children who are being killed by air bags has significantly declined since the pre-MY 1998 period which the FEA used as the baseline for estimating benefits. However, the fact that children weighing between 36 and 54 pounds (children represented by the six-year-old child dummy and not the three-year-old child dummy) represent a high-risk group has not changed. Given that the tests using 6-year-old child dummies account for nearly two thirds of the benefits for children aged 1 to 12 that we expect from advanced air bags, we are obviously reluctant to defer it. We have, nonetheless, carefully considered the petitioners' arguments that a delay in the requirements using dummies representing 6-year-old children would permit optimization of the advanced air bag system to make it more likely that the air bag will deploy when it is needed for small adults in the real world. After considering these arguments, however, we have concluded that the petitioners have not presented information that would justify a deferral of these requirements.

NHTSA notes that if a manufacturer selects the suppression option for one or more of the child dummies, the vehicle must also meet requirements to help ensure that the air bag is not inappropriately suppressed for small-statured adults. The air bag must be activated during several static tests using a 5th percentile adult female dummy (or a human being of a weight and size similar to that dummy) in the right front passenger seat. Moreover, Standard No. 208 includes high-speed tests using both 5th percentile adult female dummies and 50th percentile adult male dummies.

Given these tests, we believe the current requirements will ensure appropriate air bag protection for those occupants for whom air bags have proven to be a valuable safety measure. We recognize that, assuming a manufacturer selects the suppression option for the six-year-old child dummy, Standard No. 208 does not specify whether the air bag should deploy for occupants between the weight of the six-year-old dummy and the 5th percentile adult female dummy, *i.e.*, between 54 pounds and 108 pounds. The deploy/non-deploy decision for occupants within this weight range is left to the vehicle manufacturer's design choices, including the nominal weight threshold it selects and the technologies it uses, and presumably will also reflect technological limitations. In addition, for whatever occupant weight a manufacturer selects as the nominal threshold for deployment, there will be some gray zone. However, the gray zone issue is not a new one and is comparable to the gray zone issue that exists for deployment/non-deployment based on crash severity.

Similarly, the petitioners have not demonstrated that possible non-deployment of the air bag for adults in non-normal seating positions will create any significant safety problem. We note that DaimlerChrysler submitted a chart,

on a page titled ''Known Challenges for Interim Technology,'' showing four seating positions in which an adult might be classified as a child. These positions can generally be described as the occupant leaning back with his/her feet on top of the dashboard, leaning back with his/her legs braced against the dashboard, leaning back with the seatback in a reclined position, and in a forward position with his/her knees against the dashboard and hands on top of the dashboard. DaimlerChrysler expressed concern that variation in sitting posture may create consumer dissatisfaction and loss of confidence in the system, citing the telltale that illuminates when the passenger air bag is off.

We agree that an air bag should not become deactivated as a result of normally seated adults making minor adjustments in their posture. However, the petitioners are not discussing that situation. The issue is instead one of possible non-deployment of the passenger air bag for adults in non-normal seating positions.

We believe this concern is appropriately addressed by the requirement for a telltale that illuminates when the passenger air bag is off. If a non-normal seating position results in the passenger air bag being deactivated, illumination of the telltale will warn the passenger and encourage him/her to adopt a normal seating position. We also observe that the benefits of air bags to occupants in non-normal seating positions are uncertain. Moreover, with reference to some of the positions cited by DaimlerChrysler, in which the occupant is extremely close to the air bag and even in contact with the air bag cover, suppression of the air bag might be preferable to activation, even for adults.[5]

We note that a supplier and a large-volume vehicle manufacturer have developed an algorithm that minimizes deactivation of the air bag in these types of circumstances. That algorithm is available to petitioners.

We recognize that owners of vehicles equipped with weight-based suppression systems need to be informed about how the systems work, the telltale, and the appropriate action to take when the telltale is illuminated. This type of information should be provided in the owner's manual.

[5] We note that our DASS requirements contemplate the possibility of air bags being suppressed for adults who are extremely close to the air bag.

C. Requests for Expanded Availability of On-Off Switches

Three of the petitioners requested expanded availability of on-off switches. The Alliance and Daimler Chrysler requested that manufacturers be permitted to provide a manual three-way override switch (on-off-automatic) for passenger-side air bags in vehicles with three-position front seating systems, while Toyota requested that manufacturers be permitted to provide these switches on all vehicles with advanced air bags.

