transportation, Packaging and containers, Penalties, Reporting and recordkeeping requirements.

On the basis of the foregoing, 49 CFR part 107 is amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. The authority citation for part 107 continues to read as follows:

Authority: 49 U.S.C. 5101–5127, 44701; 49 CFR 1.45, 1.53.

2. In § 107.601, paragraph (c) is revised to read as follows:

§ 107.601 Applicability.

* * * * *

(c) More than one L (1.06 quarts) per package of a material extremely toxic by inhalation (i.e., ''material poisonous by inhalation,'' as defined in § 171.8 of this chapter, that meets a criteria for ''hazard zone A,'' as specified in §§ 173.116(a) or 173.133(a) of this chapter);

* * * * *

3. Section 107.606 is revised to read as follows:

§ 107.606 Exceptions.

(a) The following are excepted from the requirements of this subpart:

(1) An agency of the Federal government.

(2) A State agency.

(3) An agency of a political subdivision of a State.

(4) An employee of any of those agencies in paragraphs (a)(1) through (a)(3) of this section with respect to the employee's official duties.

(5) A hazmat employee (including, for purposes of this subpart, the owner-operator of a motor vehicle that transports in commerce hazardous materials, if that vehicle at the time of those activities, is leased to a registered motor carrier under a 30-day or longer lease as prescribed in 49 CFR part 1057 or an equivalent contractual agreement).

(6) A person domiciled outside the United States, who offers solely from a location outside the United States, hazardous materials for transportation in commerce, *provided* that the country of which such a person is a domiciliary does not require persons domiciled in the United States, who solely offer hazardous materials for transportation to the foreign country from places in the United States, to file a registration statement or to pay a registration fee.

(b) Upon making a determination that persons domiciled in the United States, who offer hazardous materials for transportation to a foreign country solely from places in the United States, must file registration statements or pay fees to that foreign country, the U.S. Competent Authority will provide notice of such determination directly to the Competent Authority of that foreign country and by publication in the **Federal Register**. Persons who offer hazardous materials for transportation to the United States from that foreign country must file a registration statement and pay the required fee no later than 60 days following publication of the determination in the **Federal Register**.

Issued in Washington, DC on May 18, 1995, under the authority delegated in 49 CFR part 1.

D.K. Sharma,

Administrator, Research and Special Programs Administration.

[FR Doc. 95–12658 Filed 5–19–95; 9:58 am]

BILLING CODE 4910–60–P

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 74–14; Notice 94]

RIN 2127–AF30

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Final rule.

SUMMARY: This final rule allows manufacturers the option of installing a manual device that motorists could use to deactivate the front passenger-side air bag in vehicles in which infant restraints can be used in the front seat only. The affected vehicles are passenger cars and light trucks without rear seats and vehicles with rear seats that are too small to accommodate typical rear-facing infant restraints and convertible infant restraints used in the rear-facing mode (hereafter referred to as ''typical rear-facing infant restraints''). The deactivation device is needed because when rear-facing infant restraints are used in the front seats of dual air bag vehicles, they extend forward to a point near the dashboard where they can be struck by a deploying air bag. Testing has shown this to have the potential for serious injury to infants. The ability to deactivate the passenger air bag will allow parents to safely use rear-facing infant restraints in the front seat of these vehicles. The need for the deactivation device is steadily growing because manufacturers are beginning to install, and soon will be required to install, passenger-side air bags in all passenger cars and light trucks.

DATES: Effective Date: The amendments made in this rule are effective June 22, 1995.

Petition Date: Any petitions for reconsideration must be received by NHTSA no later than June 22, 1995.

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

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Cohen, Chief, Frontal Crash Protection Division, Office of Vehicle Safety Standards, NRM–12, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–2264.

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1994, NHTSA published a notice of proposed rulemaking (NPRM) which proposed to allow manufacturers the option of installing a manual device (hereafter referred to as a ''cutoff device'') that motorists could use to deactivate the front passenger air bag in a vehicle without rear seats for the purpose of allowing them to safely use rear-facing infant restraints in the front seat (59 FR 51158). NHTSA issued the NPRM because one particular type of child restraint, i.e., a rear-facing infant restraint, should not be placed in the front seat of a vehicle equipped with a passenger air bag. This poses a problem because manufacturers are beginning to install, and soon will be required to install, passenger air bags in vehicles.

