

## V. Effect of Delay on Revised Incident Reporting Requirements

On December 3, 2003 (68 FR 67745), we published a final rule under docket HM-229 revising the incident reporting requirements in §§ 171.15 and 171.16 of the HMR and the Hazardous Materials Incident Report Form. On May 26, 2004 (69 FR 30113), we published a final rule making several corrections to the December 3, 2003 final rule and extending its effective date until January 1, 2005. We extended the effective date of the incident reporting final rule to provide sufficient time for development and testing of the software to enable electronic reporting of incidents and for outreach to the regulated community.

Several persons have suggested that, because the HM-229 final rule references definitions adopted in the HM-223 final rule, the effective date for the HM-229 final rule must coincide with the effective date for the HM-223 final rule. We do not agree. As stated above, the HM-223 final rule adopts definitions that are based on long-standing administrative determinations as to the applicability of the HMR to specific functions and activities. These administrative determinations remain in effect even though the effective date of the HM-223 final rule is delayed.

The HM-229 final rule expands the incident reporting requirements to each person who is in physical control of a hazardous material while it is being transported in commerce. Generally, the person in physical control of the hazardous material during transportation will be either the carrier or the person having physical control of the hazardous material for the time that it may be stored during transportation. The HM-229 final rule states, "Consistent with the definitions adopted in the HM-223 final rule, storage incidental to movement is storage by any person of a transport vehicle, freight container, or package containing a hazardous material between the time that a carrier takes physical possession of the hazardous material until the package containing the hazardous material is physically delivered to the destination indicated on a shipping document." (68 FR 67751) The HM-223 definition for "storage incidental to movement" is consistent with previously issued preemption determinations and letters of clarification concerning the applicability of the HMR to storage operations (see preamble discussion to the NPRM published under docket HM-223 on June 14, 2001; 66 FR 32434-36). Thus, notwithstanding the delay in the effective date of the HM-223 final rule,

the incident reporting requirements adopted in HM-229 apply to persons in physical possession of a hazardous material between the time that the hazardous material is offered for transportation to a carrier and the time it reaches its intended destination and is accepted by the consignee "that is, to carriers and to owners or operators of facilities at which the hazardous material may be stored during transportation.

Issued in Washington, DC, on December 1, 2004, under authority delegated in 49 CFR part 1.

**Samuel G. Bonasso,**

*Deputy Administrator, Research and Special Programs Administration.*

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## DEPARTMENT OF TRANSPORTATION

### National Highway Traffic Safety Administration

**49 CFR Parts 571, 585, 586, 589, 590, 596, and 597**

**[Docket No. NHTSA-04-18726]**

**RIN 2127-AI91**

### Federal Motor Vehicle Safety Standards; Occupant Crash Protection

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

**ACTION:** Final rule.

**SUMMARY:** This document adopts NHTSA's proposal to require all designated seating positions in rear seats, other than side-facing seats, be equipped with Type 2 integral lap/shoulder safety belts. Side-facing seats may be equipped with either a Type 1 lap belt or a Type 2 belt. This final rule responds to a Congressional mandate that the agency begin to phase-in requirements for lap/shoulder belts for all rear seating positions, wherever practicable, not later than September 1, 2005.

**DATES:** *Effective Date:* The amendments made in this rule are effective September 1, 2005. *Petitions:* Petitions for reconsideration must be received by January 24, 2005.

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

**FOR FURTHER INFORMATION CONTACT:** For non-legal issues, you may call Sanjay

Patel, Office of Crashworthiness Standards, at 202-366-4583.

For legal issues, you may call Christopher Calamita, Office of the Chief Counsel, at 202-366-2992.

You may send mail to both of these officials at the National Highway Traffic Safety Administration, 400 Seventh St., SW., Washington, DC, 20590.

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### I. Background

On December 4, 2002, the President signed into law "Anton's Law", Public Law 107-318 (December 4, 2002; 116 Stat. 2772), which provides for the improvement of child safety devices when installed in motor vehicles. One of the provisions of Anton's Law mandates the installation of lap/shoulder belts in rear seating positions. Specifically, section 5(a) of the law directs the Secretary of Transportation, through NHTSA, to issue a final rule by December 2004 that would:

require a lap and shoulder belt assembly for each rear designated seating position in a passenger motor vehicle with a gross vehicle weight rating of 10,000 pounds or less, except that if the Secretary determines that installation of a lap and shoulder belt assembly is not practicable for a particular designated seating position in a particular type of passenger motor vehicle, the Secretary may exclude the designated seating position from the requirement.

Section 5(b) of the statute further specifies that the final rule be implemented in phases on a production year basis, beginning with the first production year after the year the final rule is published.<sup>1</sup> The rule is to be

<sup>1</sup> "The requirement prescribed under subsection (a)(1) shall be implemented in phases on a production year basis beginning with the production year that begins not later than 12 months after the end of the year in which the regulations are prescribed under subsection (a). The final rule shall apply to all passenger motor vehicles with a gross vehicle weight rating of 10,000 pounds or less that are manufactured in the third production year of the implementation phase-in under the schedule."

effective for all vehicles by the third production year of the phase-in. Thus, according to the schedule mandated by Anton's Law, the phase-in would commence on September 1, 2005, and all vehicles would have to meet the requirements of the final rule by September 1, 2007.

NHTSA published a notice of proposed rulemaking (NPRM) proposing to implement section 5 on August 6, 2003 (68 FR 46546) [Docket No. NHTSA-03-15817; Notice 1]. A detailed history of the agency's rulemaking activities related to the regulation of safety belts in the rear seat of vehicles is provided in that document.

One of the primary reasons for today's rule is the increased protection that children between the ages of four and eight gain by having a lap/shoulder belt made available in rear inboard seating positions. When these Type 2 belts are installed in the rear inboard seating position, there is an additional, and potentially safer, seating position available for a child in a belt-positioning booster seat. Approximately 77% of the passenger car fleet and 49% of the light truck and van (LTV) fleet<sup>2</sup> currently on the road already have Type 2 belts in the rear inboard seating position. Belt positioning booster seats should enable children to attain the same effectiveness rates from lap/shoulder belts as the rest of the population, since they allow proper positioning for children in the four-to eight-year-old age group. Additionally, the presence of an inboard lap/shoulder belt may shift seat usage from the outboard positions to inboard seat positions. This would lead to some reduction of injury or death in side impact crashes.

The potential benefits associated with requiring lap/shoulder belts for rear inboard seating positions are not limited to the potential for increased use of booster seats. It would also benefit older occupants. Current belt use among rear inboard-seated passengers in passenger cars is approximately 50 percent, while the belt use among rear inboard-seated passengers in LTVs is slightly higher at 57 percent. In a 1999 study, NHTSA found that belt use was approximately seven to ten percent higher at rear outboard designated seating positions with a lap/shoulder belt than at ones with only a lap belt.<sup>3</sup> We are unsure

why the presence of a Type 2 belt is associated with this increased level of safety belt use. Whatever the reason, the combination of higher belt use and increased benefits related to the additional protection afforded by the shoulder belt results in greater benefits than lap belts alone. This is true for every forward-facing seating position. Thus, the increase in belt use attributable to the presence of a Type 2 belt in the rear inboard seating positions introduces the potential to reduce the risk of serious injury or death for occupants seated in this position.

If the switch from lap belts to lap/shoulder belts in rear inboard seating positions did not lead to any increase in belt use, NHTSA estimates that the addition of a shoulder belt to the rear inboard seating positions of passenger cars would prevent 5 fatalities and 111 injuries (AIS 2-5) annually. Similar numbers, 5 fatalities and 134 injuries (AIS 2-5) would be achieved in requiring lap/shoulder belts in the rear inboard seats of LTVs. These reductions in injuries and fatalities are purely the result of the added protection offered by the shoulder belt.

As noted above, the agency has observed a seven to ten percent increase in belt usage for seating positions equipped with a lap/shoulder belt rather than just a lap belt. Assuming that the switch to lap/shoulder belts leads to a ten percent increase in belt use, the agency would expect to see the benefits increase to 16 fewer fatalities, 77 fewer AIS 1 injuries, and 202 fewer AIS 2-5 injuries in passenger cars equipped with rear inboard lap/shoulder belts. Likewise, it would expect to see the benefits increase to 17 fewer fatalities, 60 fewer AIS 1 injuries, and 293 fewer AIS 2-5 injuries in LTVs equipped with rear lap/shoulder belts. Most of the reduction in injuries would be in the AIS 2 range. These are injuries that, while not life-threatening, can result in significant financial costs and long-term pain and suffering.

As discussed in the NPRM, this rulemaking seeks to increase the use of belt-positioning booster seats and to improve the safety of all occupants in the inboard rear seating position, regardless of whether the occupant is seated in a booster seat. We believe that today's rule will provide occupants seated in the rear inboard seat position with the same level of safety belt protection as the occupants of other seating positions.

## II. Summary of the Proposed Requirements

In the NPRM, NHTSA proposed adopting a requirement for lap/shoulder

belts for all designated seating positions other than the inboard front seat for all passenger cars and for most other vehicles with a GVWR of 4,536 kg (10,000 lb) or less and side-facing seats. Side-facing seats that are designated seating positions were proposed to be equipped with a lap belt only. Inboard seating positions in the front seat would not have been required to have a Type 2 belt because the projected benefits, when compared to the cost involved in requiring lap/shoulder belts for this seating position, are so low.

In proposing to require lap/shoulder belts for rear seats, NHTSA tentatively decided to retain some vehicle exceptions to the current rear lap/shoulder provisions contained in FMVSS No. 208. Specifically, rear designated seats in motor homes, walk-in van-type trucks, and vehicles designed to be sold exclusively to the U.S. postal service would be excluded from the rear lap/shoulder belt requirements. The rear seats in LTVs carrying chassis-mount campers with a GVWR greater than 3,855 kg (8,500 lb) and no greater than 4,536 kg (10,000 lb) would need to be equipped with a lap belt only.

We also tentatively decided to require Type 2 belts for rear-facing seats and for forward-facing outboard seats adjacent to an aisle. FMVSS No. 208 currently allows a rear forward-facing outboard seat to be equipped with only a lap belt if that seat is adjacent to an aisle that runs between the seat and the side of the vehicle and is used to gain access to seats rearward of the seat. This exclusion was added to the standard because of the potential ingress/egress problems created by shoulder belts for those more rearward seats and because attaching belt anchorages to the side of the vehicle could cause a lap/shoulder belt to fit its user poorly. With the advent of safety belt technologies like lap/shoulder belts that are integrated into the seat back and ceiling-mounted anchors, we queried whether such an exception was still needed.

