

FHWA intends, in compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), to carefully consider the economic impact of these potential changes on small entities. The FHWA solicits comments, information and data on these impacts.

Unfunded Mandates Reform Act

The FHWA will analyze any proposed rule to determine whether it would result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more in any one year, as required by the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1532).

Executive Order 12612 (Federalism Assessment)

This action has been analyzed using the principles and criteria contained in Executive Order 12612. Because of the preliminary nature of this document, it is not possible to determine whether this proposal will have sufficient federalism implications to warrant the preparation of a federalism assessment. The FHWA is presenting this rulemaking as an opportunity to air complex issues.

These issues appear to have federalism implications. For example, adoption by the FHWA of the OOS Criteria as part of the FMCSRs would have an effect on States and municipalities. By making the OOS Criteria a part of the FMCSRs, the FHWA would be exercising control over those criteria. The CVSA might experience a diminished role in the development of policy standards for the exercise of enforcement discretion. Its member States might likewise experience a reduced role in their relationships with the Federal government. Incorporation by reference within the FMCSRs might have less of a federalism impact. The FHWA would have to conduct a rulemaking whenever the CVSA developed revisions of the OOS Criteria. But, because the language of the OOS Criteria would be more directly under the control of the CVSA, the federalism impact would be less than in the first approach. Maintaining the current policy would appear to have minimal federalism impact. The State-Federal partnership which has been operative in this area would presumably continue, and the CVSA and its member States would continue to play a large role in the maintenance of the OOS Criteria.

Executive Order 12372 (Intergovernmental Review)

The regulations implementing Executive Order 12372 regarding

intergovernmental consultation on Federal programs and activities do not apply to this program. Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The agency has analyzed this action for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and it has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned 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. The RIN contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects

49 CFR Part 395

Highway safety, Motor carriers, Reporting and recordkeeping requirements.

49 CFR Part 396

Highway safety, Motor carriers, Motor vehicle safety, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 31133, 31136, 31310, and 31502; sec. 345, Pub.L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48.)

Issued on: July 10, 1998.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 98–19153 Filed 7–17–98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA–98–4071; Notice 1]

RIN 2127–AH25

Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Federal Motor Vehicle Safety Standard on occupant crash protection to provide greater flexibility regarding the location of the telltale for air bag on-off switches installed in new motor vehicles. It would do so by eliminating the requirement that the telltale be located on the vehicle dashboard. No change would be made to the separate existing requirement that the telltale must be clearly visible from all front seat seating positions. This proposal would also add a requirement that the telltale be located within the vehicle's interior. The proposal is being issued, in response to a petition for rulemaking, to make the telltale requirements in the standard consistent with those in the agency's regulation governing the retrofitting of used vehicles with air bag on-off switches.

DATES: Comments must be received by September 3, 1998.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Management, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590 (Docket Room hours are 10:00 a.m.–5 p.m., Monday through Friday.)
FOR FURTHER INFORMATION CONTACT: For non-legal issues: Mr. Clarke Harper, Chief, Light Duty Vehicle Division, NPS–11, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2264. Fax: (202) 366–4329.

For legal issues: Ms. Rebecca MacPherson, Office of Chief Counsel, NCC–20, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone: (202) 366–2992. Fax: (202) 366–3820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Background
- II. Details of the Proposal
- III. Proposed Effective Date
- IV. Rulemaking Analyses and Notices
- V. Submission of Comments

I. Background

This notice responds to a petition from Volkswagen of America, Inc. seeking to amend Federal Motor Vehicle Safety Standard No. 208 (FMVSS No. 208) by eliminating the current requirement that the telltale for air bag on-off (cutoff) switches in new motor vehicles be located on the vehicle dashboard. Under the proposed change, the telltale requirements for new vehicles equipped with an on-off switch

would be consistent with the telltale requirements for retrofit on-off switches, i.e., vehicles that have been sold or leased to consumers. Part 595 exempts commercial entities from the statutory prohibition against making federally-required vehicle safety equipment inoperative for the purpose of allowing those entities to install retrofit switches.