While NHTSA had taken a number of steps to warn parents of air bag/infant restraint interaction problems, members of the American Automobile Manufacturers Association (AAMA) indicated a need for further action in a meeting with NHTSA on January 24, 1994.[1] AAMA asked for the meeting to explore the possibility of installing an air bag cutoff device to allow rear-facing infant restraints to be placed in air bag-equipped passenger seating positions. AAMA representatives discussed the general concept of an air bag cutoff device, which could be either automatic or manual. However, the representatives emphasized that the industry is not quite ready to install automatic devices because automatic cutoff technology is not yet ready for production. At the meeting, AAMA asked whether

[1] A complete description of various steps NHTSA has taken to address this problem can be found in the October 7 notice.

Standard No. 208 would permit such devices and, if not permitted, whether the agency would consider initiating rulemaking to permit such devices. As explained in the October 7 NPRM, NHTSA decided to propose to allow manufacturers to install a manual cutoff device because of concerns that its warnings about the use of rear facing infant restraints are of little avail when a parent must transport his or her infant in a vehicle that is physically unable to accommodate a child any place other than the front seat.

The October 7 NPRM proposed to allow the use of manual cutoff devices in vehicles with no rear seats, subject to certain conditions. If installed, the device could only be operable by using the ignition key and the device would have to be separate from the ignition switch. Once turned off, the air bag would have to remain off until reactivated using the ignition key. The agency also proposed requiring a yellow warning light that was capable of several levels of brightness and bore the identifying words ''AIR BAG OFF'' to inform vehicle occupants that the passenger side air bag was off. The warning light could not be combined with the vehicle's air bag readiness indicator. The vehicle owner's manual would have to contain complete instructions regarding the operation of the cutoff device, including warnings about the safety consequences of misuse. Finally, the device would only have been allowed for approximately two years to encourage the orderly development and introduction of automatic cutoff devices.

The agency received 15 comments on the October 7 NPRM. Commenters included three automobile manufacturers (Ford, Mazda, and Volvo), GenCorp Aerojet (an equipment manufacturer), Advocates for Highway and Auto Safety (Advocates), the American Academy of Pediatrics (AAP), the AAMA, the Automotive Occupant Restraints Council (AORC), the Insurance Institute for Highway Safety (IIHS), the National Automobile Dealers Association (NADA), SafetyBeltSafe U.S.A., the Wisconsin Department of Transportation (DOT), and three private citizens. In general, all commenters supported the proposal. Automobile manufacturers and the AAMA believed a number of the conditions in the NPRM were too restrictive. Safety groups premised their support on the conditions that NHTSA had proposed placing on manual cutoff devices and on the limited time during which they would be allowed. All of these comments were considered by the agency in formulating this final rule, and the most significant comments are addressed below.

Affected Vehicles

NHTSA proposed to allow, but not require, manual cutoff devices only in passenger cars and light trucks which do not have forward-facing rear seats. NHTSA stated that it did not believe that manual cutoff devices should be allowed in vehicles which can accommodate a rear-facing infant restraint in the rear seat, because, even in vehicles without air bags, NHTSA recommends the rear seat as the optimum location for any child restraint.

Five commenters (Mazda, AAMA, NADA, and the private citizens) asked NHTSA to allow manual cutoff devices in all vehicles, since parents often prefer to place infants in the front seat even when a rear seat is available. Two commenters (Ford and AAMA) said that NHTSA should also allow the manual cutoff device in vehicles with rear seats that are too small to accommodate a rear-facing infant restraint. Two other commenters (Mazda and Advocates) explicitly discussed inadequate rear seats, and one additional commenter (IIHS) implicitly discussed inadequate rear seats. The Wisconsin DOT asked NHTSA to also allow manual cutoff devices in police vehicles. Advocates and IIHS supported the proposal.

With the exception of including vehicles with a rear seat which is too small to accommodate a typical rear-facing infant restraint, NHTSA is not expanding the class of vehicles that are permitted to have a manual cutoff device. NHTSA does not believe that it should allow all vehicles to have a manual cutoff device to accommodate parental preference for placement in the front seat. If any child seat can be placed in a rear seat, that is the safest position.

