

49 CFR Part 571**[Docket No. 74-14; Notice 113]****Federal Motor Vehicle Safety Standards; Occupant Crash Protection****AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.**ACTION:** Request for comments.

SUMMARY: This document solicits public comments on a petition from U. S. Senator Dirk Kempthorne to amend the provisions in the agency's automatic occupant protection standard concerning the use of unbelted as well as belted dummies in testing air bag-equipped vehicles. The petition asks that the agency impose a moratorium on testing with unbelted dummies. The petition was submitted in response to the deaths of young children and of drivers, primarily short-statured women, as a result of air bag deployments in low speed crashes. The petitioner believes that the necessity of meeting the unbelted test requirement is adversely affecting current air bag designs and causing these deaths. The petitioner also believes that the requirement is preventing vehicle manufacturers from optimizing air bag designs for belted occupants.

The agency has concluded that section 2508 of the Intermodal Surface Transportation Efficiency Act of 1991 precludes it from eliminating the unbelted test requirement.

However, since the agency is interested in all potential solutions to the air bag deaths and since the agency can recommend legislative changes to Congress, the agency is seeking public comment on the benefits and disbenefits of eliminating the unbelted test.

DATES: Comments must be received by March 31, 1997.

ADDRESSES: Comments should refer to the docket and notice number of this notice and be submitted to: Docket Section, Room 5109, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. (Docket Room hours are 9:30 a.m.-4:00 p.m., Monday through Friday.)

FOR FURTHER INFORMATION CONTACT:

For information about air bags and related rulemakings: Visit the NHTSA web site at "<http://www.nhtsa.dot.gov>" and select 11AIR BAGS: Information about air bags."

For non-legal issues: 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: J. Edward Glancy, 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:**Introduction**

Air bags have been installed in millions of cars and light trucks. As of the end of model year 1996, driver air bags had been installed in over 56,000,000 vehicles and passenger air bags in over 27,000,000 vehicles. As of the end of calendar year 1996, air bags had saved the lives of over 1,700 occupants, almost two-thirds of them unbelted. However, they had also caused the deaths of 35 young children and 20 adults,¹ primarily in low speed crashes in which the other occupants of the vehicles involved in the crashes have either not been injured or received only minor injuries. All but one of the adults were drivers and a majority of them were short-statured women.

The reports of air bag-related deaths and injuries contrast sharply with the expectations for air bags. The Department's initial interest in air bags arose in the late 1960's as researchers observed that air bags offered a means of increasing crash protection for unbelted occupants. Despite vigorous efforts to promote the use of the safety belts that Federal regulation had recently required in all passenger cars, the rate of safety belt use was hovering around 10 percent. With such a low level of use, the safety belt was providing very little of its expected benefits. Beginning in 1969, under Secretary John Volpe, the Department explored the potential of air bags and other measures, such as crash padding and automatic safety belts, that needed no occupant action. A series of rulemaking actions followed, all of them focussing on ways to provide automatic protection. The air bag was always a leading candidate to provide this protection, but it was not specifically required during the regulatory actions of the 1970's and 1980's.

The current occupant protection requirements trace back to 1984, when Secretary Elizabeth Dole issued performance requirements for automatic restraints (i.e., automatic belts or air bags). In a final rule amending Federal

Motor Vehicle Safety Standard (FMVSS) No. 208, Occupant Crash Protection (49 CFR 571.208), the Department required that the front outboard designated seating positions in passenger cars be equipped with automatic occupant protection (i.e., either automatic belts or air bags) instead of (or in addition to) manual lap and shoulder belts. (49 Fed. Reg. 28962; July 17, 1984).² For vehicles equipped with air bags, the Standard specifies two crash tests for determining whether the vehicles comply with the standard's injury criteria. Both tests involve crashing a vehicle into a barrier at speeds up to 30 mph. One crash uses unbelted anthropomorphic test dummies, while the other uses belted dummies. The unbelted crash test ensures that the vehicle provides effective "automatic protection," i.e., protection that meets injury criteria "by means that require no action by vehicle occupants," in keeping with the standard's original goal of providing protection to unbelted occupants.