In the NPRM, the agency stated that it was not planning on changing the lap/shoulder belt requirements for swivel seats or readily removable seats. Both of these types of seats may have modified lap/shoulder belt assemblies. We noted, however, that such an exception may no longer be needed because of new safety belt designs. As discussed more fully later in this document, we have decided to make some changes to these requirements based, in part, upon industry responses to our request in the NPRM for comments on the continuing need for such exceptions.

<sup>2</sup> A LTV is a vehicle other than a trailer or passenger car designed to carry ten or fewer people. LTVs consist of light trucks, vans and sport utility vehicles.

<sup>3</sup> "Effectiveness of Lap/Shoulder Belts in the Back Outboard Seating Positions," Evaluation Division, Plans and Policy, National Highway Traffic Safety Administration, Washington, D.C. June 1999. DOT HS 808 945.

While not proposing any changes to the current FMVSS No. 208 comfort and convenience requirements and the various barrier tests contained in FMVSS No. 208, we sought comment on whether rear seat requirements should be considered. Since the benefits associated with lap/shoulder belts can only be realized if they are used correctly, the agency queried whether it was appropriate to consider requiring adjustable upper anchorages.

NHTSA anticipated that the addition of a shoulder belt to the rear inboard seating positions in passenger cars and LTVs would prevent between 10 to 33 fatalities and 245 to 632 injuries (AIS 1–5) per year. If all inboard seating positions were equipped with lap/shoulder belts, we estimated that 15 to 49 fatalities and 260 to 804 injuries (AIS 1–5) could be prevented per year in passenger cars and LTVs annually.

In the NPRM, we estimated that approximately 23% of passenger cars and 57.5% of LTVs would need to be equipped with an additional shoulder belt if the final rule were adopted as proposed. Additionally, if NHTSA were to require an inboard lap/shoulder belt for light trucks with only one row of seats, approximately 11 percent (966,128) of the LTV fleet would need to be equipped with an additional lap/shoulder belt.

NHTSA estimated that the net cost of installing the shoulder belt portion of a lap/shoulder belt in the inboard rear seat of a passenger car or LTV would average \$15.41. The total net cost associated with replacing lap belts with lap/shoulder belts at rear inboard seating positions was anticipated to be approximately \$109 million.

For the purpose of estimating costs, NHTSA assumed that most manufacturers would choose to install lap/shoulder belts that are integrated into the seat back if there were no place to install an upper shoulder belt anchorage along the existing vehicle structure. We estimated the cost of reinforcing the seat back of these seats to be approximately \$31.08 per seating position, for a total estimated cost of approximately \$109 million.

We anticipate the total cost of the rule would be \$218.8 million.

### III. Summary of Public Comments

Thirteen comments were submitted in response to the NPRM.<sup>4</sup> Ford Motor

Company (Ford), General Motors (GM) and the Alliance of Automobile Manufacturers (Alliance) generally supported the NPRM, but provided insight on the cost and feasibility of lap/shoulder belts integrated into vehicle seat backs, a technology for which the agency specifically requested information. The Recreation Vehicle Industry Association (RVIA) requested that conversion vans be exempted from compliance during the phase-in or that a one year extension of the phase-in period be added. Flexsteel Industries, a seat manufacturer for the conversion van industry, requested that the agency adopt an exception for folding sofa-style seats akin to that currently provided for swivel seats.

Advocates for Highway and Auto Safety (Advocates), Syson-Hille and Associates (Syson-Hille), SafetyBeltSafe U.S.A., and Bidez and Associates generally supported the proposal, but argued that the agency had not sufficiently addressed the safety of children in the rear seat in its notice. The National Automobile Dealers Association (NADA) supported the proposed rule, and urged the agency to adopt a lap/shoulder belt for the front inboard seating position in single row vehicles (*i.e.*, pick-up trucks). NADA also requested that the agency discuss in the preamble to this rule whether retrofit kits and LATCH anchorages would be promoted or considered in future rulemakings. Since this rulemaking does not address LATCH anchorages, this comment will not be discussed further.

### IV. Summary of the Final Rule

Today's rule requires Type 2 belts in rear seating positions largely as proposed in the NPRM. However, we have decided to narrow the existing exceptions for removable and swivel seats and for the seating positions located adjacent to an aisle. Based on a survey of the current fleet and submissions by commenters, we believe the exceptions currently in effect are neither needed nor in the best interests of safety. Additionally, we have decided to provide a limited exception for

reiterates here that safety belts on school buses are not affected by today's rule. A third comment, by Honda, addressed a housekeeping matter in the NPRM that was intended to have no substantive change. Specifically, in the NPRM, the agency proposed placing all phase-in reporting requirements in a single part of the Code of Federal Regulations (CFR). Currently, each FMVSS with a phase-in requirement has a corollary part in the CFR specifying the content and form of required phase-in compliance reports. Honda noted minor errors in the proposed regulatory text that are hereby corrected. No further discussion of these three comments is necessary.

folding seats, a seat design that has become increasingly popular in LTVs and has long been used in station wagons and hatch-backs.

We have decided against requiring Type 2 belts for front inboard seats because the cost associated with such a requirement cannot be justified by the exceptionally low likelihood of occupancy. Manufacturers are welcome to install Type 2 belts at this position voluntarily. Likewise, manufacturers may install Type 2 belts at side-facing seating positions, although only lap belts are required.

We are not granting RVIA's request that manufacturers of conversion vans be provided with an additional year for compliance with today's requirement because the time period for compliance is dictated by statute. Even if this were not the case, the agency believes its accommodation of removable seats is sufficient to address RVIA's concerns.

Finally, as noted earlier, we are placing all phase-in reporting requirements in 49 CFR Part 585, including the new requirements currently located in Part 586 and 597. These two regulations were not in effect when the NPRM was published. A new subpart detailing the phase-in reporting requirements for FMVSS No. 138, *Tire pressure monitoring systems* (TPMS) will be added to Part 585 as part of the TPMS final rule.

### V. Requirements of the Final Rule

#### A. General Requirements

Today's rule requires all rear designated seating positions in motor vehicles with a GVWR of 4,536 kg (10,000 lb) or less, other than side-facing seats, be equipped with a Type 2 belt. The rule applies to both forward-facing and rear-facing seats. For rear-facing seats, a Type 2 belt is unlikely to provide substantially greater benefits than a lap belt in a frontal crash. However, Type 2 belts should reduce the risk of injury in a rear crash and will provide a distinct benefit in all crash modes if actually worn. Since data indicate an increased likelihood that an occupant will wear a Type 2 belt when he or she would not wear a lap belt, this potential for increased usage should not be discounted.

Very few manufacturers produce vehicles with rear-facing seats. However, Ford stated in its comment that both the rear-facing seats in the Volvo station wagon and the Taurus/Sable station wagon are already equipped with lap/shoulder belts at the outboard seating position. These seats, the only rear-facing seats in Ford's fleet of vehicles, do not have an inboard

<sup>4</sup> Two of the comments related to a misunderstanding caused by a typographical error in the notice incorrectly implying that the proposal addressed lap/shoulder belts in small school buses. That error was acknowledged by NHTSA in a letter to Michael Martin of the School Bus Information Council dated February 9, 2004, and NHTSA

seating position. The upper shoulder belt anchorages for these seats are attached to the C-pillar, as are the upper anchorages for the forward-facing seats immediately forward of the rear-facing seats. Other manufacturers installing rear-facing seats should be able to use the same upper anchorage design philosophy as Ford. Ford noted in its comment that the addition of an inboard seating position would require vehicle redesign, most likely in the form of a belt integrated into the seat. To the extent a rear-seat falls within one of the limited exceptions detailed below, that exception is available to the rear-facing seat. Since rear-facing seats typically fold down to create cargo space, a detachable Type 2 belt would likely be permitted for the inboard seating position.

We have decided against extending today's requirements to side-facing seats because we believe the addition of a shoulder belt at this seat position is of limited value, given the paucity of data related to side-facing seats. Aside from two anecdotal cases reported from Syson-Hille in its comment on the NPRM, we are unaware of any reported injuries to belted occupants seated in a side-facing seat. In both of the instances cited by Syson-Hille, the seat was equipped with a lap belt only. Further, requiring Type 2 belts at side-facing seats may not be practicable given that the shoulder belt may not provide restraint in frontal and rear impacts. Again, we lack the data to make such a determination.

We have decided against prohibiting shoulder belts for side-facing seats, a position contemplated in the NPRM, because we are unaware of any demonstrable increase in associated risk. There have been some claims that a shoulder belt increases the risk of neck injury during a frontal collision. The Australian Design Rule ADR 5/04, "Anchorage for Seatbelts" has specifically prohibited shoulder belts for side-facing seats since 1975. However, it appears that this prohibition was based on a perceived risk rather than any documented injuries. We note that a study commissioned by the European Commission regarding side-facing seats on minibuses and motor coaches found that the addition of a panel directly in front of a side-facing seat would best protect a restrained occupant in a frontal crash in a manner that would prevent either spool-out from the belt or belt loading against the neck.<sup>5</sup> While

such a design may be desirable, the agency presently cannot demonstrate any risk to overall safety sufficient either to prohibit shoulder belts altogether or to require they only be used in conjunction with a compartmentalization feature like a panel.

Likewise, we have decided against requiring Type 2 belts for the front inboard seating position in any vehicles. Both GM and Ford were opposed to adding such a requirement for any vehicles, while Advocates, NADA and SafetyBeltSafe U.S.A. urged that a requirement be adopted at a minimum for seats with only a single row of seats.

Assuming a ten percent increase in belt usage based on the presence of a Type 2 belt instead of a lap belt, we estimate that requiring Type 2 belts for the inboard front seat would result in 16 fewer fatalities and 69 fewer injuries (AIS 2–5). If Type 2 belts were required for the front inboard seats in passenger cars and LTVs, the estimated cost per equivalent life saved would be \$10.50 million compared to \$4.57 million for the rear inboard seats in those vehicles.<sup>6</sup> Part of the reason for the cost disparity is that the inboard seating position of a front seat is only very rarely used. Accordingly, NHTSA does not believe it can justify the cost associated with mandating lap/shoulder belts in the front seat, even when only a single row of seating is available.

