Comment to the Docket Concerning Amendments to FMVSS 208, Occupant Crash Protection

Summary of Comments

Federal motor vehicle safety standards (FMVSS) must, by law, meet the need for motor vehicle safety. This proposal (Docket No. NHTSA 98-4405; Notice 1) purports to meet that need by requiring advanced air bags. In fact, it is primarily written to address the problem of inflation induced injuries and would provide little additional protection.

The worst of the inflation induced injuries resulted in several hundred fatalities to children and out-of-position adults (including those sitting too close to the steering wheel) and from late, low-speed crash air bag deployments. NHTSA [National Highway Traffic Safety Administration] had assumed that manufacturers would conduct comprehensive air bag testing to ensure that inflation would not inflict injury under reasonable foreseeable conditions. It is arguable (although probably not practical policy) that NHTSA could address inflation induced injuries under safety defect provisions of the National Traffic and Motor Vehicle Safety Act.

A key part of this notice proposes two options: (1) tests of air bag systems with dummies in close proximity to ensure that inflation induced injuries are unlikely, or (2) requirements for occupant sensors to ensure that air bags will not inflate if an occupant is in a position where he or she is at risk of injury from the inflating air bag.

In response to the proposed alternatives, we expect manufacturers to choose occupant sensors to prevent air bag inflation for certain occupant situations. This untested sensor technology might actually increase casualties because of inaccurate determinations of occupant risks and degraded reliability from the added complexity.

Experts in the field have suggested a number of potential air bag design and performance features that might reduce inflation induced injuries. The Canadian government and NHTSA deserve credit for their research and analysis in this field despite NHTSA’s belated recognition that an official response was necessary. It is not clear which approach would be most effective, or even most cost-effective, but we think it is unlikely that NHTSA’s proposed regulation will yield an optimal result.

This notice also fails to address occupant protection challenges involving one to two orders of magnitude more casualties for which feasible technologies are available. These include raising safety belt use to near universality, protection of occupants in rollover crashes, and addressing compatibility problems between passenger cars and light trucks.

Many of these deficiencies can be overcome with a third alternative that retains the simplicity of the original automatic occupant crash protection standard; does not introduce complex, untested occupant sensors; and meets other needs for motor vehicle safety. It depends fundamentally on NHTSA’s willingness to propose acceptable, effective inducements for using safety belts.

Problems with NHTSA’s Proposal

[Not shown here]
“Please Don’t Eat the Daisies”
[An argument that the government should not have to tell manufacturers everything they should or should not do to protect people. Not shown here]

**A Third Option Would Encourage Belt Use**

We are proposing that a third option be added to NHTSA’s notice that would ensure safety belt use with acceptable and effective belt use inducements built into the vehicle. [Detail omitted]

NHTSA must recognize that the fundamental problem with its occupant restraint policy is that a substantial minority of motorists do not use safety belts. In fact, a much larger proportion of those most likely to be involved in serious crashes drive unbelted. Nearly universal belt use is critical to any rational occupant crash protection program.

**Using the Marketplace**
[An argument for useful safety consumer information. Not shown here]

**Diagnosing Problems and Evaluating Change**
[Not shown here]

**Detailed Comments**

**Background and Policy**
[Not shown here]

**An Alternative to the Proposed Amendment**

Our specific proposal is that NHTSA add a third option to its notice on advanced air bags. Under this option:

A manufacturer must install an effective, but not onerous safety belt use inducement in a new motor vehicle of a type that would be permitted under the ‘interlock’ amendment (15 U.S.C.1410b) to the National Traffic and Motor Vehicle Safety Act. [Detail omitted]

A motor vehicle must meet comparative injury criteria of FMVSS 208 and in addition [in crashworthiness tests using dummies] there can be no contact between the head of the driver or passenger dummy and any part of the vehicle (other than the air bag or belt restraint system) or any other part of the dummy, in a frontal barrier crash at a speed of up to 35 mph with belted occupants. [Detail omitted]

Air bags may not deploy under any frontal crash speed barrier impacts below 16 mph. [Detail omitted]

Vehicles would be subject to an offset barrier test similar to that proposed in this notice. [Detail omitted]

**Consumer Information and the Market for Safety**
[Not shown here]


**Discussion**

Our alternative would provide occupant crash protection that is at least equal in all respects to that provided by the present standard and NCAP consumer information program. [Detail omitted]

This proposal would substantially increase belt use and, because of the head impact requirements would ensure that air bags provide good head protection. Air bags that can meet this criterion would provide some frontal crash protection to the small number of unbelted occupants (who would, of course, be unbelted by their own conscious choice).

If manufacturers would choose our alternative, it would save a minimum of 7,000 lives per year compared with the present FMVSS208, making it one of the most cost-effective standards ever.

(The full comment can be found in the Department of Transportation’s Docket Management System (http://dms.dot.gov) by searching for docket number 4405.)