In order to satisfy the injury criteria in a 30 mph unbelted test, an air bag must deploy very quickly. Even so, the automatic protection requirements do not specify a particular level of force. The amount of force is a function of a number of factors and air bag design features; it is also affected by the extent to which an air bag is designed to exceed the Standard's performance requirements. Further, the Standard affords substantial flexibility about how air bags perform in circumstances other than those specified in the test procedure, such as low-speed crashes and crashes with out-of-position occupants.

In the 1984 decision, the Department expressly recognized that commenters had raised issues about potential risks associated with air bags, but noted that there were technological means available for addressing those risks. The Final Regulatory Impact Analysis (FRIA) identified a variety of possible technological solutions to those risks, including dual level inflation systems of several types and measures such as changes in the shape and size of the bag, in aspiration, and in inflation techniques.

The development of air bags after the 1984 decision on automatic protection occurred at the same time as a significant increase in safety belt use. From a very low 14 percent in 1984, safety belt use increased rapidly in the late 1980's, reaching 59 percent by 1991,

¹ The figure of 20 is based on information that NHTSA has developed through NHTSA's Special Crash Investigation program and is not a census. Studies of Fatal Accident Reporting System (FARS) data are underway to obtain a more precise figure.

² In 1987, the agency issued a final rule extending the automatic occupant protection requirements to light trucks (i.e., vans, pickup trucks and sport utility vehicles). (52 Fed. Reg. 44898; November 23, 1987)

and stands at 68 percent³ today according to State-reported surveys.⁴

The primary reason for the rapid increase in the rate of safety belt use in the late 1980's was the enactment of State safety belt use laws. No State had a safety belt use law in effect at the time of the 1984 decision. The number rose quickly thereafter as a result of the concerted efforts of a large number of groups including State and federal safety authorities, consumer groups, motor vehicle manufacturers, and the insurance industry. The number of States with safety belt use laws in effect rose to 8 by the end of 1985, 22 by the end of 1986 and 28 by the end of 1987. All of the dozen most populous States had laws in effect by the end of 1988⁵. Forty-nine States now have belt use laws.⁶

The decisive move toward air bags occurred in 1991, as safety belt use was approaching 60 percent. The vehicle manufacturers had begun installing driver air bags in large numbers by model year 1990 and were discussing plans for fleetwide installation of air bags, including passenger air bags, within a few years. It appeared that air bags had won out over automatic belts as a means of providing automatic protection. Accordingly, in Section 2508(a)(1) of the Intermodal Transportation Efficiency Act of 1991 (ISTEA), codified at 49 U.S.C. § 30127(b), Congress directed NHTSA to amend Standard No. 208 to provide that the "automatic occupant protection" in passenger cars and light trucks shall be "an inflatable restraint," (i.e., an air

bag). ISTEA mandated that air bags be installed in 95 percent of passenger cars in model year 1997 and in 100 percent of cars in model year 1998 and thereafter. For light trucks, it mandated installation of air bags in 80 percent of model year 1998 vehicles and 100 percent of model year 1999 and later vehicles.

ISTEA did not change the compliance tests for air bags. Section 2508(a)(1) specified inflatable restraints "complying with the occupant protection requirements under section 4.1.2.1 of such Standard." At the time ISTEA was adopted, section S4.1.2.1 of FMVSS No. 208 required vehicles covered by that section to comply with subsections (a), (b), and either (c)(1) or (c)(2). (Virtually all auto manufacturers have chosen to certify their vehicles under subsection (c)(2), rather than (c)(1)). Section S4.1.2.1(a) provided that at each front outboard designated seating position, a vehicle must meet certain frontal crash protection requirements "by means that require no action by vehicle occupants." In other words, compliance was required to be demonstrated in an unbelted test. Section S4.1.2.1(c)(2) provided that the vehicle must meet these frontal crash protection requirements through the use of manual seat belts provided with the vehicle "in addition to the means that require no action by the vehicle occupant."