In passenger cars and LTVs with more than a single row of seats, front seats with an inboard seating position are typically 60/40 split bench seats which allow 60% of the seat to be adjusted independently of the remaining 40%. GM stated that with such a design it would be difficult to install an integrated safety belt that did not present significant problems with safety belt fit. We note that the rear bench seats on many LTVs also utilize a 60/40 design, yet there appear to be no major problems installing Type 2 belts for the inboard position of these seats. However, independent seat adjustment is likely to be an issue for front seats. Since we have decided against requiring Type 2 belts for front inboard seating positions based on cost considerations, we need not address the issue of whether the potentially unique characteristics of front bench seats

preclude effective installation of Type 2 belts for the inboard seating position.

The inboard seating position in pick-up trucks with only a single row of seats potentially raises different practicability problems as the front seat in vehicles with both front and rear seats. GM argued against requiring Type 2 belts for these single row seats, claiming a lap/shoulder belt requirement for these seating positions would require significant strengthening of the vehicle floor or reconfiguration of the rear window. In contrast, Syson-Hille and SafetyBeltSafe U.S.A. noted that several manufacturers already have lap/shoulder belts in the inboard seating position of either single row pick-up trucks or the rear bench seat of trucks with two rows of seats. NHTSA acknowledges the feasibility of installing an inboard lap/shoulder belt in a single row pick-up, particularly when the vehicle does not have a 60/40 bench seat. While some reinforcement of the seat or the back of the cab may be necessary, we do not consider this degree of redesign to be insurmountable. However, we have decided against mandating Type 2 belts for the inboard seating positions of these seats because the safety benefits associated with mandating Type 2 belts in the inboard front seating positions is too small to justify their cost. In part, this is due to the low belt use rate in this position: 12.2 percent. However, we expect manufacturers will continue their practice of voluntarily installing Type 2 belts.

We have also decided to retain the existing exception from FMVSS No. 208's Type 2 belt requirements for motor homes, walk-in vans and postal vehicles. Only Syson-Hille commented on the exception in its entirety, arguing that there was no reason to continue to exempt any vehicles from the belt requirements of the standard. It observed that most manufacturers of the exempted vehicles already install Type 2 belts for the front outboard seats. RVIA and Ford supported retaining the existing exception for motor homes, with RVIA noting the large number of seats in motor homes with multi-functional applications. SafetyBeltSafe U.S.A. was opposed to retaining the exception for motor homes, stating that families are often unaware that the rear seating positions in these vehicles are not required to be equipped with the same belts systems as other vehicles.

While we agree that the Syson-Hille and SafetyBeltSafe U.S.A. comments may have merit, we do not have sufficient information to know the full implications that removing the exemption would have on those seating

*pagesbackground/safetybelts/safety\_of\_passengers\_cranfield.pdf.*

<sup>6</sup> Based on cost (\$161.9 million for front inboard seats and \$239.8 million for rear inboard seats) divided by equivalent lives saved, discounted at a rate of 7 percent (15.42 for front inboard seats and 52.47 for rear inboard seats).

<sup>5</sup> This report may be viewed at <http://europa.eu.int/comm/enterprise/automotive/>

positions. While the exempted vehicles may already be equipped with Type 2 belts at the front outboard positions, equipping the back seats of these vehicles with a Type 2 belt may present different challenges. The rear seats of these vehicles often have multi-functional or unique applications that may make installation of a Type 2 belt impracticable. Accordingly, we are not making any changes to the exception in today's rule.

#### *B. Allowance for Detachable Type 2 Belts*

FMVSS No. 208 currently permits detachable shoulder belts on Type 2 belts installed in the outboard rear seats that are removable and swivel seats. For both of these seat designs, the shoulder belt may be detachable from the lap belt at either the upper or lower anchorage, but not both. A manufacturer may use a push button release similar to releases used for non-detachable belts. While the standard permits detachability of the shoulder portion of the belt, many manufacturers use a "minibuckle" design that permits the entire belt to detach from the seat and retract into the upper shoulder anchorage. This design is also used on belt systems currently required to have only a lap belt. This minibuckle design reduces the possibility for misuse since the lap belt is not independently available for use. The regulatory language governing belt detachability for swivel seats is different than that applicable to removable seats because the shoulder portion of the belt is only designed to be used when the seat is in its forward-facing mode and the standard requires that a lap belt be provided for all other seat positions that can be used while the vehicle is in motion. Thus, the minibuckle design does not appear to have an application for swivel seats. Given the advances in safety belt technology, we asked whether it was appropriate to reconsider the detachability allowances for these seats.

In the NPRM, the agency acknowledged that for certain seat designs Type 2 belts could not be installed without integrating the upper shoulder anchorage into the seat back or permitting designs that allow for detachability of the shoulder belt. Because detachable belts can be misused, we were particularly interested in exploring the possibility of integrated belts.

Ford and RVIA opposed any requirement that would have the effect of mandating integrated seat belts at any seating position. Ford noted that the cost associated with strengthening both the seat and the floor pan were

significant and that the additional weight added to a seat as a result of this strengthening was sufficient to make removability of the seats impractical. Ford argued that the seats would become so heavy that they could not be readily removed. GM noted that one of its vehicles has a removable seat with an integrated safety belt, but acknowledged that the additional weight could make it more difficult to remove the seat. RVIA's concerns were related to a folding or removable sofa-type bench seat commonly installed in conversion vans. It argued that the cost associated with integrating Type 2 belts into such a seat would be too costly compared to the potential benefits associated with requiring Type 2 belts for this seat design.

The Alliance urged the agency to consider adopting a rule that would expand the existing allowance for detachable shoulder belts to seats beyond those currently permitted under FMVSS No. 208. It noted that manufacturers are moving away from removable seats and towards fold-down designs that permit the seat to be stored in the vehicles. Ford and GM advocated permitting detachable belts for small buses, although Ford's dealerships offer seats with integrated belts as an option on Ford's E-series vans.<sup>7</sup>

We have decided to retain the existing detachability provisions with some revision. Additionally, we have decided to expand the detachability provision to the inboard seating position of folding seats, bus seats, and outboard seats adjacent to an aisle. We believe that integrated belt designs are not an optimal design for all types of seats. They appear to be particularly problematic for removable seats because of the added weight.

We have determined that the minibuckle design commonly found in the rear inboard seat positions of folding seats and in outboard seats adjacent to an aisle can be incorporated into a vehicle at about half the cost of an integrated belt. The cost of installing a shoulder belt in the inboard seat is approximately \$16.00 per seat. The cost of strengthening the seat to accommodate the shoulder belt is approximately \$31.00. If a detachable belt is used, the cost of the shoulder belt is similar to the previous cost (\$16.00). Also, the cost associated with strengthening the roof structure to accommodate the shoulder belt anchorage is approximately \$16.00. The total cost for an integrated belt would be approximately \$47.00, while the

approximate total cost for a detachable belt system would be \$32.00.

We will no longer permit a pushbutton design to detach the belt; instead, a key or key-like object must be used to detach the belt. In its comment to the NPRM, the Alliance noted that minibuckle systems often cannot be released via a pushbutton. Rather, an object can be inserted into the buckle through a small hole to release the latch. We believe this design feature reduces the likelihood that the minibuckle will be inadvertently released. Manufacturers may choose to use the door or ignition key since these keys are always likely to be in the driver's possession when the belt needs to be detached. Consistent with our intention to maximize correct use of the belt, there is no provision requiring that a tool be used to reattach the belt. We anticipate that manufacturers will continue to use an attachment mechanism that permits the belt simply to plug into the mated latch.

Additionally, except for swivel seats, we will no longer permit the shoulder belt to be detached independently of the lap belt. We are concerned that an occupant may choose to use only the lap portion or the shoulder portion of the belt if independent detachability is permitted. The performance of shoulder only belts and lap only belts has historically proven to be problematic and is part of the reason we now require Type 2 belts.

These new requirements apply to the belts at all seating positions for which a detachable belt is permitted. Although we did not propose to change the existing requirements for the outboard seating positions, we expressed our opinion that provision for detachability may no longer be warranted and specifically sought comment on whether to continue to permit detachable designs. Based on our review of the existing fleet and comments from vehicle manufacturers, we have determined that the need for detachability still exists, but not in the form presently permitted.

#### **1. Removable Seats**

No commenters opposed the retention of the existing detachability allowance for readily removable seats. The detachability allowance was intended to facilitate removal of these seats for cargo carrying purposes. Certainly detachability appears to be the only option for an inboard seating position other than integrated seats; otherwise, the seats could not be removed from the vehicle. As noted above, integrated seat designs add additional weight to the

<sup>7</sup> These seats are manufactured by TDM, an after-market seat supplier.

seat and impose additional costs on manufacturers.

We note that many new LTVs with removable seats do not offer detachable Type 2 belts at the rear outboard seating positions. Instead, the manufacturers have chosen either to use integrated Type 2 belts or to mount the upper and lower shoulder anchorages to the outboard pillars. Thus, while permitting detachability for these seating positions at this time, we plan to monitor the need to retain the detachability allowance for outboard positions on readily removable seats.

We also note that this provision for detachable belts for seating positions on readily removable seats should relieve much of RVIA's and FlexSteel Industry's concerns with sofa-type bench seats since RVIA stated that these seats are generally removable.

## 2. Folding Seats

While not proposed in the NPRM, we are extending our allowance for detachable Type 2 belts to inboard seating positions on folding seats, as urged by the Alliance. As noted by the Alliance, manufacturers appear to be moving away from removable seats toward seats that can be folded into the floor pan, providing additional cargo carrying capacity. Unlike the inboard seating position on a removable seat, a Type 2 belt that is not integrated into a folding seat can remain attached to the vehicle while the seat is in its stowed position. However, as discussed by the Alliance, prohibiting detachability limits the effective use of the cargo carrying space. This is because the shoulder belt would extend from the upper anchorage down into the folded seat.