The Alliance argued that currently available prototype occupant classification systems cannot detect and classify right front occupants consistently and properly when a center occupant is present on a three-position front bench seat. According to the petitioner, the most serious risk is that the sensor will misunderstand the weight distribution of the two passengers and erroneously conclude that one adult is present instead of two children. Under these circumstances, the sensor will direct the air bag system to deploy when it should have been suppressed. A manual three-way override switch would enable the driver to override the occupancy classification decision by manually setting the switch to ''on'' or ''off.''

Toyota stated that while occupant classification systems exist which comply with the technical requirements of Standard No. 208, manufacturers have serious concerns with the ability of these systems to adequately characterize all real-world situations. Toyota stated that air bag systems which are designed to assure suppression for six-year-old child dummies while providing deployment for 5th percentile adult female dummies will sometimes suppress the air bag for small statured adults in the real world. That company stated that if manufacturers choose to drop the sensor output to ensure deployment for all adults, the air bag will no longer reliably suppress the air bag for six-year-old children and will in many cases deploy for larger and older children. Toyota argued that, given these limitations, customers should have the ability to override the ''decision'' made by the suppression system by means of a manual three-way override switch.

In addressing the subject of on-off switches, we begin by noting that, as part of our May 2000 decision on advanced air bags, we decided to allow both original equipment and retrofit air bag on-off switches until September 1, 2012, under the same circumstances under which they have been permitted for the past several years. Thus, during this time period, vehicle manufacturers are permitted to provide as original equipment manual on-off switches for passenger air bags in vehicles without rear seats or with rear seats too small to accommodate a rear facing child safety seat. Similarly, 49 CFR part 595, *Retrofit On-Off Switches for Air Bags,* covers vehicles manufactured during this time period. This regulation exempts, under certain conditions, motor vehicle dealers and repair businesses from the ''make inoperative'' prohibition in 49 U.S.C. 30122 by allowing them to install retrofit manual on-off switches for passenger and driver air bags in vehicles owned by people whose request for a switch is authorized by NHTSA.

In our May 2000 decision on advanced air bags, we explained that we believe that by the end of the initial phase-in, *i.e.*, August 31, 2006, manufacturers will have developed advanced air bag systems for most vehicles that are sufficiently reliable to obviate the need for manual air bag on-off switches. However, public acceptance of those advanced air bag systems may not be assured. Allowing on-off switches for some period after all vehicles are equipped with advanced air bag systems will provide parents with additional confidence until the reliability of all such systems has been verified based on real-world experience.

We also explained that we continue to believe that allowing manufacturers to install switches indefinitely would be counter-productive. The switches provide an opportunity for misuse. Adults could turn off their passenger air bag systems even though those systems pose virtually no risk to an adult occupant, particularly one who is belted. In such circumstances, the occupant would not receive the benefit of the air bag in a high-speed crash. The same possibility for misuse would exist for children in vehicles certified to the low risk deployment option.

We accordingly decided to allow both original equipment and retrofit air bag on-off switches until September 1, 2012, two years after the end of the second phase-in. This additional time was intended to allow manufacturers to perfect the suppression and low risk deployment systems in all their vehicles. Additionally, it will provide parents with additional time to satisfy themselves that the advanced systems work.

We also noted that there will be some need for deactivation of some sort (via on-off switch or permanently) for at-risk individuals who cannot be accommodated through sensors or other suppression technology (such as

handicapped individuals or individuals with certain medical conditions). We stated that, at this time, we believe such needs can be best accommodated through the permanent deactivation authorization system currently used by NHTSA.

The Alliance, DaimlerChrysler and Toyota petitions all requested expanded availability of on-off switches for advanced air bags, beyond the circumstances that we have previously determined to be appropriate for non-advanced air bags. For reasons discussed below, we believe such expanded availability would adversely affect safety.