As explained previously, two commenters (Ford and AAMA) said that NHTSA should also allow the manual cutoff device in vehicles with rear seats that are too small to accommodate a rear-facing infant restraint. One commenter (Advocates) said that NHTSA should not allow the manual cutoff device in such vehicles as a rear-facing infant seat can be accommodated even if the seat is too small for an adult.

In response to these comments, NHTSA examined whether there were vehicles that had inadequate rear seats [2] and thus should be allowed to have a cutoff switch. As stated in the NPRM, NHTSA intended to allow the cutoff switch whenever a rear-facing infant restraint could not be accommodated in the rear seat of a vehicle. NHTSA examined this issue to determine the consistency of that stated intent and its tentative conclusion that the only vehicles in this category were vehicles without rear seats. NHTSA obtained dimensional information on rear seat occupant space and rear-facing infant restraints. After examining rear-facing infant restraint sizes and rear seat geometries, NHTSA concluded that some rear-facing infant restraints will not fit in some vehicles under certain conditions. A complete discussion of NHTSA's research and methodology can be found in a document titled ''Evaluation of Infant Seat Fit in Passenger Cars and Light Trucks'' which NHTSA has placed in the docket for this notice.

Based on the results presented in that document, NHTSA has modified this rule to allow the installation of a cutoff device in any vehicle with less than 720 millimeters between the rearward surface of the front seat back and the forward surface of the rear seat back, measured longitudinally in a horizontal line tangent to the highest point of the rear seat bottom, and with the front seat in its mid-track fore-and-aft adjustment position. NHTSA estimates that this provision will allow approximately 27 percent of all passenger cars to have a cutoff device.

NHTSA considered using alternative dimensions for identifying inadequate rear seats. For example, the agency considered using other front seat adjustment positions. If the agency used the full forward position, fewer vehicles would be classified as having inadequate rear seats. However, that result would be based on an unrealistic position for the front seat. Many adults could not use the front seat comfortably in the full-forward position. Alternatively, the agency could have used the full rear position. That adjustment position would allow the largest adults to sit comfortably in the front seat. However, it would also have increased the number of vehicles classified as having an inadequate rear seat. The mid-track position, which is used for other Standard No. 208 testing, was chosen as a compromise.

The agency also considered alternative values to represent the length of rear-facing infant restraints. The agency selected the average length of the child seats NHTSA measured. By choosing this measurement, the agency is ensuring that the vehicles which do not have a cutoff device for the

[2] By ''inadequate rear seat,'' the agency is referring to seats which do not have sufficient fore-and-aft clearance to accommodate typical rear-facing infant restraints.

passenger side air bag are those that have a rear seat large enough to give parents a fairly wide choice of restraints, including convertible restraints, which will fit in the rear seat.

While police vehicles could use a manual cutoff device to avoid interactions with communications and police equipment, NHTSA is not allowing installation of the device. To keep law enforcement and police equipment manufacturers informed, Ford and General Motors met with groups and associations to prepare them for the installation of passenger side air bags. Ford and General Motors recommend that equipment not be mounted within the air bag deployment area. Many equipment manufacturers now produce smaller, more compact police equipment and mounting devices to facilitate this.

In October 1993, NHTSA, the International Association of Chiefs of Police, and the Law Enforcement Television Network (LETN), in conjunction with Ford and General Motors, conducted a seminar, ''Dual Air Bags: Where Do I Put My Equipment?,'' to explain the deployment area and safety benefits of passenger side air bags. This seminar was videotaped by LETN and broadcast at least 25 times. Additionally, NHTSA duplicated copies of the videotape for dissemination throughout the nation. Because other means are available to avoid air bag/equipment interaction, NHTSA is not allowing the installation of the manual cutoff device in police vehicles.

Phase-Out of Manual Cutoff Devices

In the NPRM, NHTSA tentatively concluded that the installation of manual cutoff devices should not be permitted indefinitely. The agency also tentatively concluded that vehicles with air bags having manual cutoff devices should not be counted toward compliance with the phase-in for air bags. Further, the agency said that manual cutoff devices should be prohibited in all passenger cars manufactured on or after September 1, 1997, and all light trucks manufactured on or after September 1, 1997, and all light trucks manufactured on or after September 1, 1998. These are the dates on which 100 percent compliance is required by 49 U.S.C. 30127. To implement these proposals, NHTSA proposed to amend S4.1.5.1(b)'s definition of an ''inflatable restraint system,'' a term used in the paragraphs relating to the air bag requirements, to state that it does not include an air bag that can be deactivated by a manual cutoff device. NHTSA stated that it believed this several year period would give manufacturers time to develop and introduce automatic cutoff devices.