Given the increased use of minibuckle designs for the inboard seating positions of folding seats currently in production, we are confident that this type of detachability can resolve the concerns raised by the Alliance while assuring the presence of a Type 2 belt in the inboard seating positions. We have decided against permitting detachable belts at the outboard seating position of these seats because FMVSS No. 208 does not currently have such an allowance and we believe manufacturers can use the roof or side pillars to attach the upper shoulder anchorage. The problems associated with interference of the shoulder belt and cargo are not applicable to outboard seating positions because the shoulder belt will be adjacent to the vehicle's interior paneling.

Rather than adopting the Alliance's suggestion that folding seats be defined as "seats that can be folded into the

floor pan," we have defined the term "folding seat" to mean any seat which permits the folding of the entire seat back such that no part of the seat back extends more than 10 inches above the highest seating reference point on the seat. Under this definition those sofa-type seats installed in conversion vans would likely qualify as a folding seat, and a minibuckle design could be used at the center seating position.

We believe the suggested wording provided by the Alliance is non-objective and arguably could require that the seat fold completely flat. While folding seats in minivans may fold completely flat, those on station wagons and smaller SUVs generally fold at a slight angle. We believe detachability should be limited to those circumstances in which the cargo carrying capacity of the vehicle would otherwise be adversely affected. The slight angle in the folding seat design of these vehicles does not impair the cargo carrying capacity of the vehicle when the seat is in its folded position. Given the width of the seat back structure, we believe the 10-inch allowance will accommodate these seats without creating a definition of a folding seat with near universal applicability. We have decided to measure from the highest seating reference point because a seat may have different seating reference points among its different designated seating positions.

We acknowledge the Alliance's comment that many sedans have rear seat designs that permit part, but not all of the seat back to fold down to accommodate long, narrow cargo such as skis. If the seat design is such that the entire seat cannot be folded down, we believe the vehicle should have sufficient structure behind the rear seat to anchor the upper shoulder belt anchorage. Accordingly, no provision for detachability is needed.

## 3. Seats Located Adjacent to an Aisle

Currently, rear outboard seats located adjacent to an aisle are permitted to have only a lap belt. We have decided to require these seats be equipped with a Type 2 belt because we believe the belt technologies currently used for these seating positions demonstrate the feasibility of a Type 2 design. GM has provided Type 2 belts for this type of seat since 1991. The GM system uses the same type of minibuckle design discussed above. Ford also provides a Type 2 belt for its seats located adjacent to an aisle. Ford did not provide information on whether its belts were detachable, but urged the agency to adopt a detachability allowance.

NHTSA has long recognized that belts installed at seating positions located adjacent to an aisle can impede ready access to or egress from seats located behind them. This is why we originally allowed lap belts at these seating positions. While recognizing the benefit of a Type 2 belt over a lap belt, we believe there is a need for Type 2 belts at this seating position to be detachable. Accordingly, we are adopting a detachability allowance for these seating positions.

## 4. Bus Seats

In the NPRM, the agency proposed to require Type 2 belts in all rear designated seating positions of buses with a GVWR of 4,536 kg (10,000 lb) or less. These small buses are primarily 12- and 15-passenger vans. We specifically sought comment on potential benefits and disadvantages associated with such a requirement, as well as potential technological impediments. Based on the comments, we have decided to require Type 2 belts, but to permit detachability.

We received four comments addressing the proposed requirement, all of them supportive. Syson-Hille and SafetyBeltSafe U.S.A. noted that 12- and 15-passenger vans are often used by child care facilities and church groups to transport children. Given this use, they believe it is important to require a Type 2 belt for these seats. Syson-Hille also pointed out that the European Union requires all buses manufactured since 1999 to have either Type 2 belts or lap belt with energy-absorbing seats. To meet a Type 2 belt requirement for small buses, both Ford and GM suggested that integrated belts would be required. While integrated seats might require additional seat and floor structure for an integrated belt design, GM stated that there was no technological impediment to an integrated belt design. Syson-Hille noted that the Mercedes mini-bus sold in Europe has integrated Type 2 belts for every rear designated seating position.

While it appears that integrated belts may be the best technological solution for Type 2 belts in buses, we have decided to permit detachability for inboard designated seating positions on buses, regardless of whether the seats are removable, may be folded, or are adjacent to an aisle.<sup>8</sup> For vehicles with

<sup>8</sup> While Ford stated in its comments that body-mounted belts pose a risk to other occupants in a crash, it did not provide a basis for this statement. We are puzzled as to why this risk would present itself in a bus but not in a LTV. Because we believe body-mounted belts can be safely mounted in buses, we are not extending the detachability

multiple rear inboard seating positions (*i.e.*, three or more), the cost of equipping those seating positions with detachable belts is considerably less than that necessary to accommodate seat back and floor pan reinforcements associated with integrated belts. Thus, it is appropriate to provide sufficient flexibility to permit bus manufacturers to install Type 2 belts in a manner that accommodates different floor structure designs and interior architectures.

#### 5. Swivel Seats

Currently, FMVSS No. 208 specifies that seats that can be adjusted to be forward-facing and to face in some other direction (*e.g.*, swivel seats) must have at least a lap belt at all positions in which the seat may be placed while the vehicle is in motion. Additionally, the seat must have a Type 2 belt that is usable while the seat is in its forward-facing position. The shoulder portion of the Type 2 belt may be detachable from the lap portion, thus requiring only a single belt design to accommodate all potential seating positions. The standard also permits readily removable seats to have a shoulder belt that may be detached at either the upper or lower shoulder belt anchorage, but not both.

In the NPRM, we sought comment on whether there was any reason to retain this exception, given the availability of integrated Type 2 belt designs. It appears that swivel seats are only used in the conversion van industry and in vehicles altered or modified for persons with disabilities. Only RVIA was able to provide any opinion on the cost associated with Type 2 belts and swivel seats. However, it was unable to provide any cost estimates on integrated belts since they are not used by the conversion van industry. The belts currently used for these seats were developed at a time when the conversion van industry was much larger than it is now, and it was in a better position to spread the cost associated with product development among a much larger industry. Accordingly, we believe the development costs associated with developing swivel seats that have a Type 2 belt integrated into the seat are likely to be too large for the industry to withstand.

Nevertheless, we do have concerns about the degree of detachability currently permitted for these seats under FMVSS No. 208. We believe that the belts for swivel seats should provide the same level of protection as the belts

for other seats. The current requirements provide the occupant with the option of using a Type 2 belt when the seat is facing forward. However, these requirements are inconsistent with the new requirement that rear-facing seats be equipped with a Type 2 belt. Accordingly, we have amended the provision for belt detachability for swivel seats to require a Type 2 belt when the seat is positioned in either the forward or rear-facing mode (including any position  $\pm 30$  degrees from the forward-or rearward-facing mode), and a lap belt when positioned in all other modes that can be used while the vehicle is in motion.

#### VI. Phase-In of the New Requirements

Anton's Law requires that NHTSA issue a final rule not later than December 2004. It further specifies that the final rule be implemented, in stages, starting not later than September 1, 2005, and be fully implemented no later than September 1, 2007. Thus, the rule will be phased-in between September 1, 2005 and September 1, 2007. We did not receive any comments on the proposed phase-in schedule, other than a request by RVIA that conversion vans be given an additional year for compliance. Accordingly, we are adopting the following phase-in schedule as proposed in the NPRM:

- *MY 2006* (September 1, 2005 through August 31, 2006): 50 percent of all vehicles that are produced by manufacturers and are subject to the phase-in must comply. Advance credits for early compliance may be used on a one-to-one basis.
- *MY 2007* (September 1, 2006 through August 31, 2007): 80 percent of all vehicles that are produced by manufacturers and are subject to the phase-in must comply. Advance credits may be used on a one-to-one basis.
- *MY 2008 and beyond (on or after September 1, 2007)*: all vehicles, regardless of whether they are subject to the phase-in, must comply. No advance credits may be used.

The phase-in schedule for this rulemaking is dictated by statute. Thus, NHTSA does not have the authority to provide manufacturers of conversion vans an additional year to certify compliance with the new requirements, as requested by RVIA. However, as proposed in the NPRM, we have decided against applying the phase-in requirements to manufacturers of fewer than 5,000 vehicles produced for the U.S. market each year, manufacturers of incomplete vehicles, and alterers. No comments were submitted objecting to the agency's proposal to excuse them during the phase-in. We believe a phase-

in that commences so soon after publication of the final rule presents a hardship for these manufacturers. Accordingly, these manufacturers need only assure that their vehicles comply with today's requirements by September 1, 2007.

As noted in the NPRM, final-stage manufacturers have no control over the vehicles that the previous-stage manufacturer decides to modify to meet the phase-in requirements. Accordingly, the final-stage manufacturer may have little or no choice in purchasing an incomplete vehicle that meets the requirements of the proposed rule. While alterers have more control, since they are only purchasing completed vehicles, they may have limited control over purchasing completed, certified vehicles in a manner that would allow them to meet the phase-in requirements. The final-stage manufacturers and alterers most likely to be affected by today's rule are those who manufacture conversion vans. Removal and replacement of existing seats is one of the most common modifications of these vehicles. Thus, the existence in the market of vehicles certified to today's requirement is largely irrelevant since the seats equipped with the required belts are likely to be removed as part of the conversion. If an alterer removes a seat supplied by the original vehicle manufacturer, the alterer must replace it with a seat equipped with a Type 2 belt. We do not believe it is unreasonable to provide final-stage manufacturers and alterers with the maximum permissible time to locate seats and seat belt assemblies that comply with today's requirements. Accordingly, all multi-stage and altered vehicles manufactured on or after September 1, 2007 must be certified as complying with the new requirements. We have also decided to exclude small volume manufacturers (*i.e.*, manufacturers of less than 5,000 vehicles per year produced for the U.S. market) from the phase-in because of their small size.

As proposed, we have decided to allow manufacturers of two or fewer carlines to opt out of the first year of the phase-in as long as 100% of their vehicles are certified as complying with the new requirements during the second year of the phase-in. NHTSA notes that, unlike the advanced air bag or tire pressure monitor system rulemakings, in which the technologies used to comply with the standard are relatively new, the technologies for lap/shoulder belts are well established. Accordingly, these manufacturers are unlikely to face the supply-and-demand problems in this rulemaking anticipated in the advanced air bag or tire pressure

allowance to outboard seats on buses unless they are adjacent to an aisle. This approach is consistent with the rest of today's rule.



monitor system rulemakings. For this reason, NHTSA has decided against allowing these manufacturers to claim advanced credits for that second year. We believe it is unlikely that such credits would be needed.