We have conducted an analysis of FARS data and the available data concerning the use of existing on-off switches to calculate the potential safety consequences of expanding the availability of on-off switches to permit a manual three-way override switch (on-off-automatic) for passenger-side air bags in vehicles with three-position front seating systems. The misuse rate of existing passenger air bag on-off switches for occupants over 12 years old was 18 percent in a recent NHTSA survey, *i.e.*, the air bag was turned off when it should have been turned on. (Evaluation Note, Preliminary Results of the Survey on the Use of Passenger Air Bag On-Off Switches, Christina Morgan, July 2001, DOT HS 809 306) Our analysis shows that, given this misuse rate, expanding the availability of on-off switches in the manner requested by the Alliance and DaimlerChrysler could result in nearly 100 additional fatalities to teenage and adult passengers each year. This disbenefit would overwhelm any possible benefit that might result from the on-off switch. The potential disbenefits, and net disbenefits, would be even greater for the expanded availability of on-off switches requested by Toyota. A copy of our analysis has been placed in the docket.[6] (Analysis of Allowing a 3-Way On/Off Override Switch for 3-Position Front Seating Positions)

As to the concerns that Toyota raised about the limitations of occupant classification systems, much of our discussion in the preceding section concerning the request of other petitioners to defer requirements using 6-year-old child dummies is relevant to this topic.

First, the deploy/non-deploy decision for occupants between the weight of the six-year-old dummy and the 5th percentile adult female dummy is left to the vehicle manufacturer's design choices, including the nominal weight threshold it selects and the technologies it uses, and will include some gray zone. However, the gray zone issue is not a new one and is comparable to the gray zone issue that exists for deployment/non-deployment based on crash severity.

Second, the petitioners have not provided data to demonstrate that possible non-deployment of the air bag for adults in non-normal seating positions will create any significant safety problem. Moreover, this concern is appropriately addressed by the requirement for a telltale that illuminates when the passenger air bag is off.

Third, to the extent vehicle manufacturers using suppression systems wish to reduce the nominal weight threshold for deployment/non-deployment to a level where an air bag might deploy for occupants who are the weight of the six-year-old child dummy, they are free to do so if they certify compliance with the low risk deployment option for the six-year-old child dummy. This option has always been available under the advanced air bag rule.

To the extent Toyota or other vehicle manufacturers wish to ensure provision of air bag deployment for occupants smaller than 5th percentile adult females, whether very small statured adults or children, but find that reducing the nominal weight threshold for deployment/non-deployment might result in deployment for six-year-old children, the appropriate solution is to comply with the low risk deployment option for the six-year-old child dummy. We specifically provided the low risk deployment option for six-year-old (and three-year-old) child dummies in light of possible air bag benefits to small occupants.

Expanded availability of on-off switches that provide the ability to override the suppression system is not an appropriate answer, because of the problem of misuse.

We note that Toyota claimed in its petition that ''(a)ccording to FMVSS 208, adults should always receive an air bag while children below age 12 should *never* receive an air bag.'' This is an overgeneralization.

Toyota's statement was made in a section of its petition titled ''Background-Suppression Systems.'' Assuming that a vehicle manufacturer selects the suppression option for all of the child dummies, *i.e.*, the infant dummy, three-year-old child dummy, and six-year-old child dummy, suppression is only required for children up to the weight of the six-year-old child dummy, *i.e.*, 54 pounds. If a manufacturer selects the option to certify to the suppression requirements using human children, suppression is only required for children weighing up to 56 pounds.

Moreover, the activation requirements require activation of the air bag for 5th percentile adult female dummies. These dummies weigh 108 pounds. If a manufacturer selects the option to certify to the activation requirements using human adult females, activation is only required for adult females of weights beginning at 103 pounds.

Standard No. 208 does not specify deployment or non-deployment of the air bag for occupants between the weights of the six-year-old child dummy and the 5th percentile adult female dummy (or between the specified similar weights for human children and human adult females). Thus, manufacturers are free to deploy their air bags for occupants in this weight range, if they believe that is helpful, or not deploy them, if they believe that is appropriate.

The low risk deployment requirements, of course, contemplate the possibility of air bag deployments for children of all ages. The DASS requirements contemplate the possibility of systems that suppress air bag deployments whenever an occupant is extremely close to the air bag, whether that occupant is a child or an adult.

NHTSA's policy concerning air bags and children remains that the back seat is the safest place for children whether or not there is an air bag, and that a rear-facing child seat should *never* be put in the front seat unless an air bag is off.