Five commenters (Ford, Mazda, AAP, AAMA and a private citizen) expressed concern that automatic cutoff devices might not be available before the end of the period in which manual cutoff devices would be allowed. Four commenters (GenCorp, Advocates, AORC, and IIHS) expressed confidence that automatic cutoff devices would be available before the end of this time period.

NHTSA is not extending the time period in which manual cutoff devices would be allowed. First, one of the commenters which expressed confidence that automatic cutoff devices would soon be available was GenCorp, a company which develops such devices. Another, AORC, is an organization whose member companies (equipment manufacturers, some of whom develop such devices) ''are confident that satisfactory automatic solutions will be successfully developed on a timely basis.'' Second, in the discussion of automatic devices in many of the comments, it is clear that the vehicle manufacturers were discussing more sophisticated sensors, i.e., one that would deactivate the air bag in a number of situations, not just when a rear-facing infant seat is present.

Two commenters, AAMA and Ford, asked for confirmation that an LTV with a driver's air bag, and a passenger side air bag with a manual cutoff device would quality for the ''one truck credit'' and the ''1.5 truck credit'' during the phase-in periods for the automatic protection and mandatory air bag requirements. The ''one truck credit'' permits light trucks equipped with an air bag for the driver and a manual lap/shoulder belt for the front passenger to count as one truck towards the phase-in requirements for both automatic protection and mandatory air bags. The ''1.5 truck credit'' permits light trucks equipped with an air bag for the driver and some type of automatic protection for the front passenger to count as 1.5 trucks towards the phase-in requirements for automatic protection only.

With regard to the ''one truck credit,'' these commenters are correct. Since a vehicle with a driver's air bag would qualify for credit as one vehicle toward both the automatic protection requirement and the mandatory air bag requirement with a manual belt system alone, it would also qualify for the credit if equipped with a voluntarily-installed air bag with a manual cutoff device, presuming the vehicle had a manual belt on the passenger side.

With regard to the ''1.5 truck credit'' during the automatic restraint phase-in, NHTSA has decided that a vehicle with a passenger air bag equipped with a manual cutoff device should quality for this credit. While such a system does not provide the equivalent level of automatic protection to the passenger as an air bag without a cutoff device, NHTSA believes that it provides a greater level of occupant protection than a manual lap/shoulder belt alone, and warrants additional credit. No change in the regulatory text is required to allow this credit as the amended definition of ''inflatable restraint'' does not apply to S4.1.2.1(a), the section the passenger seating position must comply with to qualify for the credit.

Means of Activation

NHTSA proposed to require the use of the ignition key to activate the cutoff device. NHTSA believed this requirement would make the device simple and easy to use, but still require conscious thought and deliberate action on the part of the user. In addition, it would also place control of the device in the hands of the driver, thereby minimizing the likelihood of accidental or inappropriate activation.

IIHS said that the device should not be activated by the ignition key, but that NHTSA should require a means to prevent inadvertent activation (i.e., shielded switches). AAMA and Ford asked the agency to delete the word ''only'' to permit ''other ignition keys similar but not identical to the ignition key.'' Ford expressed its believe that alternate means of activation would not be so effective in meeting NHTSA's goals. Mazda stated that it believed it would be sufficient to require a means to prevent inadvertent activations without specifying the use of the ignition key.

After reviewing these comments, NHTSA has decided to retain the requirement that the cutoff device be activated by an ignition key, though not requiring it to be an identical ignition key. NHTSA believes that this addresses IIHS's concern that, if a parent forgot to turn off the air bag prior to starting the car, they would be unlikely to turn off the car to deactivate the air bag, leaving an infant at risk if the air bag deployed. NHTSA does not believe that Mazda's suggestion is appropriate, since there is no objective means of determining that inadvertent activation is not likely.