The regulatory text addressing the phase-in reporting requirements gathers together the phase-in requirements for all safety standards being phased-in and places them in a single part of the Code of Federal Regulations, 49 CFR Part 585. This will allow people henceforth to look to a single source for all reporting requirements associated with phase-ins.

## VII. Other Issues

In the NPRM, we sought comment on three issues unrelated to the adoption of a Type 2 belt requirement. We asked for comment because these three areas are ones which have been raised with the agency. Dependent on the public's response, we could choose to initiate rulemaking.

The first area of interest was the comfort and convenience test procedures for rear designated seating positions. No commenters saw any need to revise the existing requirements for comfort and convenience. While some commenters believed the existing requirements were sufficient, others argued that market forces would dictate comfort. Based on the comments, we see no need to further address comfort and convenience issues at this time.

Second, NHTSA sought information on seat belt fit studies conducted on rear seat occupants of varying size and stature and the results of any dynamic testing of any adjustable seat belt anchorages at different anchorage adjustments. We requested this information to determine the appropriateness of requiring adjustable anchorages for rear lap/shoulder belts. The Alliance commented that, over the past several years, it has been involved in a technical working group to develop voluntary best practices on seat belt fit. Transport Canada has also been involved in the working group. While the working group has been

concentrating on front seats, Transport Canada has asked that it also work toward the development of criteria for the rear seat. No one offered any studies or data reflecting seat belt fit or the performance of adjustable seat belt anchorages in dynamic crash tests, although SafetyBeltSafe U.S.A. argued for the adoption of adjustable upper anchorages in rear seats. NHTSA, however, has been conducting its own research on safety belt fit in response to section 3(b)(2) of Anton's Law. Section 3(b)(2) requires NHTSA to consider whether to establish performance requirements for seat belt fit when used with booster seats and other belt guidance devices. The results of this research could lead the agency to pursue rulemaking in this area in the future.

Our final area of interest was whether there was a need to extend the frontal impact crash test requirements of FMVSS No. 208 to the rear seating positions. The Alliance, RVIA and Ford all opposed extending the dynamic crash test requirements, arguing that it is "universally known" that the rear seat is the safest seating location in a vehicle. Syson-Hille, Bidez and Associates, and SafetyBeltSafe U.S.A. all advocated for the adoption of requirements that would assess the injury potential of occupants of all ages and sizes in a dynamic environment.

While dynamic testing in the rear seat is beyond the scope of this rulemaking, we note that we have two research programs that involve dynamic crash testing with rear seat occupants. The agency is running various types of child restraint systems in its frontal New Car Assessment Program (NCAP) tests. Results from those tests are being analyzed to determine whether such testing would provide meaningful consumer information. The second research program has focused on studying rear integrated seat performance in a dynamic crash test environment. This research has been expanded to evaluate and compare the performance of non-integrated seat belts

and rear outboard seats for different sized occupants. Once this research program is completed, we expect to be in a better position to evaluate the need to further upgrade the rear seat belt requirements of FMVSS No. 208.

NADA asked that the preamble to this rule discuss whether the agency intends to promote retrofit shoulder belt kits for existing vehicles and whether we intend to commence rulemaking to require LATCH systems for rear inboard seats. We do not intend to promote retrofit shoulder belt kits because we do not believe there is sufficient demand for such kits. Manufacturers are, of course, free to offer such kits if they desire. When first amending FMVSS No. 208 to require Type 2 belts in the rear outboard seating positions, the agency did actively promote retrofit kits. However, we discovered that consumer demand was exceptionally low. We have been told by at least one manufacturer that it ended up with several hundred unwanted kits. Based on that experience, we see no value in promoting such kits again. Additionally, most passenger cars and approximately half of the LTV fleet already have Type 2 belts at the rear inboard designated seating position. Accordingly, the need for such kits is less now than it was in the early 1990s when the original rear lap/shoulder belt provisions were adopted.

## VIII. Costs and Benefits Associated With the Final Rule

As noted earlier in this document, we anticipate that today's rule will result in 5 to 16 fewer fatalities and 111 to 202 fewer injuries (AIS 2–5) per year in passenger cars and 5 to 17 fewer fatalities and 134 to 293 fewer injuries (AIS 2–5) per year in LTVs. The reason for providing a range of numbers is that the lower numbers reflect anticipated benefits if the addition of a shoulder belt has no impact on increased belt use, while the higher numbers assume a 10 percent increase in belt use due to the presence of a shoulder belt.

TABLE 1.—ESTIMATED LIVES SAVED BY LAP/SHOULDER BELT AT REAR INBOARD SEATING POSITION

	Incremental benefits of lap/shoulder belt compared to lap belt at current belt use rate	Incremental benefits of lap/shoulder belt compared to lap belt with 10% increase in belt use
Passenger Cars .....	5	16
Light Trucks .....	5	17
Total .....	10	33



While no specific benefits have been estimated for 12- and 15-passenger vans, safety benefits are expected given that belt use is critical in these types of vehicles, particularly in rollover crashes. At 14%, restraint use among fatally injured occupants in single vehicle crashes among all vehicles with a GVWR of 10,000 or less is the lowest in 15-passenger vans. Restraint use in these crashes in passenger cars is 30%; restraint use in sport utility vehicles is 25%; restraint use in other vans is 26%; and restraint use in pickups is 18%. An unrestrained occupant in a 15-passenger van is about four times as likely to be ejected from the van as is a properly restrained occupant.<sup>9</sup>

The total cost of complying with today's rule will vary depending on how manufacturers choose to design belts that cannot be attached to existing vehicle structures without some modification. Today's rule permits two options for removable and folding seats, as well as for swivel seats and seats located adjacent to an aisle. If manufacturers choose to comply with today's requirements using integrated seat belt designs, we estimate that the associated cost of compliance for the passenger car fleet will be approximately \$40.64 million. For the LTV fleet that cost is estimated at \$199.21 million. If manufacturers choose to comply with today's requirements using detachable seat belt designs, we estimate the associated cost of compliance for the passenger car fleet will drop to \$36.12 million, with an associated cost for the LTV fleet of \$142.73 million. It is likely that manufacturers will choose between the two options depending on vehicle characteristics and perceived customer desires. Thus, the anticipated total cost of the rule would fall somewhere between \$178.85 million and \$239.86 million (in year 2000 economics).

Assessing the cost of today's rule in terms of cost per equivalent life saved provides an indication of the cost associated with improving the entire fleet of vehicles to reduce the risk of injury or death to those individuals involved in a crash where the lack of a lap shoulder belt in the inboard rear seating positions would otherwise lead to injury or death.

Assuming all manufacturers choose to meet the requirements of today's rule using traditional belt designs where possible and integrated seat belts where needed, the cost of the rule per equivalent life saved for passenger cars

discounted at 3% and 7%, is \$1.57 million and \$1.92 million, respectively, while the discounted cost for LTVs is \$4.99 million and \$6.36 million respectively.

Assuming, on the other hand, that all manufacturers use detachable belts rather than integrated belts, the cost per equivalent life saved drops. For passenger cars the cost per equivalent life saved is \$1.40 million at a 3% discount rate and \$1.7 million at a 7% discount rate. For LTVs the respective numbers are \$3.58 million and \$4.56 million per equivalent life saved.

We have also conducted a benefit-cost analysis to determine whether the cost of today's rule outweighs the associated benefit. In terms of assessing overall benefit over cost, a positive number indicates that the benefits outweigh the associated cost, while a negative number indicates that the requirement will cost more than the associated benefit. In order to conduct a cost benefit analysis, we took the equivalent lives saved and multiplied it by a generic value of life, in this instance \$3.5 million.<sup>10</sup> From the product of these two figures, we then subtract the cost of today's rule. Thus, for passenger cars, the net benefit associated for today's rule is \$49.88 and \$33.65 million, discounted at 3% and 7%, respectively, if all manufacturers use integrated belts where needed. The benefit for passenger cars if detachable belts are used is somewhat higher at \$54.38 and \$38.15 million, discounted at 3% and 7%, respectively. For the LTV fleet, the benefit associated with today's rule is substantially smaller. If only integrated belts are used where traditional belts systems are impractical, the benefits associated with today's rule never exceed the associated cost for the LTV fleet, at -\$59.47 million (3% discount), and -\$89.64 million (7% discount). Using detachable belts where needed results in a smaller disbenefit with a 3% discount value of \$3.27 million and a 7% discount value of \$33.44 million.

## IX. Rulemaking Analyses and Notices

### A. Executive Order 12866 and DOT Regulatory Policies and Procedures

NHTSA has considered the impact of this rulemaking action under Executive Order 12866 and the Department of Transportation's regulatory policies and procedures. This rulemaking is economically significant. Accordingly, the Office of Management and Budget

has reviewed this rulemaking document under E.O. 12866, "Regulatory Planning and Review." The rulemaking action has also been determined to be significant under the Department's regulatory policies and procedures. The benefits and costs associated with today's rule have been briefly discussed earlier in this document. For a more detailed analysis, please refer to section VII of this notice and the final economic analysis supporting today's final rule.

### B. Regulatory Flexibility Act

We have considered the effects of this rulemaking action under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) NHTSA has determined that this action will not have a significant economic impact on a substantial number of small entities. The vast majority of affected motor vehicle manufacturers are not small businesses. Small organizations and small governmental units are not significantly affected by the final rule since the potential cost impacts associated with it should only slightly increase the price of new motor vehicles. A more complete analysis of the impact of today's rule on small businesses, organizations, and governmental units may be found in the final economic analysis.

### C. National Environmental Policy Act

NHTSA has analyzed this amendment for the purposes of the National Environmental Policy Act and determined that it will not have any significant impact on the quality of the human environment.

### D. Executive Order 13132 (Federalism)

The agency has analyzed this rulemaking in accordance with the principles and criteria contained in Executive Order 13132 and has determined that it does not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule has no substantial effect on the States, or on the current Federal-State relationship, or on the current distribution of power and responsibilities among the various local officials. The final rule is not intended to preempt state tort civil actions, except to the extent that the agency has specifically determined that detachable Type 2 belts meeting the requirements of this rule are permissible for vehicle seats specifically permitted to be equipped with detachable Type 2 belts.