D. Request for Allowance of Transponder Technology for Reliable Child Restraint System Detection

DaimlerChrysler requested that we allow ''transponder-based, tagging detection systems for child restraint systems.'' It made this request in the context of a stated concern that current sensing systems cannot discriminate adults from children in child restraint systems for all real world conditions. That company stated that transponder technology is the most reliable means to detect child restraints and suppress air bag deployment. The petitioner cited the agency's action in the LATCH rulemaking, in which it recognized the need for both child restraint and motor vehicle manufacturers to take action to protect children, as a model that could be followed in this area. DaimlerChrysler stated that the same could be done here, where both future vehicles and child restraints would have compatible transponder/receiver

[6] NHTSA–2001–11110–21

devices. The petitioner stated that it takes note of the agency's concern about a transition period, but believes action should be initiated now.

We begin by noting that, if a vehicle manufacturer selects the suppression option for the infant dummy, 3-year-old dummy, and/or 6-year-old dummy, it must certify compliance using the dummy (or a human child) in any child restraint on a specified list of representative child restraints that are appropriate for a child the size of the applicable dummy. We believe the specified child restraints [7] are adequately representative of the restraints generally being sold to help ensure that the air bag will be suppressed regardless of the particular brand and model child restraint actually being used. Parents or other caregivers will be able to look at the telltale to confirm whether the air bag is suppressed.

In our May 2000 final rule, we addressed a previous request by DaimlerChrysler and one by International Electronics Engineering (IEE) to permit certification to the suppression requirements using tag-based systems. *See* 65 FR at 30710–12. We recognized that these companies might be correct in saying that tag-type systems could offer greater reliability, assuming that the correct tagged child restraint is also used. We explained, however, that such systems would not ensure safety for the numerous different child restraint designs and potential restraint positions that are used by the general public. We also noted that even making tags widely available, as DaimlerChrysler suggested, would not account for those individuals who do not have a tag on their particular child restraint, either because the restraint is not generally used in a given vehicle, or because they are unaware that the tags are available. Additionally, simply providing the tags would not assure that they were installed on the restraint properly or that the tag was properly aligned when the restraint was set in the vehicle seat.

We stated that technology like the tag-type Mercedes BabySmart appears to provide a reliable method of preventing air bag deployments when used properly. We also stated that while we do not believe that these types of suppression systems alone will adequately meet the needs of motor vehicle safety, we do believe that they remain an excellent supplement to other systems.

After considering DaimlerChrysler's petition, we do not see any reason to change our position. DaimlerChrysler and other vehicle manufacturers are already allowed to use transponder-based, tagging detection systems for child restraint systems; however, they cannot certify to the suppression requirements based on these systems. Instead, these types of suppression systems must be considered a supplement to other systems that suppress the air bag even if a tag is not present on a child restraint. This is because systems that rely on tagging alone would not ensure safety for the numerous different child restraints that are used by the general public, including older ones. Such systems would also not ensure safety for young children who are not in child restraints.

Finally, to the extent DaimlerChrysler would like us to require tagging in addition to our current requirements, it has not shown a safety need for such a requirement. While that company may be correct that tag-type systems could offer greater reliability, assuming that the correct tagged child restraint is also used, it has not shown any safety problems with the non-tag-based sensing systems now under development.

E. Requests for Revisions to Percentage Phase-in Requirements and Proposal To Revise First-year Percentage

The Alliance petitioned that we revise the first year's phase-in requirement from 35 percent to 10 percent of a manufacturer's production. The petitioner stated that this change is necessitated by the unanticipated technical challenges of making occupant sensing technology work properly in reasonable foreseeable real world conditions, and by the departure from the market of some major suppliers.

The Alliance stated that the difficulties encountered in developing robust occupant classification sensors resulted in two significant manufacturers—Siemens and Bosch—deciding to discontinue the development of promising technologies. The Alliance also stated that one motor vehicle manufacturer invested in and prepared at least three separate occupant classification programs that were scheduled to be introduced into production before December 2000. However, none of the programs made it into production due to various system failures with the developing technologies.

The Alliance stated that, notwithstanding substantial good-faith efforts to meet and exceed the 35 percent target in the first year, the technical challenges with prototype occupant sensing technology have required some Alliance members to shift compliance strategies. According to the Alliance, this has often required them to start over in testing and qualifying advanced air bag systems with much less lead time to address and solve issues as they arise.