As explained in AAMA's comment, the use of the identical ignition key would require cutoff devices ''to be equipped with lock tumblers and manufactured and stocked in the many key combinations used to deter vehicle

theft.'' AAMA believed this would increase the risk that the driver would be unable to deactivate the air bag, either because non-matching lock tumblers were installed at the factory, or because the ignition lock was replaced with a non-matching key cylinder. Deleting the word ''only'' from the regulatory text will allow manufacturers to install a lock on the cutoff device which has fewer tumblers than the locks used in ignitions. While the ignition key will operate both the ignition and the cutoff device, manufacturers will also be able to provide a separate key which operated only the cutoff device.

Air Bag Reactivation

NHTSA proposed to require that manual cutoff devices be designed so that, once the cutoff device has been used to deactivate the air bag, the air bag will remain deactivated until it is manually reactivated by means of the cutoff device. NHTSA requested comments on whether it should, in the alternative, require that the air bag be automatically reactivated when the vehicle is turned off. NHTSA explained that its ultimate decision would be based on weighing the relative risks to infants who might be placed in the front seat when the air bag is activated against the risks to adults who might ride in the passenger seat while the air bag is not activated.

In its preliminary estimate of those relative risks, the agency estimated that 1,050 air bag deployments a year will occur in pickup trucks and two-seater vehicles when a front passenger seat is occupied by an infant in a rear-facing infant seat. The level of the injuries resulting from these deployments are uncertain, but may well be severe. Conversely, the agency estimated that failure to reactivate the air bag for the benefit of non-infant passengers, would result in approximately 3 occupants who are at least one year old receiving AIS 2–5 (survivable) injuries. In addition, 1–3 fatalities and 23–32 additional injuries could occur each year as a result of deliberate misuse. Based on these estimates, the agency believed that the number of infants who would avoid potentially serious injury far exceeds the number of non-infants who might be injured.

Five commenters (Ford, Volvo, AAP, AAMA, and IIHS) agreed with NHTSA's proposal. Two commenters (Advocates and AORC) stated that NHTSA should require automatic reactivation of the air bag. NADA suggested that NHTSA could require automatic reactivation if the cutoff device did not incorporate a warning light.

NHTSA has decided to adopt the manual reactivation requirement. NHTSA believes that all air bags should be reactivated in the same way. No commenter provided specific data to refute the analysis NHTSA made in the NPRM which resulted in the tentative conclusion to propose manual reactivation. Adult passengers will be able to see the warning light, and will be informed if the air bag is not activated. In addition, such passengers will receive significant safety protection by wearing lap/shoulder belts. AAP suggested that NHTSA require information in the owner's manual recommending that parents educate non-infant, non-literate children of the function of the warning light so that they will also be aware of the need to remind the driver to turn the air bag on. While NHTSA is not requiring such information in the owner's manual, NHTSA agrees that it would be a good practice.

Warning Light

NHTSA proposed requiring that there be a telltale light on the dashboard that is clearly visible from both the driver and front passenger seating positions and that is illuminated whenever the passenger air bag has been deactivated by means of the cutoff device. This light would be separate from the air bag readiness indicator already required by Standard No. 208. NHTSA proposed that the color of the telltale be yellow, with the words ''AIR BAG OFF'' clearly visible on the telltale when the passenger side air bag has been deactivated.

Two commenters (Ford and AAMA) asked NHTSA to allow the telltale to have one brightness level. Ford also asked the agency to allow either the words ''AIR BAG OFF'' OR ''OFF'' on the telltale, Advocates asked the agency to require the words ''WARNING, AIR BAG OFF'' on the telltale. Mazda asked the agency to permit the telltale to be combined with the readiness indicator. AORC, which supported automatic reactivation of the air bag, asked the agency to require a telltale which warned of the possible need to deactivate the air bag. Volvo suggested that the agency should require a telltale if a vehicle is equipped with an automatic cutoff device. Finally, SafetyBeltSafe said the agency should require the telltale to indicate both when the air bag is ''off'' and when it is ''on.''

After reviewing these comments, NHTSA is modifying the warning light requirement only to allow one level of brightness and to permit the words ''AIR BAG OFF'' to be either on the telltale or adjacent to the telltale. Other telltales are allowed to have only one level of brightness. NHTSA believes that having the words ''AIR BAG OFF'' adjacent to the telltale will be as effective a means of informing the driver or passenger of the purpose of the telltale as words on the telltale itself. NHTSA is not adding the word ''WARNING'' because NHTSA believes that drivers are aware that the purpose of a telltale is to warn them of a condition that may require immediate attention.