### E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a

<sup>9</sup> Analysis of Crashes Involving 15-Passenger Vans, NHTSA Technical Report, DOT HS 809 735, May 2004.

<sup>10</sup> While we recognize that the value of human life cannot be measured in absolute terms, this amount represents a constant value needed to conduct a mathematical analysis.

written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than \$100 million annually (adjusted for inflation with base year of 1995). This results in a value of \$109 million in year 2000 economics. The final rule requires the expenditure of resources above and beyond \$109 million annually. NHTSA has explored various options based on the response to the public comments. We have determined that the cost associated with requiring Type 2 belts that integrated into the seat are unreasonably expensive and that the safety need addressed by this rulemaking can be more inexpensively achieved by permitting limited detachability of the Type 2 belts for certain seat designs.

#### *F. Executive Order 12778 (Civil Justice Reform)*

The final rule does not have any retroactive effect. Under section 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 resubmission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

#### *G. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995, a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. This rule contains a collection of information because of the phase-in reporting requirements. The purpose of the reporting requirements is to aid NHTSA in determining whether a manufacturer has complied with the requirements of FMVSS No. 208 during the phase-in of those requirements. There is no burden to the general public.

We have submitted a request for OMB clearance of the collection of information required under today's final rule. These requirements and our estimates of the burden to vehicle manufacturers are as follows:

- NHTSA estimates there are 21 manufacturers of passenger cars, multipurpose passenger vehicles, trucks, and buses having a GVWR of 4,536 kg (10,000 lb) or less.
- NHTSA estimates that the total annual reporting and recordkeeping burden resulting from the collection of information is 1,260 hours.
- NHTSA estimates that the total annual cost burden, in U.S. dollars, will be \$0.00. No additional resources will be expended by vehicle manufacturers to gather annual production information because they already compile this data for their own use.

Organizations and individuals that wish to submit comments on the information collection requirements should direct them within 30 days to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention Desk Officer for NHTSA. Please fax the comments to: (202) 395-6974.

#### *H. Executive Order 13045*

Executive Order 13045 applies to any rule that: (1) Is determined to be "economically significant" as defined under E.O. 12866, and (2) concerns an environmental, health or safety risk that NHTSA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by us.

As noted earlier, this rulemaking is economically significant. Additionally, it is expected to have a disproportionate effect on children, since children are most likely to sit in the rear seat. However, the impact of this rulemaking on children will be beneficial instead of detrimental.

#### *I. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards<sup>11</sup> in its regulatory activities unless doing so would be inconsistent with applicable law (e.g., the statutory provisions regarding

<sup>11</sup> Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as "performance-based or design-specific technical specifications and related management systems practices." They pertain to "products and processes, such as size, strength, or technical performance of a product, process or material."

NHTSA's vehicle safety authority) or otherwise impractical. In meeting that requirement, we are required to consult with voluntary, private sector, consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials (ASTM), the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards. NHTSA has searched the voluntary consensus standards generally applicable to the manufacture of motor vehicles and is unaware of any standards relevant to this rule. No comments were received indicating that there were applicable standards that the agency failed to address.

#### *J. Plain Language*

Executive Order 12866 requires each agency to write all rules in plain language. Today's rule has been written with that directive in mind, although FMVSS No. 208, in general, is a complicated regulation. We note that some of the requirements adopted today are technical in nature. As such, they may require some understanding of technical terminology. We expect those parties directly affected by today's rule, i.e., vehicle manufacturers, to be familiar with such terminology.

#### *K. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) 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. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

In consideration of the foregoing, NHTSA amends 49 CFR Chapter V as follows:

#### **List of Subjects in 49 CFR Parts 571, 585, 586, 589, 590, 596 and 597**

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

#### **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, 30166 delegation of authority at 49 CFR 1.50.

■ 2. Section 571.201 is amended by revising S6.1.6.2 to read as follows:

**§ 571.201 Standard No. 201; Occupant protection in interior impact.**

\* \* \* \* \*

S6.1.6.2 A vehicle produced by more than one manufacturer must be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR Part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S6.1.6.1.

\* \* \* \* \*

■ 3. Section 571.208 is amended by adding S4.1.5.5, S4.1.5.5.1, S4.1.5.5.2, S4.2.7, S4.2.7.1 through S4.2.7.6, S4.4.5, S4.4.5.1, S4.4.5.2, S4.5.5, and S4.5.5.1 through S4.5.5.4 as follows:

**§ 571.208 Standard No. 208; Occupant crash protection.**

\* \* \* \* \*

S4.1.5.5 *Passenger cars manufactured on or after September 1, 2007.*

S4.1.5.5.1 Except as provided in S4.1.5.5.2, each passenger car shall have a Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard at each rear designated seating position, except that side-facing designated seating positions shall have a Type 1 or Type 2 seat belt assembly that conforms to Standard No. 209 and to S7.1 and S7.2 of this standard.

S4.1.5.5.2 Any inboard designated seating position on a seat for which the entire seat back can be folded (including the head restraints and any other part of the vehicle attached to the seat back) such that no part of the seat back extends above a horizontal plane located 250 mm above the highest SRP located on the seat may meet the requirements of S4.1.5.5.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

\* \* \* \* \*

S4.2.7 *Rear seating positions in trucks, and multipurpose passenger vehicles manufactured on or after September 1, 2007 with a GVWR of 10,000 lbs. (4,536 kg) or less.*

S4.2.7.1 Except as provided in S4.2.7.2, S4.2.7.3, S4.2.7.4, S4.2.7.5, and S4.2.7.6, each truck and each

multipurpose passenger vehicle, other than a motor home, a walk-in van-type truck, or a vehicle designed to be sold exclusively to the U.S. Postal Service with a GVWR of 10,000 lbs. (4,536 kg) or less, or a vehicle carrying chassis-mount camper with a gross vehicle weight rating of 8,500–10,000 lbs. (3,855–4,536 kg), shall be equipped with a Type 2 seat belt assembly at every rear designated seating position other than a side-facing position, except that Type 2 seat belt assemblies installed in compliance with this requirement shall conform to Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in conformity to this requirement incorporates any webbing tension-relieving device, the vehicle owner's manual shall include the information specified in S7.4.2(b) of this standard for the tension relieving device, and the vehicle shall conform to S7.4.2(c) of this standard. Side-facing designated seating positions shall be equipped, at the manufacturer's option, with a Type 1 or Type 2 seat belt assembly that conforms with S7.1 and S7.2 of this standard.

S4.2.7.2 Any rear designated seating position with a seat that can be adjusted to be forward-or rear-facing and to face some other direction shall either:

(a) Meet the requirements of S4.2.7.1 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(b) When the seat is in its forward-facing and/or rear-facing position or within  $\pm 30$  degrees of either position, have a Type 2 seat belt assembly with an upper torso restraint that conforms to S7.1 and S7.2 of this standard and that adjusts by means of an emergency locking retractor that conforms to Standard No. 209 (49 CFR 571.209), which upper torso restraint may be detachable at either the buckle or the upper anchorage, but not both, and, when the seat is in any other position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.2.7.3 Any rear designated seating position on a readily removable seat (i.e., a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) may meet the requirements of S4.2.7.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.2.7.4 Any inboard designated seating position on a seat for which the entire seat back can be folded such that no part of the seat back extends above a horizontal plane located 250 mm above the highest SRP located on the seat may meet the requirements of S4.2.7.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.2.7.5 Any rear designated seating position adjacent to a walkway located between the seat and the side of the vehicle, which walkway is designed to allow access to more rearward designated seating positions may meet the requirements of S4.2.7.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.2.7.6 Any rear side-facing designated seating position shall have a Type 1 or Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

\* \* \* \* \*

S4.4.5 *Buses with a GVWR of 10,000 lbs. (4,536 kg) or less manufactured on or after September 1, 2007.*

S4.4.5.1 Except as provided in S4.4.5.2, S4.4.5.3, S4.4.5.4, S4.4.5.5 and S4.4.5.6 each bus with a gross vehicle weight rating of 10,000 lbs. (4,536 kg) or less shall be equipped with a Type 2 seat belt assembly at every designated seating position other than a side-facing position. Type 2 seat belt assemblies installed in compliance with this requirement shall conform to Standard No. 209 (49 CFR 571.209) and with S7.1 and S7.2 of this standard. If a Type 2 seat belt assembly installed in compliance with this requirement incorporates a webbing tension relieving device, the vehicle owner's manual shall include the information specified in S7.3.1(b) of this standard for the tension relieving device, and the vehicle shall conform to S7.4.2(c) of this standard. Side-facing designated seating positions shall be equipped, at the manufacturer's option, with a Type 1 or Type 2 seat belt assembly.

S4.4.5.2 Any rear designated seating position with a seat that can be adjusted to be forward- or rear-facing and to face some other direction shall either:

(a) Meet the requirements of S4.4.5.1 with the seat in any position in which it can be occupied while the vehicle is in motion; or

(b) (1) When the seat is in its forward-facing and/or rear-facing position, or

within  $\pm 30$  degrees of either position, have a Type 2 seat belt assembly with an upper torso restraint that

(i) Conforms to S7.1 and S7.2 of this standard,

(ii) Adjusts by means of an emergency locking retractor conforming to Standard No. 209 (49 CFR 571.209), and

(iii) May be detachable at the buckle or upper anchorage, but not both, and

(2) When the seat is in any position in which it can be occupied while the vehicle is in motion, have a Type 1 seat belt or the pelvic portion of a Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

S4.4.5.3 Any rear designated seating position on a readily removable seat (that is, a seat designed to be easily removed and replaced by means installed by the manufacturer for that purpose) may meet the requirements of S4.4.5.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.4.5.4 Any inboard designated seating position on a seat for which the entire seat back can be folded such that no part of the seat back extends above a horizontal plane located 250 mm above the highest SRP located on the seat may meet the requirements of S4.4.5.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.4.5.5 Any rear designated seating position adjacent to a walkway located between the seat, which walkway is designed to allow access to more rearward designated seating positions, and not adjacent to the side of the vehicle may meet the requirements of S4.4.5.1 by use of a belt incorporating a release mechanism that detaches both the lap and shoulder portion at either the upper or lower anchorage point, but not both. The means of detachment shall be a key or key-like object.