DaimlerChrysler petitioned us to revise the percentage phase-in requirements from 35–65–100 percent to 10–40–100 percent for Phase I of the new requirements. Thus, its request was the same as that of the Alliance for the first year of the phase-in, but it also requested a reduction in the percentage specified for the second year of the phase-in. DaimlerChrysler stated that it was making this request in light of uncertainty surrounding the status of the numerous outstanding petitions to the May 2000 final rule, supplier capacity assurances and the performance capability of current level of technology. According to that company, lack of technology readiness and capacity for meeting the advanced air bag requirements of Standard No. 208 have reduced the production tooling lead-time to a precarious situation.

In considering the petitioners' requests to reduce the percentage phase-in requirements for the first year or two of the phase-in, we believe it is important to take account of both the need to ensure that the industry provides advanced air bags as quickly as is reasonably possible, yet also to avoid a situation in which the industry must put new technologies into vehicles before they have been fully tested.

We recognize that the vehicle manufacturers have made significant efforts to develop effective occupant sensing technology, as part of their efforts to meet the requirements for advanced air bags, and that some of these efforts have been unsuccessful. We have been made aware of many of the details of these efforts in meetings with vehicle manufacturers, but much of this has been confidential information. As noted by the Alliance, however, two significant manufacturers, Siemens and Bosch, decided to discontinue development of certain promising occupant classification technologies. We also note the example cited by the Alliance of one motor vehicle manufacturer investing in and preparing at least three separate occupant classification programs that were scheduled to be introduced into production before December 2000, with none of the programs making it into

[7] We note that we are considering issues relating to the availability of the specified child restraints in the context of the petitions for reconsideration of our December 2001 final rule.

production due to various system failures with the developing technologies.

While other efforts to develop effective occupant sensing technology have been successful, the unsuccessful ones have diverted scarce resources and placed many vehicle manufacturers at risk of not being able to meet the 35 percent requirement for the first year of the phase-in. Because each vehicle manufacturer has had its own plans to meet the phase-in requirements, they are each affected differently. We observe that one consequence of the longer-than-expected time it has taken to develop effective occupant sensing technology is that manufacturers are less likely to be able to earn significant credits before the phase-in begins. Since the percentage requirements for this phase-in increase quickly, *i.e.*, from 35 percent the first year to 65 percent the second year to 100 percent the third year (credits may be applied toward the 100 percent requirement for this year), the loss of expected credits from the time before the phase-in begins has the effect of requiring a greater percentage of models to be certified to the advanced air bag requirements sooner, including ones that may pose greater technical challenges.

Given the supplier and technical challenges that have been demonstrated by the vehicle manufacturers, we believe some adjustment to the first year percentage phase-in requirement is appropriate. We have tentatively concluded that a reduction in the first year's phase-in requirement from 35 percent to 20 percent of a manufacturer's production strikes a reasonable balance between ensuring that the industry provides advanced air bags as quickly as is reasonably possible, while avoiding a situation in which the industry must put new technologies into vehicles before they have been fully tested. We note that, because of the credit provisions, different vehicle manufacturers could, as a practical matter, use this additional flexibility for different years of the phase-in, as needed. Thus, we believe DaimlerChrysler's request for a reduction of the second year phase-in percentage is unnecessary.

While the petitioners demonstrated unexpected supplier and technical challenges, they did not demonstrate a need to reduce the first year requirement to a percentage as low as the requested 10 percent. We are concerned that such a low percentage would not lead the industry to provide advanced air bags as quickly as is reasonably possible.

We are providing a comment period of 30 days on our proposal to reduce the first year's phase-in requirement from 35 percent to 20 percent of a vehicle manufacturer's production. Given the immediacy of the decisions the vehicle manufacturers need to make concerning the vehicles that will be produced during the first production year, we believe that it is important to resolve the percentage phase-in requirement as soon as possible. For this reason, we believe a comment period of 30 days, rather than a longer one, is in the public interest. We also believe that a 30-day comment period is ample for interested persons to prepare and submit comments on this issue.

IV. Petition for Rulemaking From Porsche Concerning the Alternative Phase-in Available to Limited Line Manufacturers

A phase-in for new requirements generally permits vehicle manufacturers flexibility to choose which of their vehicles will be the first that they redesign to comply with those requirements. However, if a manufacturer produces a very limited number of lines, *e.g.*, one or two, a phase-in would provide little, if any, flexibility.