Agency Actions To Eliminate Air Bag Deaths

Reports of fatal injuries to young children and drivers in low speed crashes led the agency to make an extensive effort to obtain and analyze the data necessary to understand the source of the problem and to evaluate potential solutions. Since these data were not otherwise available from industry or any other outside source, the agency conducted its own series of tests to address these issues.

On November 22, 1996, NHTSA announced its comprehensive strategy for addressing the problems of air bag deaths. In addition to public information and education efforts, and recommendations to the States to adopt more effective safety belt use laws, the agency outlined an array of rulemaking actions it would take shortly. Pursuant to that announcement, the agency subsequently took the actions described below.

To address the safety of vehicles already on the road, the agency proposed to authorize motor vehicle dealers and repair businesses to deactivate air bags upon the request of vehicle owners who were informed of

the pros and cons of such deactivation. (62 FR 831; January 6, 1997) The same proposal would also apply to vehicles produced during the next several model years. This proposal is intended to address the problems of families who need to have young children in the front seat for medical monitoring purposes, as well as other persons who could be harmed by a functioning air bag. The agency strongly believes that children and other vulnerable persons should not be put at risk. The air bag technology currently chosen to meet the unbelted test presents such a risk. Although the agency is not legally authorized to eliminate the test, it has proposed temporary changes to the testing requirements that would permit significant depowering. The agency took several other actions that would affect vehicles produced during the next several model years. It issued a final rule requiring vehicles made on or after February 25, 1997, to be equipped with new, attention-getting labels that clearly warn consumers about the potential dangers associated with air bags. (61 FR 60206; November 27, 1996) It issued another final rule extending, until September 1, 2000, a provision allowing manufacturers the option of putting a manual cut-off switch for the passenger air bag in vehicles with no rear seat or with a rear seat too small for rear-facing child restraints. (62 FR. 798; January 6, 1997)

The agency also proposed two temporary options that would permit or facilitate the depowering of current air bags. (62 FR 807; January 6, 1997) For the unbelted crash test requirement, the first option would replace the existing "60 g's" chest injury criterion with a less stringent "80 g's" criterion. The second option would convert the unbelted crash test requirement from a test of complete vehicles in barrier crashes, to a sled test using an unbelted dummy seated in a body buck and a standardized 125 millisecond crash pulse. That crash pulse is based on a November 1996 submission from the American Automobile Manufacturers Association. Comments on the deactivation and depowering proposals were due February 5, 1997.

Agency Actions to Increase U.S. Belt Use Rates

As the agency noted in its depowering proposal, NHTSA is participating with vehicle manufacturers, air bag suppliers, insurance companies and safety organizations in a coalition effort to address the adverse effects of air bags by increasing the use of safety belts and child seats. Substantial benefits could be obtained from achieving higher safety

³ Belt use among fatally injured front seat occupants of cars and light trucks is lower, approximately 37 percent, based on 1995 FARS data. The lowness of this rate reflects a number of factors, including the belt use rate by motorists in general and the effectiveness of belt use in preventing fatal injury. A more useful belt use rate is the rate among occupants involved in potentially fatal crashes. Those crashes include all fatal crashes as well as all crashes in which there would have been a fatality but for belt use. The use rate in potentially fatal crashes is slightly over 50 percent.

⁴ Some State surveys are limited to passenger cars. The agency's latest National Occupant Protection Use Survey, a probability-based study of safety belt use in all vehicle types, indicates a current use rate of 58 percent. Another survey will be conducted in 1997.

⁵ The burst of legislative activity after the 1984 decision was not coincidental. The 1984 decision provided that the automatic protection requirements would be rescinded if the Secretary of Transportation determined by April 11, 1989 that State safety belt use laws meeting specified conditions had been passed by a sufficient number of States to cover two-thirds of the U.S. population. That date passed without such a determination having been made.