On October 7, 1994, NHTSA published a notice of proposed rulemaking (NPRM) proposing to amend FMVSS No. 208 by giving manufacturers the option to install a manual passenger-side air bag on-off switch in new vehicles that either lacked a rear seat or had a rear seat too small to accommodate a rear-facing infant restraint (59 FR 51158). The proposal was issued in response to concerns that deploying air bags can seriously injure children appropriately restrained in a rear-facing infant restraint.

In the NPRM, NHTSA proposed requiring "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." NHTSA went on to explain that it

believes that the indicator should be visible to the driver as a reminder that the passenger air bag is, or is not, functioning. NHTSA believes that the indicator should be also visible from the passenger seating position as a warning to non-infant occupants that they are not protected by their air bag.

NHTSA sought comment on whether a supplemental or additional warning for passengers (i.e., a telltale separate from the readiness indicator light) would minimize instances in which the air bag was unintentionally not activated.

In response to the NPRM, NHTSA received comments addressing the suitability of differing light levels, required wording, and combination with the existing air bag readiness indicator. Three parties commented on the proposed requirement that the telltale be located on the vehicle dashboard. The Insurance Institute for Highway Safety stated that the telltale warning light should be continuously illuminated and should be conspicuously placed on the instrument panel to increase the likelihood that the driver takes note of the current status of the air bag. The American Automobile Manufacturer's Association (AAMA) stated that "proper placement of the device in the instrument panel could achieve two goals." According to AAMA, such placement would ensure that the telltale would be visible from both the driver and passenger seating

positions and the telltale would not be in the direct line of sight to disrupt the driver in dark conditions. Mazda stated that it believed a telltale should be located near the instrument cluster or meter set, since it believed that the indicator should be visible mainly by the driver.

On May 23, 1995, NHTSA issued a final rule giving the manufacturers the option to install a manual passenger-side air bag on-off switch in vehicles with either no rear seat or with a rear seat inadequate for accommodating a rear-facing infant restraint (60 FR 27233). The final rule required the on-off switch be operable by the ignition key, be separate from the ignition switch, remain deactivated until affirmatively reactivated by turning the switch, and be accompanied by the telltale that is the subject of this notice.

The final rule dropped the proposed requirement that the telltale be adjustable to provide at least two levels of brightness. NHTSA was initially concerned that a single light, visible under all driving conditions, could be too bright for a driver who had adapted to dark ambient roadway conditions. Based on its review of the comments, NHTSA determined that a single level of brightness would be less design restrictive and would meet the agency's intended purpose. Accordingly, the less restrictive design requirement was adopted.

On November 21, 1997, NHTSA issued a final rule establishing Part 595 and allowing owners of used vehicles to have their vehicles retrofitted by commercial entities with air bag on-off switches, subject to certain conditions (62 FR 62406). Such switches are available for both driver and passenger seating positions as long as the conditions for each seating position are met by the vehicle owner and the entity that installs the switches. The switch requirements were largely patterned after the requirements for a passenger-side switch in FMVSS No. 208. However, in order to provide vehicle manufacturers with more flexibility in fitting a telltale light into a vehicle originally not designed to accommodate it, Part 595 did not include a requirement that the telltale for retrofit switches be installed in the vehicle dashboard. It did adopt the requirement that the telltale for a passenger-side air bag switch be clearly visible from both the driver and front passenger seat positions.

II. Details of the Proposal

On March 23, 1998, Volkswagen of America, Inc. submitted a petition requesting the agency to initiate a

rulemaking proceeding to amend FMVSS No. 208 by eliminating the requirement that the telltale for an on-off switch in a new motor vehicle be located on the vehicle dashboard. Volkswagen maintains that the current requirement is unnecessarily design restrictive and that eliminating the dashboard requirement will not be detrimental to motor vehicle safety.

NHTSA is proposing to eliminate that requirement because the agency tentatively concludes that the requirement is not necessary to ensure the telltale's visibility. The agency believes that there are other locations (e.g., the console) within the vehicle's interior in which the telltale would be sufficiently noticeable by all front seat occupants. For example, General Motors installs telltale lights above the rearview mirror for vehicles with retrofit on-off switches.

