

cinched to force levels that reflect this scenario.

C. Appendix A of FMVSS No. 208

The Alliance, with emphasis added from Mitsubishi, Volkswagen, and Porsche, petitioned for changes to Appendix A of FMVSS No. 208. Appendix A lists which car beds and CRSs the agency may use to test the suppression system of a vehicle. The Alliance, Volkswagen, and Porsche requested that the list include the production dates for the CRSs. The Alliance stated that alterations to the CRS list should only be made if the alteration will affect certification of a vehicle. Mitsubishi, Volkswagen, and Porsche believe that surrogate devices being developed at UMTRI should replace the list of CRSs as soon as possible. Mitsubishi requested a 2-year phase-in for changes to Appendix A and stated that it believes FMVSS No. 213, *Child restraint systems*, could specify the weight and shell dimensions of CRSs. However they have not petitioned to have FMVSS No. 213 amended.

As noted earlier, Evenflo has also petitioned the agency to remove certain Evenflo seats from Appendix A and replace them with newer, LATCH models. Evenflo states that the older seats should be removed because only LATCH seats have been manufactured since September 1, 2002.

A recent analysis by the agency found that about one fourth of the CRSs currently in Appendix A are no longer available. This is indicative of the dynamic nature of the CRS industry. Because of the nature of this industry, NHTSA has decided to perform an annual review of Appendix A with the objective of making appropriate updates. The number of CRSs in Appendix A may change slightly as it is updated. This is because the review may identify different trends in the use of CRSs from prior periods. Because it is impossible to know the nature of these trends, we cannot commit to increasing or decreasing the number of restraints in Appendix A by a set number. As a general guideline, however, we believe the number of CRSs should not vary by more than 10–20 percent absent dramatic changes in the design of restraints.

In deciding whether to amend Appendix A, NHTSA will consider a number of factors, such as whether a particular restraint has been a high volume model, whether it has mass and dimensions that are representative of many restraints on the market, whether its mass and dimensions represent outliers, and whether a variety of restraint manufacturers are represented

in the appendix. This approach will allow us to limit Appendix A to those restraints that represent large portions of the CRS market, while including exceptionally large or small restraints. We believe a combination of restraints is needed to assure the robustness of automatic suppression systems under real world conditions.

We believe this annual review will serve to maintain a spectrum of CRSs in the appendix that are representative of the CRS population in production at that time. This routine assessment will ensure that only relatively current restraints will be used for compliance testing. It will also enable NHTSA to determine the availability of the CRSs and determine any change in design, other than those that are purely cosmetic. Although NHTSA will review the appendix every year, we may not amend it annually. In those years where we tentatively conclude that the appendix needs updating, we will publish an NPRM with a 30 day comment period. This shorter comment period will allow us to issue a final rule expeditiously, reducing the possibility that a proposed restraint will no longer be available for purchase on the date of publication.

Even with diligent review of Appendix A, there may be rare occasions when a new addition to the list becomes unavailable or undergoes a significant design change between the time an amendment is proposed and when it is issued as a final rule. Under this limited circumstance, the agency would not use the unavailable or altered CRS for compliance testing and the manufacturers would likewise be relieved of any burden to procure the CRS or use it to test for suppression. Conversely, if a CRS becomes unavailable or is altered after publication of the list, we will assume that the manufacturer was able to acquire the CRS and has it available for certification testing. The effect of this requirement is that vehicle manufacturers and NHTSA will need to procure all child restraints listed in Appendix A not already in their possession when the list is published.

The preamble to the December 2001 final rule stated that, to provide sufficient lead time for vehicle compliance, any future changes to Appendix A would have an effective date of one year after publication of the amended list. 66 FR 65376, 65390. This means that after a new CRS appears in Appendix A, manufacturers would not have to certify compliance of their vehicles when using that restraint for a full year. We also stated that “early compliance” with the amended list (as

opposed to the previous list) was permissible so long as the manufacturer notified the agency that it was exercising this option.

We are concerned that a two-year lead time could result in a greater percentage of the CRSs in Appendix A being removed from production before the amended appendix takes effect. Additionally, the one-year lead time is consistent with the agency’s intent that occupant detection systems be robust and able to detect any CRS, including those that are relatively new to the market. However, in recognition that manufacturers need to know what CRSs will be included as they design their new models, we have decided to slightly change our position on lead time by making any changes to Appendix A effective for the next model year introduced one year after publication of the final rule modifying Appendix A. (Consistent with our past practice, for this purpose, the model year begins on September 1 of the prior calendar year.) This will result in a one to two year lead time. For example, if Appendix A were updated March 1, 2004, the revised appendix would become effective September 1, 2005, a period of eighteen months after publication. We believe this approach will allow manufacturers to tie their certification to the automatic suppression requirements with the introduction of a new model year.

However, as explained further below, we are concerned about the fact that CRSs with LATCH (Lower Anchors and Tethers for Children) are increasingly used in the real world for transporting children. There have been no CRSs with LATCH included in Appendix A since the initial publication of the May 2000 Advanced Air Bag Rule. Therefore, for this final rule, we are taking exception to our future process and are requiring that the effective date for the CRSs listed in this notice be September 1, 2004.

The September 1, 2004 effective date for Appendix A should not present a problem for manufacturers. By September 1, 2004, LATCH attachments will have been required for two years, as established under the March 5, 1999 final rule (64 FR 10786). Vehicle manufacturers have been aware of the changes to CRSs and should have been testing accordingly. Even if the CRSs used for testing by the manufacturers were not the models in Appendix A, the LATCH mechanisms should be substantially similar. As such, providing less than one year of lead time for compliance with the amended appendix is not unduly burdensome.

We have determined that Alliance’s petition for Appendix A to be altered