⁶ In ISTEA, the Congress also provided that States that failed to adopt mandatory safety belt use laws would have a percentage of their Federal-aid highway construction funds transferred to their highway safety programs.

belt use rates. If the safety belt use rate were 75 percent in potentially fatal crashes instead of the current level of 52.6 percent, an additional 4,000 lives would be saved annually.

On January 23, 1997, the President issued a memorandum directing the Department to work with the Congress, the States, and other concerned persons, including representatives of the automobile and insurance industries, and safety and consumer groups, and within 45 days (March 9, 1997) submit a plan to the President for increasing safety belt use nationwide.

The President specified that the plan shall address, among other things, the State laws that require the use of seatbelts, assistance from the Department of Transportation to improve those laws, and a comprehensive education campaign on behalf of the public and private sector to help the public understand the need to wear seatbelts.

Agency Announcement of Public Workshop on Smart Air Bags

Finally, with respect to the longer term, NHTSA announced that it would conduct a public workshop concerning smart air bags. (62 Fed. Reg. 2996; January 21, 1997) The purpose of the workshop was to foster a constructive dialogue with the industry, consumer groups and other parties concerning issues related to mandating the introduction of reliable "smart" air bags that either suppress deployment or modulate the level of deployment under circumstances in which full deployment might cause serious injury. In addition to "smart" technology, the workshop addressed other air bag technologies that could reduce the risk of air bag injuries but that have not been employed in current air bag designs. It also explored the question whether amendments to the standard are needed that could prove counterproductive in the long term or whether suitable technology can be installed under the current standard, as some air bag suppliers have suggested. The workshop was held February 11-12, 1997, in Washington, D.C.

Petition for a Moratorium on the Unbelted Test Requirement

Out of concern about the deaths caused by air bags, Senator Dirk Kempthorne sent the agency a letter, dated December 4, 1996, petitioning the agency to commence rulemaking to establish an immediate moratorium on the unbelted test requirement.

In support of his petition, the Senator said in his letter:

This unbelted standard was developed when few Americans used seat belts. Now 49 states require seat belts to be worn, and nearly 70% of Americans use them. In providing protection to those adults who choose not to obey seat belt laws, we are jeopardizing the lives of our children, as well as small women. That is an unacceptable policy choice.

He argued that, in the absence of the unbelted test requirement, air bags could be developed that "could improve the performance of air bags for belted occupants, provide significant protection for unbelted occupants, and, most importantly, significantly reduce injuries to children."

Senator Kempthorne amplified his views about the need for, and possible benefits of, his requested amendment during the January 9 Senate hearing. He argued that NHTSA's proposals do not go far enough:

I agree that depowering is required, but unless the administration acts on my proposal, both smart and depowered air bags must still protect adult males who refuse to wear their seat belt. That still puts children and women at risk * * *. [T]he Administration even today insists that adults not wearing seat belts should be protected at the expense of children and women. While 49 States require seat belts to be used, this Federal policy says, in essence, law breakers who don't wear seat belts will be protected, but maybe at the cost of the children. Seat belts provide the primary protection in all types of crashes. Air bags are intended to provide supplemental protection in car accidents * * * Air bags should supplement seat belts, not replace them. Federal highway safety policy should acknowledge and recognize individual responsibility.

In closing, he listed the benefits he anticipated from that his proposed moratorium. He stated that the moratorium:

- [O]ne, will make air bags live up to [their] rightful supplemental safety responsibility.
- Number two, will increase safety for two-thirds of the American people who obey the law and wear seat belts.
- Number three, will get safer bags into cars faster.
- Number four, will better protect women and senior citizens.
- Number five, will minimize chances of children being killed.