Air Bag Readiness Indicator

Currently, S4.5.2 of FMVSS No. 208 requires that every vehicle equipped with an air bag also be equipped with an air bag readiness indicator that informs the driver about the operational status of the air bag system. As explained in the NPRM, NHTSA is not aware of any manufacturer which complies with this requirement by installing separate readiness indicators, one for the driver air bag and another for the passenger air bag. Therefore, NHTSA proposed to amend S4.5.2 to limit the operation of a single readiness indicator when the cutoff device is ''on'' so that the indicator monitors only the air bag that is not deactivated, i.e., the driver air bag. When the cutoff device is ''off,'' the passenger air bag would be activated, and the readiness indicator would monitor the readiness of both the driver air bag and the passenger air bag.

Advocates stated that NHTSA should require separate readiness indicators for each air bag. Volvo asked the agency to standardize the ''design, locations and identification'' of readiness indicators.

NHTSA is not modifying the proposed change to the readiness indicator requirements. NHTSA does not believe it is necessary to require a separate indicator since the warning light, in effect, acts as a readiness indicator for the passenger air bag. NHTSA is also not aware of any safety need to specify the readiness indicator requirements in greater detail as requested by Volvo.

Testing

AAMA asked the agency to specify that compliance testing of the passenger air bag in a vehicle with a manual cutoff device would be done only with the air bag activated. NHTSA has added explicit language to that effect in the regulatory language.

Costs

In the NPRM, NHTSA estimated the per vehicle price for a passenger air bag cutoff device to be $10.15. Ford commented that its ''manual deactivation system is several times the

agency's estimated consumer cost, even without the photocell dimming feature which the agency estimates would cost another $5.00.''

Ford did not provide any documentation to substantiate its claim that the real cost was several times what the agency estimated. Therefore, NHTSA does not have any basis for re-examining its estimate. Since the agency is not requiring more than one level of brightness, the cost is estimated to be $4.86. In any event, the agency is not requiring such devices; thus, any cost is associated with voluntary installation.

Owner's Manual

NHTSA also proposed to require that manufacturers include information concerning the cutoff device in the owner's manual. NHTSA did not propose specific language which must be included in the owner's manual. NHTSA proposed to require the owner's manual to include instructions on the operation of the cutoff device, a statement that the cutoff device should only be used when a rear-facing infant restraint is installed in the front passenger seating position, and a warning about the safety consequences of using the cutoff device at other times.

These requirements have been included in the final rule since no commenter disagreed with any aspect of the owner's manual requirement.

Labels

Currently, Standard No. 208 requires that, by September 1, 1994, air bag-equipped vehicles will bear a label on the sun visor that warns, in part:

Do not Install Rearward-Facing Child Seats in any Front Passenger Seat Position

Also, Standard No. 213 has been amended to require either of the following labels on rear-facing infant seats or on child restraints that can be converted for use in a rear-facing infant mode:

Warning—Place This Restraint in a Vehicle Seat That Does Not Have an Air Bag

or

Warning—When Your Baby's Size Requires That This Restraint be Used so That Your Baby Faces the Rear of the Vehicle, Place the Restraint in a Vehicle Seat That Does Not Have an Air Bag

The first warning is to be used for child seats that are rear-facing only, and the second warning is to be used for infant seats that covert from forward-facing to rear-facing.

In the NPRM, NHTSA tentatively concluded that the language of these labels did not need to be amended.

Ford and AAMA asked the agency to amend the sun visor label to add a phrase like, ''unless the passenger air bag is turned off.'' Because it agrees that some motorists may be confused by this message if the vehicle has a manual cutoff device, NHTSA is amending the vehicle label requirements for vehicles equipped with manual cutoff devices. However, NHTSA is not adopting the specific language requested by Ford. Ford's language is predicated on a design which incorporates a switch with an on and off position, as Ford's design does. NHTSA is concerned that this design-based wording could be confusing if other vehicle manufacturers used designs differing from Ford's.