NHTSA notes that in the final rule allowing retrofit air bag on-off switches, it did not require that the telltale be located on the vehicle dashboard. Instead, it simply specified that the telltale must be visible from the driver and front passenger seating positions and that the telltale must be located within the vehicle's interior. These conditions allow, but do not require, the placement of the telltale on the vehicle dashboard.

NHTSA proposes to amend FMVSS No. 208 to allow the placement of a telltale in a location other than the vehicle dashboard as long as the telltale is visible to all occupants of the front seat and is located within the vehicle's interior. This second requirement is being proposed because it would make FMVSS No. 208 consistent with Part 595 and because NHTSA believes external conditions like rain or snow could prevent the telltale from being clearly visible at all times.

The agency seeks comment on whether there would be any degradation of safety by not requiring uniformity of the telltale's location, i.e., on the vehicle dashboard.

III. Proposed Effective Date

Since the adoption of the proposal would relieve a restriction affecting safety, NHTSA plans to make the proposed amendment effective upon issuance of a final rule. NHTSA believes a delayed effective date would serve no purpose since the proposed changes would permit, but not require a change in the location of the switch telltale.

IV. 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 not reviewed under E.O. 12866, "Regulatory Planning and Review." This action has been determined to be insignificant under the Department of Transportation's regulatory policies and procedures. NHTSA believes that this proposal, if adopted, would result in no additional cost to manufacturers and consumers as the proposal would only expand available options for the design of a telltale for factory-installed air bag on-off switches. Accordingly, the agency believes that the economic impacts of this proposal would be so minimal as not to warrant the preparation of a full regulatory evaluation.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this notice under the Regulatory Flexibility Act. I hereby certify that this proposed rule would not have a significant economic impact on a substantial number of small entities. As explained above, this proposal would have minimal economic impact.

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 proposed rule.

National Environmental Policy Act

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

Executive Order 12612 (Federalism)

NHTSA has analyzed this proposal in accordance with the principles and criteria contained in E.O. 12612, and has determined that this proposed rule would not have significant federalism implications to warrant the preparation of a Federalism Assessment.

Civil Justice Reform

This proposed rule would 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.

V. Comments

Interested persons are invited to submit comments on this proposal. It is requested but not required that two copies be submitted.

All comments must not exceed 15 pages in length (49 CFR 553.21). Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including the purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and two copies from which the purportedly confidential information has been deleted should be submitted to Docket Management. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation. 49 CFR part 512.

All comments received by NHTSA before the close of business on the comment closing date indicated above for the proposal will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Comments received too late for consideration in regard to the final rule will be considered as suggestions for further rulemaking action. Comments on the proposal will be available for inspection in the docket. NHTSA will continue to file relevant information as it becomes available in the docket after the closing date, and recommends that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose a self-addressed, stamped postcard in the envelope with their comments. Upon receiving the comments, the docket

supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

In consideration of the foregoing, it is proposed that 49 CFR Part 571 be amended as follows:

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for part 571 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. Paragraph S4.5.4.3 of Section 571.208 would be revised to read as follows:

§ 571.208 Standard No. 208; Occupant crash protection.

* * * * *

S4.5.4.3 A telltale light in the interior of the vehicle shall be illuminated whenever the passenger air bag is turned off by means of the on-off switch. The telltale shall be clearly visible to occupants of all front seating positions. The telltale:

- (a) Shall be yellow;
- (b) Shall have the identifying words "PASSENGER AIR BAG OFF" on the telltale or within 25 millimeters of the telltale;
- (c) Shall remain illuminated for the entire time that the air bag is "off";
- (d) Shall not be illuminated at any time when the air bag is "on"; and,
- (e) Shall not be combined with the readiness indicator required by S4.5.2 of this standard.

* * * * *

Issued on July 14, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98-19155 Filed 7-17-98; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

Denial of Petition for Rulemaking; Federal Motor Vehicle Safety Standards

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Denial of petition for rulemaking.