Views of Other Participants in the Senate Hearing

Statements by Committee members and witnesses during the Senate hearing on January 9 illustrate the range of views and arguments regarding the unbelted test requirement. Support for elimination of the requirement was expressed by the President of the American Automobile Manufacturers Association and the President of the Association of International Automobile Manufacturers.

Expressing his personal views, the Chairman of the National Transportation Safety Board said:

Federal regulations and NHTSA's recent proposal to depower air bags * * * still require that vehicle test procedures be based on unrestrained occupants. In essence, air bags are being designed, because of certification testing requirements, primarily to protect unbelted, rather than belted occupants, even though the air bags are being promoted as supplemental restraints systems and the majority of motor vehicle occupants now use seat belts. Air bag regulatory standards, based on unrestrained occupants, are no longer appropriate.

He suggested that air bag performance certification testing should be based primarily on belted occupants.

Mr. Robert Sanders, representing the Parents' Coalition for Air Bag Warnings, a group composed of parents of young children killed by air bags, did not explicitly address the issue of the unbelted test requirement. However, Mr. Sanders, himself a parent of a child killed by an air bag, questioned some of the same arguments used in support of eliminating the requirement:

This problem is not a problem with the regulators. It's also not a problem with the safety standard. The safety standard 208 * * * does not say that they [the vehicle manufacturers] can't make a bag that has less power. They can have a bag that has a lot of power when it is needed, for an adult, and less power when it's not needed, for a child or for an unbelted occupant. And it is a fact that GM successfully designed such a system in the mid 70's.

They [the vehicle manufacturers] are saying that the Federal government safety standard compels us to make a bag that's dangerous for children. Therefore, please change the safety standard.

There's nothing wrong with the safety standard * * *. They had the capability to comply with 208 and simultaneously make a bag that was safe and effective for all sizes of occupants.

Additional concerns about eliminating the unbelted test requirement were raised by several other participants:

- U.S. Senator Richard Bryan asked whether a moratorium on the unbelted test requirement might be equivalent to "no standard" at all for air bag performance.
- Joan Claybrook, President of Public Citizen, suggested that the existing standard does not force vehicle manufacturers to produce air bags that pose a risk to young children and women in low speed crashes. She said that manufacturers have the flexibility under the Standard to use dual level inflators based on crash severity. In low speed crashes, there would be a low level of inflation and in high speed

crashes, an appropriately higher level of inflation.

- Ricardo Martinez, Administrator of NHTSA, noted that of the approximately 1,700 persons whose lives had been saved by air bags, an estimated 1,200 of them were unbelted.

Recent Agency Statements About the Unbelted Test Requirement

During the Senate hearing on January 9, Senator Kempthorne asked the agency to provide its views regarding its legal authority to eliminate the unbelted test requirement. In a letter dated January 13, 1997, the agency responded to the Senator, concluding that it lacked such authority. The agency pointed out the following:

In section 2508(a)(1) of that statute, which is currently codified at 49 U.S.C. 30127(b), Congress directed NHTSA to amend FMVSS No. 208 "to provide that the automatic occupant protection for the front outboard designed seating positions [of certain vehicles] shall be an inflatable restraint complying with the occupant protection requirements under section 4.1.2.1 of such Standard." Thus, each vehicle must have an air bag that provides "automatic occupant protection." If the unbelted test were eliminated from FMVSS No. 208, such that vehicles only had to satisfy the performance requirements of the standard with the manual belts attached, there would be no way to ensure that the air bags would in fact provide "automatic" protection to front seat occupants.⁷

NHTSA's January 13 letter to the Senator noted that, as part of its analysis of the air bag problem and its efforts to identify the best solutions, the agency considered whether eliminating the unbelted test requirement would be advisable, putting aside the issue of legal authority. At that time, the agency concluded that elimination was unnecessary. NHTSA decided that other measures would enable vehicle manufacturers to depower air bags to an extent that would eliminate much of the risk to belted occupants and children and that the agency's other regulatory solutions (deactivation, enhanced labels, cut-off switches, and smart air bags) would address the remaining risk. Additional depowering appeared undesirable, given the associated trade-offs. As the agency stated in its January 13 letter:

Our research indicated that depowering air bags in the range of 20–35 percent would reduce the risk to children without significantly increasing the risk that the bags would be too weak to protect occupants in high-speed crashes. Our tests indicated that depowering beyond that level produced little

additional benefit for children, and markedly increased the risk for larger occupants. The amendment we proposed on January 6, 1997, will enable the manufacturers to depower their air bags by the 20–35 percent that seems to present the best balance for the safety of all occupants.