S4.4.5.6 Any rear side-facing designated seating position shall have a Type 1 or Type 2 seat belt assembly that conforms to S7.1 and S7.2 of this standard.

\* \* \* \* \*

S4.5.5 *Rear seat belt requirements for passenger cars and for trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,536 kg (10,000 lbs.) or less.*

S4.5.5.1 *Vehicles manufactured on or after September 1, 2005 and before September 1, 2007.*

(a) For vehicles manufactured for sale in the United States on or after September 1, 2005, and before September 1, 2007, a percentage of the manufacturer's production as specified in S4.5.5.2, shall meet the requirements specified in either S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks and multipurpose passenger vehicles, or S4.4.5 for complying buses.

(b) A manufacturer that sells two or fewer carlines, as that term is defined at 49 CFR 583.4, in the United States may, at the option of the manufacturer, meet the requirements of this paragraph, instead of paragraph (a) of this section. Each vehicle manufactured on or after September 1, 2006, and before September 1, 2007, shall meet the requirements specified in S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks & multipurpose passenger vehicles, and S4.4.5 for complying buses. Credits for vehicles manufactured before September 1, 2006 are not to be applied to the requirements of this paragraph.

(c) Vehicles that are manufactured in two or more stages or that are altered (within the meaning of 49 CFR 567.7) after having previously been certified in accordance with part 567 of this chapter are not subject to the requirements of S4.5.5.1.

(d) Vehicles that are manufactured by a manufacturer that produces fewer than 5,000 vehicles annually for sale in the United States are not subject to the requirements of S4.5.5.1.

S4.5.5.2 *Phase-in schedule.*

(a) *Vehicles manufactured on or after September 1, 2005, and before September 1, 2006.* Subject to S4.5.5.3(a), for vehicles manufactured on or after September 1, 2005, and before September 1, 2006, the amount of vehicles complying with S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks and multipurpose passenger vehicles, or S4.4.5 for complying buses shall be not less than 50 percent of:

(1) If the manufacturer has manufactured vehicles for sale in the United States during both of the two production years immediately prior to September 1, 2005, the manufacturer's average annual production of vehicles manufactured on or after September 1, 2003, and before September 1, 2006, or

(2) The manufacturer's production on or after September 1, 2005, and before September 1, 2006.

(b) *Vehicles manufactured on or after September 1, 2006, and before September 1, 2007.* Subject to S4.5.5.3(b), for vehicles manufactured on or after September 1, 2006, and

before September 1, 2007, the amount of vehicles complying with S4.1.5.5 for complying passenger cars, S4.2.7 for complying trucks and multipurpose passenger vehicles, or S4.4.5 for complying buses shall be not less than 80 percent of:

(1) If the manufacturer has manufactured vehicles for sale in the United States during both of the two production years immediately prior to September 1, 2006, the manufacturer's average annual production of vehicles manufactured on or after September 1, 2004, and before September 1, 2007, or

(2) The manufacturer's production on or after September 1, 2006, and before September 1, 2007.

S4.5.5.3 *Calculation of complying vehicles.*

(a) For the purposes of complying with S4.5.5.2(a), a manufacturer may count a vehicle if it is manufactured on or after February 7, 2005, but before September 1, 2006.

(b) For the purposes of complying with S4.5.5.2(b), a manufacturer may count a vehicle if it:

(1) Is manufactured on or after February 7, 2005, but before September 1, 2007, and

(2) Is not counted toward compliance with S4.5.5.2(a).

S4.5.5.4 *Vehicles produced by more than one manufacturer.*

(a) For the purpose of calculating average annual production of vehicles for each manufacturer and the number of vehicles manufactured by each manufacturer under S4.5.5.2, a vehicle produced by more than one manufacturer shall be attributed to a single manufacturer as follows, subject to paragraph (b) of this section.

(1) A vehicle that is imported shall be attributed to the importer.

(2) A vehicle manufactured in the United States by more than one manufacturer, one of which also markets the vehicle, shall be attributed to the manufacturer that markets the vehicle.

(b) A vehicle produced by more than one manufacturer shall be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under paragraph (a) of this section.

■ 4. Section 571.225 is amended by revising S13.1.2(c), S14.2.2, and S16.3.2 to read as follows:

**§ 571.225 Standard No. 225; Child restraint anchorage systems.**

\* \* \* \*

**S13.1.2 \* \* \***

(c) A vehicle produced by more than one manufacturer must be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S13.1.2(a) or (b).

\* \* \* \*

S14.2.2 A vehicle produced by more than one manufacturer must be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S14.2.1.

\* \* \* \*

S16.3.2 A vehicle produced by more than one manufacturer must be attributed to any one of the vehicle's manufacturers specified by an express written contract, reported to the National Highway Traffic Safety Administration under 49 CFR part 585, between the manufacturer so specified and the manufacturer to which the vehicle would otherwise be attributed under S16.3.1.

\* \* \* \*

**PART 585—PHASE-IN REPORTING REQUIREMENTS****Subpart A—General**

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

■ 5. Part 585 is revised to read as follows:

**Subpart A—General****§ 585.1 Definitions.**

(a) All terms defined in 49 U.S.C. 30102 are used in accordance with their statutory meaning.

(b) The terms *bus*, *gross vehicle weight rating* or *GVWR*, *motor vehicle*, *multipurpose passenger vehicle*, *passenger car*, and *truck* are used as defined in § 571.3 of this chapter.

(c) *Production year* means the 12-month period between September 1 of one year and August 31 of the following year, inclusive, unless otherwise specified.

**§ 585.2 Phase-in reports.**

Each report submitted to NHTSA under this part shall:

(a) Identify the manufacturer;

(b) State the full name, title, and address of the official responsible for preparing the report;

(c) Identify the production year being reported on;

(d) Contain a statement regarding whether or not the manufacturer complied with the requirements of the Federal motor vehicle safety standard addressed by the report, for the period covered by the report, and the basis for that statement;

(e) Be written in the English language; and

(f) Be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590.

**§ 585.3 Vehicles produced by more than one manufacturer.**

Each manufacturer whose reporting of information is affected by one or more of the express written contracts permitted by a Federal Motor Vehicle Safety Standard subject to the reporting requirements of this part shall:

(a) Report the existence of each contract, including the names of all parties to the contract and explain how the contract affects the report being submitted.

(b) Report the number of vehicles covered by each contract in each production year.

**§ 585.4 Petitions to extend period to file report.**

A petition for extension of the time to submit a report required under this part shall be received not later than 15 days before the report is due. The petition shall be submitted to: Administrator, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590. The filing of a petition does not automatically extend the time for filing a report. A petition will be granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest.

**Subpart B—Advanced Air Bag Phase-in Reporting Requirements****§ 585.11 Scope.**

This subpart establishes requirements for manufacturers of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg or less and an unloaded vehicle weight of 2,495 kg or less to submit reports, and maintain records related to the reports, concerning the number and identification of such vehicles that are certified as complying with the advanced air bag requirements of Standard No. 208, *Occupant crash protection* (49 CFR 571.208).

**§ 585.12 Purpose.**

The purpose of these reporting requirements is to aid the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with the advanced air bag requirements of Standard No. 208 during the phase-ins of those requirements.

**§ 585.13 Applicability.**

This subpart applies to manufacturers of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg or less and an unloaded vehicle weight of 2,495 kg or less. However, this subpart does not apply to any manufacturers whose

production consists exclusively of walk-in vans, vehicles designed to be sold exclusively to the U.S. Postal Service, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter. In addition, this subpart does not apply to manufacturers whose production of motor vehicles for the United States market is less than 5,000 vehicles in a production year.

#### **§ 585.14 Definitions.**

For the purposes of this subpart,

(a) *Phase one of the advanced air bag requirements of Standard No. 208* refers to the requirements set forth in S14.1, S14.2, S14.5.1(a), S14.5.2, S15.1, S15.2, S17, S19, S21, S23, and S25 of Federal Motor Vehicle Safety Standard No. 208, 49 CFR 571.208.

(b) *Phase two of the advanced air bag reporting requirements of Standard No. 208* refers to the requirements set forth in S14.3, S14.4, S14.5.1(b), S14.5.2, S15.1, S15.2, S17, S19, S21, S23, and S25 of Federal Motor Vehicle Safety Standard No. 208, 49 CFR 571.208.

(c) *Vehicles* means passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 3,855 kg or less and an unloaded vehicle weight of 2,495 kg or less manufactured for sale in the United States whose production of motor vehicles for sale in the United States is equal to or greater than 5,000 vehicles in a production year, and does not mean walk-in vans, vehicles designed to be sold exclusively to the U.S. Postal Service, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter.

#### **§ 585.15 Reporting requirements.**

(a) *Advanced credit phase-in reporting requirements.* (1) Within 60 days after the end of production years ending August 31, 2000, August 31, 2001, August 31, 2002, and August 31, 2003, each manufacturer choosing to certify vehicles manufactured during any of those production years as complying with phase one of the advanced air bag requirements of Standard No. 208 shall submit a report to the National Highway Traffic Safety Administration providing the information specified in paragraph (c) of this section and in § 585.2 of this part.

(2) Within 60 days after the end of the production year ending August 31, 2007, each manufacturer choosing to certify vehicles manufactured during that production year as complying with phase two of the advanced air bag

requirements of Standard No. 208 shall submit a report to the National Highway Traffic Safety Administration providing the information specified in paragraph (c) of this section and in § 585.2 of this part.

(b) *Phase-in reporting requirements.*

(1) Within 60 days after the end of the production years ending August 31, 2004, August 31, 2005, and August 31, 2006, each manufacturer shall submit a report to the National Highway Traffic Safety Administration regarding its compliance with phase one of the advanced air bag requirements of Standard No. 208 for its vehicles produced in that production year. The report shall provide the information specified in paragraph (d) of this section and in § 585.2 of this part. Each report shall also specify the number of advance credit vehicles, if any, which are being applied to the production year being reported on.

(2) Within 60 days after the end of production years ending August 31, 2008, August 31, 2009, and August 31, 2010, each manufacturer shall submit a report to the National Highway Traffic Safety Administration regarding its compliance with phase two of the advanced air bag requirements of Standard No. 208 for its vehicles produced in that production year. The report shall provide the information specified in paragraph (d) of this section and in § 585.2 of this part. Each report shall also specify the number of advance credit vehicles, if any, which are being applied to the production year being reported on.

