

For legal issues, you may contact Christopher Calamita or Rebecca MacPherson, Office of Chief Counsel, at (202) 366-2992, and fax them at (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

On May 12, 2000, we published an interim final rule to require advanced air bags (65 FR 30680; Docket No. NHTSA 00-7013; Notice 1) (Advanced Air Bag Rule). The rule addressed the risk of serious air bag-induced injuries, particularly for small women and young children, and amended Federal Motor Vehicle Safety Standard (FMVSS) No. 208, *Occupant crash protection*, to

require that future air bags be designed to minimize such risk.

The issuance of the Advanced Air Bag Rule completed the implementation of our 1996 comprehensive plan for reducing air bag risks. The rule was also required by the Transportation Equity Act for the 21st Century (TEA 21), which was enacted in 1998. TEA 21 required us to issue a rule amending FMVSS 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 Advanced Air Bag Rule were submitted to the agency (see Docket No. NHTSA 00-7013). 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.

Petitioners raised a large number of concerns about the various test procedures in their written submissions. To adequately address these issues, the agency held a technical workshop so that we could better understand the specific concerns and better determine if the test procedures needed refinement.¹

All submissions were addressed in the agency response published in the **Federal Register** on December 18, 2001 and several changes were made to the Advanced Air Bag Rule (66 FR 65376; Docket No. NHTSA 01-11110) (December 2001 final rule). These changes included a number of refinements to the test dummy positioning procedures for the 5th percentile adult female, 12-month-old, 3-year-old, and 6-year-old test dummies used in the barrier tests and the low risk deployment tests. The December 2001 final rule also amended the list of child restraint systems in Appendix A for use in certain compliance tests. The list was amended to remove those restraints no longer in production and replacement restraints were added.

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 Automobile Manufacturers (Alliance), Volkswagen, Honda, Porsche, DaimlerChrysler, and Toyota. Additionally, BMW, and Autoliv (an air bag manufacturer) filed petitions shortly after the deadline for filing petitions for reconsideration had passed. Under agency regulation (49 CFR 553.35(a)), late filed petitions for reconsideration are treated as petitions for rulemaking. However, BMW and Autoliv's petitions did not raise any issues that had not also been addressed by timely petitions. Thus as a practical matter, the issues in BMW and Autoliv's petitions will be considered as part of the agency response to the timely-filed petitions for reconsideration. TRW submitted a request for clarification on one of the issues raised by other petitioners, namely the positioning of the 3-year-old and 6-year-old dummies for the "head on the instrument panel test." Ford submitted a request for interpretation (RFI) concerning dummy positioning. To the extent that Ford's RFI overlaps timely petitions, it will be addressed in this document. Several supplemental docket submissions were also made after the deadline. These documents provided additional information on issues previously raised in the petitions for reconsideration. In addition, Evenflo, a child restraint manufacturer, has petitioned the agency to remove certain Evenflo restraints from Appendix A and replace them with other models. Some of the issues raised by that petition are discussed in today's rule.

In this document, we are responding to those portions of the petitions regarding detailed seat and test dummy positioning procedures, positioning reference planes, low risk deployment and unbelted barrier test speeds, inclusion of CRSs in FMVSS No. 208 Appendix A for suppression testing, and the use of neck and chest injury criteria in in-position tests. The remaining issues raised by petitioners have been addressed in a previous notice. (68 FR 504; January 6, 2003.)

III. Summary of Response to Petitions

As previously noted, this document addresses the remaining issues raised in the petitions for reconsideration: Issues impacting seat positioning procedures and dummy positioning procedures, other test procedure clarifications, issues associated with the child restraints specified in Appendix A of FMVSS No. 208, and corrections to inadvertent changes that were made to the regulatory text in the December 2001 final rule.

¹ The workshop was held on December 6, 2000 at NHTSA's Vehicle Research and Test Center in East Liberty, Ohio. Representatives of 18 vehicle manufacturers and 13 seat, sensor, and dummy manufacturers attended the workshop. Five different vehicles were used as test vehicles. Some of the five had been provided by manufacturers because they were experiencing particular problems with the existing test procedures in these vehicles.