Nevertheless, the agency recognized that there might come a point at which dropping the unbelted test might become appropriate for reasons other than additional depowering. As NHTSA noted in its depowering proposal:

The agency recognizes that, at some point, belt use might rise to a point at which retention of the unbelted test requirements might no longer be appropriate. The agency notes that belt use in Australia is over 95 percent, and averages 93 percent in Canada. However, as noted above, the belt use among fatally injured vehicle occupants is less than 40 percent.

(62 FR 807, at 824)

The level of safety belt use is an essential factor in evaluating the effects of eliminating the unbelted test, since there is little doubt that most if not all vehicles now on the market can comply with the injury criteria by means of safety belts alone. Thus, if the unbelted test were deleted and no other tests were added to regulate the performance of air bags, the vehicle manufacturers would be free to install air bags that afford no protection to either belted or unbelted occupants. In effect, the standard would no longer regulate the level of protection afforded to unbelted occupants. This would be a fundamental departure from the original concept of the standard, which was to protect unbelted occupants as well as belted occupants.

Agency Decision To Request Public Comment

NHTSA has decided to seek public comment on its tentative conclusions about the appropriateness of dropping the unbelted test requirement under the current circumstances, and the factual issues presented by the request for a moratorium. Given the importance of the underlying problem and the interest in eliminating the unbelted test requirement expressed by participants in the Senate hearing, the agency believes that it would be beneficial to obtain public comments analyzing the benefits and disbenefits of eliminating the unbelted test requirement. NHTSA is seeking as much detailed technical data as possible in support of any comments. Although the agency currently lacks the authority to take that action, it could ask Congress to adopt the necessary legislation.

To help frame the issues relevant to the merits of eliminating the unbelted

test, the agency has drawn the following arguments from the information submitted to it:

Arguments for eliminating the unbelted test:

(1) A vehicle safety standard should not benefit some occupants by means that cause harm to others. The rule should be: "First, do no harm."

(2) To the extent that the need to satisfy the injury criteria of Standard No. 208 in an unbelted test results in air bags that are causing injuries in low-speed crashes, the standard needs to be changed.

(3) The increase in national belt use rate to 68 percent has made the unbelted test requirement obsolete.

(4) Air bags ought to be designed for the benefit of those who obey the law and use their safety belts.

(5) Air bags are intended to be supplemental safety devices and ought to be optimized for the benefit of belted occupants, and thus save increased numbers of those occupants.

Arguments against eliminating the unbelted test:

(1) The unbelted test requirement does not require manufacturers to install air bags that cause deaths in low speed crashes. Technology such as dual level inflators, higher deployment thresholds and smart air bags have the potential to prevent deaths in low speed crashes, while preserving the ability of air bags to protect occupants in higher speed crashes.

(2) In the short run, the agency's depowering proposal will allow manufacturers to achieve the same goals sought by proponents of eliminating the unbelted test requirement, while retaining some protection for unbelted occupants.

(3) Thirty-two percent of front seat occupants—and 50 percent of occupants in potentially fatal crashes—do not wear safety belts. The air bag is the primary protection for these people, not merely supplemental protection.

(4) If the unbelted test requirement were eliminated, with no compensatory changes, future air bags might be less protective than current ones, even for belted occupants. If air bags were depowered too much, they would not provide adequate protection at higher speeds or for larger occupants, whether belted or unbelted.