Accordingly, as part of the advanced air bag final rule, we decided to permit manufacturers that sell two or fewer carlines in the United States at the beginning of the first year of each of the two phase-ins (September 1, 2003 and September 1, 2007) the option of omitting the first year of each phase-in if they achieve full compliance by September 1, 2004, the beginning of the second year of the first phase-in and September 1, 2008, the beginning of the second year of the subsequent phase-in. This option is available only for limited line manufacturers since it would otherwise be possible for the industry as a whole to delay introducing any advanced air bags for a year. The advanced air bag final rule also includes an exclusion from the phase-in requirements for small volume manufacturers. This exclusion is limited to manufacturers that produce or assemble not more than 5,000 vehicles for the U.S. market each year.

On August 19, 2002, we received a petition for rulemaking from Porsche requesting changes in the special phase-in provisions available to limited-line manufacturers. Specifically, Porsche requested that the agency consider adding an additional definition of ''carline'' specific to Standard No. 208 and providing manufacturers that sell two or fewer carlines in the U.S. the flexibility to comply at the 100 percent level starting with the third year of the phase-in.

According to Porsche, small limited-line manufacturers like Porsche have and will continue to have difficulties attracting the attention of technology suppliers because of the limited value associated with small development contracts. That company stated that whether or not it produces only 500, 5,000, or 10,000 vehicles on a worldwide basis, it is, in today's world, an extremely small vehicle manufacturer relative to others selling in the U.S. Porsche stated that it is one of the few remaining independent vehicle manufacturers with no direct relationship to any other vehicle manufacturer. It stated that, unlike various other small manufacturers, it does not have a parent company willing to assume its production as part of its fleet compliance schedule.

In light of our proposal to adjust the phase-in requirements applicable to large manufacturers, we believe it is appropriate to consider whether some further type of adjustment is needed for companies like Porsche. Many of the difficulties cited by large-volume manufacturers, such as the technical challenges being faced by the vehicle manufacturers in meeting the new requirements and the fact that two of the automotive suppliers have dropped plans to offer devices that suppress the passenger air bag when a child is present, affect small companies like Porsche.

We note that the specific concerns cited by Porsche relate more to its small size than to the number of carlines it sells. While Porsche is larger than the companies that are traditionally viewed as small volume manufacturers, it is very small compared to the large manufacturers.

We request comments on the need for relief for companies like Porsche, the specific amendments it requested, and alternative ways of providing relief. The agency could, for example, provide a new phase-in option that combines relatively small volume (but volume higher than that specified for exclusion from the phase-in) with small number of carlines. It could also provide a new phase-in option, based solely on relatively small volume (but volume higher than that specified for exclusion from the phase-in). The agency requests that commenters recommending relief address how the agency could ensure that any relief provided is not overly broad. Depending on the comments, the agency may provide some type of relief in the final rule.

V. Rulemaking Analyses and Notices

A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this proposed rule under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This proposed rule was not reviewed under Executive Order 12866, ''Regulatory Planning and Review.'' This action is not ''significant'' under the Department of Transportation's regulatory policies and procedures.

This document proposes a reduction in the percentage of vehicles that must comply with the advanced air bag requirements during the first year of the phase-in, *i.e.*, from September 1, 2003 through August 31, 2004, from 35 percent to 20 percent. However, the document does not propose any changes in the requirements for vehicles equipped with advanced air bags. Readers who are interested in the costs and benefits of advanced air bags are referred to the agency's Final Economic Assessment (FEA) for the May 2000 final rule. The estimated benefits compared to pre-MY 1998 (pre-depowered air bags) in that rule for the suppression technologies were estimated to be 93 fatalities and 151 AIS 3–5 injuries. These benefits can be considered to accrue over the 20–25 year lifetime of one model year's fleet. Reducing the phase-in schedule for the MY 2004 fleet from 35 percent to 20 percent (a 15 percentage point reduction), would result in the potential loss in benefits over the lifetime of the MY 2004 fleet of 14 lives and 23 AIS 3–5 injuries.

B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). I certify that the proposed amendment would not have a significant economic impact on a substantial number of small entities. A Regulatory Flexibility Analysis was prepared for the May 2000 final rule as part of the FEA. This action would not have not have a significant economic impact on small businesses because the only change it would make to the May 2000 final rule is to reduce the percentage of vehicles that must comply with that rule during the first year of the phase-in. Small organizations and small governmental units would not be significantly affected since the potential cost impacts associated with this proposed amendment should only slightly affect the price of new motor vehicles.

