

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This document responds, in part, to petitions for reconsideration of the amendments we made in December 2001 to our May 2000 Federal motor vehicle safety standard (FMVSS) No. 208 advanced air bag final rule. Because of the time constraints faced by vehicle manufacturers in certifying a portion of their fleet to the advanced air bag requirements, we are bifurcating our response. This document addresses those portions of the petitions that we believe are the most time sensitive or that address minor, easily resolved technical issues. In particular, we are responding to those portions regarding the length of time during which data will be collected during low risk deployment tests, a change in dummy positioning procedure for one of the driver position low risk deployment tests, and issues related to the air bag warning label and the telltale that indicates when the passenger air bag has been automatically suppressed. A second document addressing the remaining issues raised by the petitioners will be issued at a later date.

DATES: *Effective Date:* The amendments made in this rule are effective February 5, 2003.

Petitions: Petitions for reconsideration of the amendments made by this rule must be received by February 20, 2003.

ADDRESSES: Petitions for reconsideration should refer to the docket and notice number of this document and be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: For non-legal issues, you may contact Lori Summers, Chief, Light Duty Vehicle Division, Rulemaking, NVS-112. Telephone: (202) 366-1740. Fax: (202) 493-2739. E-mail: Lori.Summers@NHTSA.dot.gov.

For legal issues, you may contact Rebecca MacPherson, Office of Chief Counsel, NCC-112. Telephone: (202) 366-2992. Fax: (202) 366-3820.

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

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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 final rule and an interim final rule to require advanced air bags (Docket No. NHTSA 00-7013; Notice 7) (May 2000 final rule). The rule amended FMVSS No. 208, Occupant Crash Protection, to require that future air bags be designed so that they create less risk of serious air bag-induced injuries than current air bags, particularly for small women and young children, and provide improved frontal crash protection for all occupants by means that include advanced air bag technology.

The issuance of the May 2000 final rule completed the implementation of our 1996 comprehensive plan for reducing air bag risks. The Transportation Equity Act for the 21st Century (TEA 21), which was enacted in 1998, 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.

Eight petitions for reconsideration of the May 2000 final rule were submitted to the Agency (*see* Docket No. 7013). Four of the petitions were from manufacturers of vehicles or air bags. Petitions were also filed by three industry associations representing vehicle manufacturers, and by a coalition of four consumer groups. In addition, NHTSA received two requests for clarification within the time period for filing petitions and three comments that would have been considered petitions for reconsideration had they been timely filed. All submissions were addressed in the Agency response published in the **Federal Register** on December 18, 2001 that made several changes to the May 2000 final rule (66 FR 65376, Docket No. NHTSA 01-11110) (December 2001 final rule).

These changes included a number of refinements to the dummy positioning procedures for the low risk deployment tests and, to a lesser degree, for the automatic suppression tests. In the December 2001 final rule, the Agency also modified the period of time during which the injury criteria must be met for

the low risk deployment tests from 300 milliseconds (ms) to 125 ms after initiation of the final stage of an air bag designed to deploy in a 26 km/h (16 mph) rigid barrier crash. We also corrected an error in the regulatory text of the May 2000 final rule regarding the exclusivity of the new advanced air bag warning label on the sun visor and clarified that information regarding air bags or seat belts may be placed elsewhere in the vehicle as long as the information in those warnings is consistent with the information contained in the required label. Additionally, the regulatory text concerning the telltale light required for automatic suppression systems was changed to be more consistent with the requirements of FMVSS No. 101, Controls and Displays. Other changes that are not the subject of today's rule were also made.

II. Petitions for Reconsideration

We have received eight petitions for reconsideration of the December 2001 final rule. These petitions were filed by the Alliance of Automotive Manufacturers (Alliance), Mitsubishi, Volkswagen, Honda, Porsche, DaimlerChrysler, Ford, and Toyota. Additionally, BMW and Ferrari filed petitions shortly after the deadline for filing petitions for reconsideration had passed. Under agency regulations (49 CFR 553.35(a)), late-filed petitions for reconsideration are treated as petitions for rulemaking. However, neither of these two petitions raised issues that had not also been addressed by the other timely petitioners for reconsideration. Thus, as a practical matter, the issues in the two petitions will be considered as part of the agency response to the timely-filed petitions for reconsideration. TRW submitted a request for clarification and a comment on one of the issues raised by all petitioners, namely the time-duration for meeting the injury criteria during the passenger-side low risk deployment tests. Several supplemental submissions were also submitted to the docket after the deadline for filing petitions for reconsideration.

In this document, we are responding to those portions of the petitions regarding the time duration for collecting injury criteria data during the low risk deployment tests, a change in dummy positioning procedure for one of the driver position low risk deployment tests, and issues related to the air bag warning label and the automatic suppression telltale. Only those portions of the petitions directly related to these matters will be discussed in this