(5) Without the unbelted test, the performance of air bags would not be regulated. The manufacturers would be free to reduce the power of air bags to any level the market would permit. Safety decisions like this are too critical to be left to the marketplace.

⁷ A more detailed analysis of this legal issue has been prepared by NHTSA and placed in the docket for this proceeding.

Questions for Commenters

1. What would the benefit of eliminating the unbelted test requirement be compared to the projected benefits of the agency's proposed options to allow depowering of air bags? Would eliminating the unbelted test requirement allow greater depowering than adoption of the 80g option? The sled test option? Would greater depowering have benefits or disbenefits?
2. What changes would the manufacturers make in response to the elimination of the unbelted test requirement? How long would it take to implement those changes? Would manufacturers respond differently to eliminating the unbelted test requirement than they would if the agency adopted the 80g option? The sled test option?
3. How and to what extent could air bags be made more effective for belted occupants in the absence of an unbelted test requirement? Would these changes affect the performance of air bags in protecting unbelted occupants?
4. Given current belt use rates, should Federal law continue to require automatic protection for unbelted occupants? If so, should the required level of protection be the same as for belted occupants? Should the ISTEA air bag mandate be repealed to allow manufacturers to provide automatic protection by automatic safety belts?
5. Is there a level of safety belt usage at which it would be appropriate to no longer require protection for unbelted occupants? If so, what level?
6. If the unbelted test requirement were eliminated, should that elimination be coupled with simultaneous compensatory changes to the injury criteria or to the test requirements, or both, to ensure the continued protective value of air bags? Changes might take the form of making the existing criteria more stringent, adding additional criteria, or both. If compensatory changes are desirable, what changes should be made? What level of protectiveness should be required for belted occupants? For unbelted occupants?
7. Would the effects of eliminating the unbelted test requirement be different for driver air bags versus passenger air bags? Have the design changes that the vehicle manufacturers have been making to driver air bags significantly reduced the problem of driver deaths caused by air bags? For unbelted drivers? For belted drivers?
8. If the unbelted test requirement were eliminated, should such elimination be permanent or temporary?

If temporary, for how long should it be suspended? Should it be reinstated after smart air bags are required?

9. Would any potential harm from eliminating the unbelted test fall disproportionately on groups who tend to have lower belt use rates and higher crash rates, such as young drivers? Would the belts designed to protect belted occupants be less effective for unbelted occupants?

10. What should the role of the Federal government be with respect to the design of air bags so as to minimize air bag deaths in low speed crashes? Should government merely point out potential ways of avoiding such consequences and let the marketplace decide whether they should be implemented, or should it mandate features that will minimize the risk?

11. If the unbelted test were to be deleted through legislation, should that action be coupled with measures to secure the enactment of stronger safety belt use laws or other measures to increase safety belt use?

Submission of Comments

Interested persons are invited to submit comments. It is requested but not required that 10 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 purportedly confidential business information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. 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 before the close of business on the comment closing date indicated above 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 will be available for inspection in the docket. The NHTSA will continue to file relevant information as it becomes available in

the docket after the closing date, and it is recommended 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 mail the postcard back.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

(Authority: 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.50)

Issued on February 24, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 022197B]

RIN 0648-A182

Fisheries Off West Coast States and in the Western Pacific; Commercial and Recreational Pacific Salmon Fishery Amendment 12; Pacific Coast Groundfish Fishery Amendment 10

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of amendments to fishery management plans; request for comments.

SUMMARY: NMFS announces that the Pacific Fishery Management Council (Council) has submitted Amendment 12 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (Salmon FMP) and Amendment 10 to the Pacific Coast Groundfish Fishery Management Plan (Groundfish FMP) for Secretarial review. Amendment 12 would allow retention, but not sale, of salmon bycatch by groundfish trawl vessels under a monitoring program that meets certain guidelines; would specify Endangered Species Act (ESA) standards as management objectives for salmon species listed under the ESA; and would update the Salmon FMP,