Automatic Cutoff Devices

As discussed in the NPRM, NHTSA concluded that Standard No. 208 currently allows automatic cutoff devices. NHTSA requested comments on whether the agency should regulate automatic cutoff devices. Specifically, NHTSA requested comments on whether any or all of the proposals in the NPRM relating to warning lights, readiness indicators, owner's manuals, and labels should also apply to vehicles equipped with automatic cutoff devices.

Only one commenter, Volvo, believed that some aspects of this final rule should also apply to automatic cutoff devices. In addition, Volvo expressed concern that, contrary to NHTSA's belief, some automatic cutoff devices may deactivate the air bag during the Standard No. 208 compliance test. NHTSA is deferring any decision on regulations for automatic cutoff devices until there is further information on how, and under what circumstances, such devices would operate.

Blue Ribbon Panel on Child Restraints

In the NPRM, NHTSA described a number of activities the agency has taken to inform consumers on proper use of child restraints. While this notice has discussed one reason why parents may not be able to use a child restraint correctly (i.e., insufficient fore-aft clearance to place the child restraint in the rear seat), improper installation can result from other factors.

On February 13, 1995, the agency announced the information of a ''blue ribbon panel'' to further address the issue of how child restraints can be made easier to install and use. The panel was asked to present its recommendations by June 1, 1995.

Rulemaking Analyses and Notices

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 reviewed under E.O. 12866, ''Regulatory Planning and Review.'' This action has been determined to be ''significant'' under the Department of Transportation's regulatory policies and procedures.

The agency estimates that the consumer cost of the voluntarily installed manual cutoff device is $4.86. The $5.00 light sensor is not required in the final rule and the $5.15 for the cutoff device was wrong in the October 7, 1994 NPRM. The $5.15 included $0.29 for a placard label that the agency decided not to propose. The Preliminary Regulatory Evaluation included the correct estimate of $4.86 (1993 dollars).

The agency has revised its estimates of the number of air bag deployments per year when a front passenger seat is occupied by an infant in a rear-facing infant restraint in pickup trucks or two-seater vehicles to be 793. The agency also estimates that the number of similar deployments in other vehicles with less than 720 millimeters of rear seat space that would be eligible for a manual cutoff device is 845. Thus, the total deployments per year in vehicles that would be eligible for a manual cutoff device when the front passenger seat is occupied by an infant in a rear-facing infant restraint is estimated to be 1,638. These estimates assume that the front seat positions continue to be used by infants in vehicles with air bags and they are used by infants in vehicles without air bags, and that the warning labels are not effective in changing people's behavior. The level of injuries from these deployments are uncertain, but may well be severe.

In an effort to assess the potential for safety trade-offs resulting from the failure to reactivate the air bag after it has been deactivated for an infant, the agency estimates that only 1.3 percent of the vehicles permitted to have a cutoff device would be carrying an infant. If one assumes for the purpose of analysis that 10 percent of these were not reactivated, approximately 14 older occupants may receive AIS 2–5 (survivable) injuries. In addition, for every one percent of the vehicles in which the air bag is deliberately deactivated, 3 fatalities and 100–111 AIS 2–5 injuries would occur annually. Since the agency believes that the percentage of vehicles in which the air bag is inadvertently left off or

deactivated would be fairly small, the number of infants who would avoid potentially serious injury far exceed the number of non-infants who might be injured.

A final regulatory evaluation has been prepared for this rulemaking. A more detailed explanation of the costs and benefits can be found in that document.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, NHTSA does not anticipate a significant economic impact from this rulemaking action.

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 final rule.

National Environmental Policy Act

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

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.

Civil Justice Reform

This final 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.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

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 sections S4.1.5.1(b), S4.5.1(b)(1), and S4.5.2 and adding new sections S4.5.4 and S4.5.4.1 through S4.5.4.4 and S8.4, to read as follows:

§ 571.208 Standard No. 208, Occupant Crash Protection.

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S4.1.5.1 *Front/angular automatic protection system.*

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(b) For the purposes of sections S4.1.5 through S4.1.5.3 and S4.2.6 through S4.2.6.2, an *inflatable restraint system* means an air bag that is activated in a crash, other than an air bag that can be deactivated by a manual cutoff device permitted by S4.5.4 of this standard.