C. National Environmental Policy Act

NHTSA has analyzed this proposed amendment for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking action in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The proposed rule would have no substantial effects on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials.

E. Unfunded Mandate Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of 1995). While the May 2000 final rule is likely to result in over $100 million of annual expenditures by the private sector, the only effect of today's proposed amendment would be to reduce the percentage of vehicles that must comply with that rule during the first year of the phase-in. Accordingly, this proposed rule would not mandate any expenditures by State, local or tribal governments, or by the private sector.

F. Executive Order 12778 (Civil Justice Reform)

The proposed rule does not have any retroactive effect. Under section 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. Section 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.

G. Paperwork Reduction Act

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This document does not propose any new information collection requirements.

H. Regulation Identifier Number (RIN)

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

I. Plain Language

Executive Order 12866 requires Federal agencies to write all rules in plain language. Application of the principles of plain language includes consideration of the following questions:

—Has the agency organized the material to suit the public's needs?
—Are the requirements in the rule clearly stated?
—Does the rule contain technical language or jargon that is not clear?
—Would a different format (grouping and order of sections, use of headings, paragraphing) make the rule easier to understand?
—Would more (but shorter) sections be better?
—Could the agency improve clarity by adding tables, lists, or diagrams?
—What else could the agency do to make this rulemaking easier to understand?

If you have any responses to these questions, please include them in your comments on this NPRM.

VI. Submission of Comments

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.

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

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 it in developing a final rule (assuming that one is issued), we will consider that comment as an informal suggestion for future rulemaking 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, take the following steps:

Go to the Docket Management System (DMS) Web page of the Department of Transportation (*http://dms.dot.gov/*).

On that page, click on ''search.''

On the next page (*http://dms.dot.gov/search/*), type in the four-digit docket number shown at the beginning of this document. Example: If the docket number were ''NHTSA–1998–1234,'' you would type ''1234.'' After typing the docket number, click on ''search.''

On the next page, which contains docket summary information for the docket you selected, click on the desired comments. You may download the comments.

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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA proposes to amend 49 CFR Chapter V as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 of Title 49 would continue 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 would be amended by revising S14.1.1.1 to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S14.1.1.1 *Vehicles manufactured on or after September 1, 2003, and before September 1, 2004.* Subject to S14.1.2(a), for vehicles manufactured by a manufacturer on or after September 1, 2003, and before September 1, 2004, the amount of vehicles complying with S14.5.1(a), S14.5.2, S15.1, S15.2, S17, S19, S21, S23, and S25, shall be not less than 20 percent of:

(a) If the manufacturer has manufactured vehicles for sale in the United States during both of the two production years prior to September 1, 2003, the manufacturer's average annual production of vehicles manufactured on or after September 1, 2001, and before September 1, 2004, or

(b) The manufacturer's production on or after September 1, 2003, and before September 1, 2004.

* * * * *

Issued: September 19, 2002.

Roger A. Saul,

Director, Office of Crashworthiness Standards.

[FR Doc. 02–24236 Filed 9–19–02; 3:57 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AI51

Endangered and Threatened Wildlife and Plants; Listing of the Flat-Tailed Horned Lizard as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the reopening of the public comment period for the proposed listing of the flat-tailed horned lizard (*Phrynosoma mcallii*) as a threatened species pursuant to the Endangered Species Act of 1973, as amended (Act). The purpose of reopening the public comment period is to allow for peer review of the proposed rule (58 FR 62624) and its subsequent withdrawal (62 FR 37852) according to our 1994 Interagency Cooperative Policy for Peer Review in Endangered Species Act Activities (59 FR 34270), additional public comment on the reinstatement of the proposed listing rule, and submission of any additional information that may assist us in making a final listing decision. Comments previously submitted need not be resubmitted as they have been incorporated into the public record and will be fully considered in the final listing determination.

DATES: The public comment period is reopened for a period of 15 days, and we will accept comments until October 9, 2002. Comments must be received by 5 p.m. on the closing date. Any comments that are received after the closing date may not be considered in the final decision on this action.

ADDRESSES: Comment Submission: If you wish to comment on the reinstated proposed rule or provide additional information concerning the status and distribution of the species, as well as information pertaining to threats to the species or its habitat, you may submit your comments and materials by any one of several methods:

(1) You may submit written comments and information to Field