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S4.5.1 *Labeling and owner's manual information.*

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(b) *Label on sun visor above front outboard seating positions equipped with inflatable restraint.*

(1) Each vehicle manufactured on or after September 1, 1994, shall comply with either S4.5.1(b)(1)(i) or S4.5.1(b)(1)(ii).

(i) Each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. Except as provided in S4.5.1(b)(3), this label shall read:

CAUTION

TO AVOID SERIOUS INJURY:

For maximum safety protection in all types of crashes, you must always wear your safety belt.
Do not install rearward-facing child seats in any front passenger seat position.
Do not sit or lean unnecessarily close to the air bag.
Do not place any objects over the air bag or between the air bag and yourself.
See the owner's manual for further information and explanations.

(ii) If the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, each front outboard seating position that provides an inflatable restraint shall have a label permanently affixed to the sun visor for such seating position on either side of the sun visor, at the manufacturer's option. This label shall read:

CAUTION

TO AVOID SERIOUS INJURY:

For maximum safety protection in all types of crashes, you must always wear your safety belt.
Do not install rearward-facing child seats in any front passenger seat position, unless the air bag is off.
Do not sit or lean unnecessarily close to the air bag.
Do not place any objects over the air bag or between the air bag and yourself.
See the owner's manual for further information and explanations.

* * * * *

S4.5.2 *Readiness Indicator.* An occupant protection system that deploys in the event of a crash shall have a monitoring system with a readiness indicator. The indicator shall monitor its own readiness and shall be clearly visible from the driver's designated seating position. If the vehicle is equipped with a single readiness indicator for both a driver and passenger air bag, and if the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, the readiness indicator shall monitor only the readiness of the driver air bag when the passenger air bag has been deactivated by means of the cutoff device. A list of the elements of the system being monitored by the indicator shall be included with the information furnished in accordance with S4.5.1 but need not be included on the label.

* * * * *

S4.5.4 *Passenger Air Bag Manual Cutoff Device.* Passenger cars, trucks, buses, and multipurpose passenger vehicles may be equipped with a device that deactivates the air bag installed at the right front passenger position in the vehicle, if all of the conditions in S4.5.4.1 through S4.5.4.4 are satisfied.

S4.5.4.1 The vehicle complies with either S4.5.4.1(a) or S4.5.4.1(b).

(a) The vehicle has no forward-facing designated seating positions to the rear of the front seating positions.

(b) With the seats and seat backs adjusted as specified in S8.1.2 and S8.1.3, the distance, measured along a longitudinal horizontal line tangent to the highest point of the rear seat bottom in the longitudinal vertical plane described in either S4.5.4.1(b)(1) or S4.5.4.1(b)(2), between the rearward surface of the front seat back and the forward surface of the rear seat back is less than 720 millimeters.

(1) In a vehicle equipped with front bucket seats, the vertical plane at the centerline of the driver's seat cushion.

(2) In a vehicle equipped with front bench seating, the vertical plane which passes through the center of the steering wheel rim.

S4.5.4.2 The device is operable by means of the ignition key for the vehicle. The device shall be separate from the ignition switch for the vehicle, so that the driver must take some action with the ignition key other than inserting it or turning it in the ignition switch to deactivate the passenger air bag. Once deactivated, the passenger air bag shall remain deactivated until it is reactivated by means of the device.

S4.5.4.3 A telltale light on the dashboard shall be clearly visible from all front seating positions and shall be illuminated whenever the passenger air bag is deactivated. The telltale:

(a) Shall be yellow;

(b) Shall have the identifying words ''AIR BAG OFF'' on the telltale or within 25 millimeters of the telltale;

(c) Shall remain illuminated for the entire time that the passenger air bag is deactivated;

(d) Shall not be illuminated at any time when the passenger air bag is not deactivated; and,

(e) Shall not be combined with the readiness indicator required by S4.5.2 of this standard.

S4.5.4.4 The vehicle owner's manual shall provide, in a readily understandable format:

(a) Complete instructions on the operation of the cutoff device;

(b) A statement that the cutoff device should only be used when a rear-facing infant restraint is installed in the front passenger seating position; and,

(c) A warning about the safety consequences of using the cutoff device at other times.

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S8.4 *Frontal test condition.* If the vehicle is equipped with a cutoff device permitted by S4.5.4 of this standard, the device is deactivated.

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Ricardo Martinez,

Administrator.

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