(c) *Advanced credit phase-in report content.* (1) With respect to the reports identified in section 585.15(a)(1), each manufacturer shall report for the production year for which the report is filed the number of vehicles, by make and model year, that meet the applicable advanced air bag requirements of Standard No. 208, and to which advanced air bag requirements the vehicles are certified.

(2) With respect to the report identified in section 585.15(a)(2), each manufacturer shall report the number of vehicles, by make and model year, that meet the applicable advanced air bag requirements of Standard No. 208, and to which the advanced air bag requirements the vehicles are certified.

(d) *Phase-in report content.* (1) Basis for phase-in production requirements. For production years ending August 31, 2003, August 31, 2004, August 31, 2005, August 31, 2007, August 31, 2008, and August 31, 2009, each manufacturer shall provide the number of vehicles manufactured in the current production year, or, at the manufacturer's option,

for the current production year and each of the prior two production years if the manufacturer has manufactured vehicles during both of the two production years prior to the year for which the report is being submitted.

(2) *Production of complying vehicles.* Each manufacturer shall report for the production year for which the report is filed the number of vehicles, by make and model year, that meet the applicable advanced air bag requirements of Standard No. 208, and to which advanced air bag requirements the vehicles are certified.

#### **§ 585.16 Records.**

Each manufacturer shall maintain records of the Vehicle Identification Number of each vehicle for which information is reported under § 585.15(c)(1) and (d)(2) until December 31, 2011.

### **Subpart C—Rear Inboard Lap/Shoulder Belt Phase-In Reporting Requirements**

#### **§ 585.21 Scope.**

This subpart establishes requirements for manufacturers of passenger cars and for trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,536 kg (10,000 lb) or less to submit reports, and maintain records related to the reports, concerning the number and identification of such vehicles that are certified as complying with the Type 2 seat belt requirements for rear seating positions of Standard No. 208, *Occupant crash protection* (49 CFR 571.208).

#### **§ 585.22 Purpose.**

The purpose of these reporting requirements is to assist the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with the Type 2 seat belt requirements for rear seating positions of Standard No. 208.

#### **§ 585.23 Applicability.**

This subpart applies to manufacturers of passenger cars and trucks, buses, and multipurpose passenger vehicles with a GVWR of 4,536 kg or less. However, this subpart does not apply to any manufacturers whose production consists exclusively of walk-in vans, vehicles designed to be sold exclusively to the U.S. Postal Service, vehicles manufactured in two or more stages, and vehicles that are altered after previously having been certified in accordance with part 567 of this chapter. In addition, this subpart does not apply to manufacturers whose worldwide production of motor vehicles is less than 5,000 vehicles in a production year.

**§ 585.24 Reporting requirements.**

(a) *Advanced credit phase-in reporting requirements.* Within 60 days after the end of the production year ending August 31, 2005, each manufacturer choosing to certify vehicles manufactured during that production year as complying with the Type 2 seat belt for each rear designated seating position requirements of Standard No. 208 shall submit a report to the National Highway Traffic Safety Administration providing the information specified in paragraph (c) of this section and in § 585.2 of this part.

(b) *Phase-in reporting requirements.* Within 60 days after the end of the production years ending August 31, 2006, and August 31, 2007, each manufacturer shall submit a report to the National Highway Traffic Safety Administration regarding its compliance with the Type 2 seat belt for each rear designated seating position requirements of Standard No. 208 for its vehicles produced in that production year. The report shall provide the information specified in paragraph (d) of this section and in § 585.2 of this part. Each report shall also specify the number of advance credit vehicles, if any, which are being applied to the production year being reported on.

(c) *Advanced credit phase-in report content.* With respect to the reports identified in section 585.24(a), each manufacturer shall report for the production year for which the report is filed the number of vehicles, by make and model year, that meet the applicable Type 2 seat belt for each rear designated seating position requirements of Standard No. 208.

(d) *Phase-in report content.* (1) *Basis for phase-in production requirements.* For production years ending August 31, 2006, and August 31, 2007, each manufacturer shall provide the number of vehicles manufactured in the current production year, or, at the manufacturer's option, for the current production year and each of the prior two production years if the manufacturer has manufactured vehicles during each production year prior to the year for which the report is being submitted.

(2) *Production of complying vehicles.* Each manufacturer shall report for the production year for which the report is filed the number of vehicles, by make and model year, that meet the applicable Type 2 seat belt for each rear designated seating position requirements of Standard No. 208.

**§ 585.25 Records.**

Each manufacturer shall maintain records of the Vehicle Identification

Number of each vehicle for which information is reported under § 585.24(c) and (d)(2) until December 31, 2008.

**Subpart D—Child Restraint Anchorage System Phase-In Reporting Requirements****§ 585.31 Scope.**

This subpart established requirements for manufacturers of passenger cars and of trucks and multipurpose passenger vehicles with a GVWR of 3,855 kg or less, and of buses with a GVWR of 4,536 kg or less, to submit a report, and maintain records related to the report, concerning the number of such vehicles that meet the requirements of Standard No. 225, *Child restraint anchorage systems* (49 CFR 571.225).

**§ 585.32 Purpose.**

The purpose of these reporting requirements is to assist the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with Standard No. 225.

**§ 585.33 Applicability.**

This subpart applies to manufacturers of passenger cars, and of trucks and multipurpose passenger vehicles with a GVWR of 3,855 kg or less, and of buses with a GVWR of 4,536 kg or less. However, this subpart does not apply to vehicles excluded by S5 of Standard No. 225 from the requirements of the standard.

**§ 585.34 Response to inquiries.**

At any time during the production years ending August 31, 2000, August 31, 2001, August 31, 2002, and August 31, 2005 each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model and vehicle identification number) that have been certified as complying with Standard No. 225. The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

**§ 585.35 Reporting requirements.**

(a) *General reporting requirements.* Within 60 days after the end of the production years ending August 31, 2000, August 31, 2001, and August 31, 2002, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with the child restraint anchorage system requirements of Standard No. 225 for its passenger cars, trucks, buses, and multipurpose passenger vehicles produced in that year. The report shall provide the information specified in paragraph (b) of this section and in § 585.2 of this part.

(b) *Report content.* (1) *Basis for phase-in production goals.* Each manufacturer shall provide the number of passenger cars and trucks and multipurpose passenger vehicles with a GVWR of 3,855 kg or less, and buses with a GVWR of 4,536 kg or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the current production year. A new manufacturer that has not previously manufactured these vehicles for sale in the United States shall report the number of such vehicles manufactured during the current production year.

(2) *Production.* (i) Each manufacturer shall report for the production year for which the report is filed, except for the production year ending August 31, 2005: the number of passenger cars and trucks and multipurpose passenger vehicles with a GVWR of 3,855 kg or less, and buses with a GVWR of 4,536 kg or less, that meet Standard No. 225.

(ii) Each manufacturer shall report for the production year ending August 31, 2005: the number of passenger cars and trucks and multipurpose passenger vehicles with a GVWR of 3,855 kg or less, and buses with a GVWR of 4,536 kg or less, that meet S6.3.1 and S9.4 of Standard No. 225.

**§ 585.36 Records.**

Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 585.35(b)(2)(i) until December 31, 2004. Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 585.35(b)(2)(ii) until December 31, 2007.

**Subpart E—Fuel System Integrity Phase-In Reporting Requirements****§ 585.41 Scope.**

This subpart establishes requirements for manufacturers of passenger cars, multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg (10,000 lb) or less to respond to NHTSA inquiries, to submit reports, and to maintain records related to the reports, concerning the number of such vehicles that meet the upgraded requirements of Standard No. 301, *Fuel systems integrity* (49 CFR 571.301).

**§ 585.42 Purpose.**

The purpose of these requirements is to assist the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with the upgraded requirements of Standard No. 301.



**§ 585.43 Applicability.**

This subpart applies to manufacturers of passenger cars, multipurpose vehicles, trucks and buses with a GVWR of 4,536 kg or less.

**§ 585.44 Response to inquiries.**

During the production years ending August 31, 2007, August 31, 2008, and August 31, 2009, each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the vehicles (by make, model, and vehicle identification number) that have been certified as complying with the requirements of S6.2(b) of Standard No. 301. The manufacturer's designation of a vehicle as a certified vehicle is irrevocable.

**§ 585.45 Reporting requirements.**

(a) *General reporting requirements.* Within 60 days after the end of the production years ending August 31, 2007, August 31, 2008 and August 31, 2009, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with S6.2(b) of Standard No. 301 for its passenger cars, multipurpose passenger vehicles, trucks, and buses with a GVWR of less than 4,536 kg produced in that year. Each report shall provide the information specified in paragraph (b) of this section and in section 585.2 of this part.

(b) *Report content.* (1) Basis for statement of compliance. Each manufacturer shall provide the number of passenger cars, multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the previous production year. A new manufacturer that has not previously manufactured these vehicles for sale in the United States must report the number of such vehicles manufactured during the current production year.

(2) Production. Each manufacturer shall report for the production year for which the report is filed the number of passenger cars, multipurpose passenger vehicles, trucks, and buses with a GVWR of 4,536 kg or less that meet S6.2(b) or S6.3(b) of Standard No. 301.

**§ 585.46 Records.**

Each manufacturer shall maintain records of the Vehicle Identification Number for each vehicle for which information is reported under § 585.45(b)(2) until December 31, 2010.

**Subpart F—Tires for Motor Vehicles with a GVWR of 10,000 Pounds or Less Phase-In Reporting Requirements****§ 585.51 Scope.**

This subpart establishes requirements for manufacturers of new pneumatic tires for motor vehicles with a GVWR of 4,536 kg (10,000 lb) or less to respond to NHTSA inquiries, to submit reports, and to maintain records related to the reports, concerning the number of such tires that meet the requirements of Standard No. 139, *New pneumatic tires for light vehicles* (49 CFR 571.139).

**§ 585.52 Purpose.**

The purpose of these requirements is to assist the National Highway Traffic Safety Administration in determining whether a manufacturer has complied with the requirements of Standard No. 139.

**§ 585.53 Applicability.**

This subpart applies to manufacturers of tires for motor vehicles with a GVWR of 4,536 kg or less.

**§ 585.54 Response to inquiries.**

Each manufacturer shall, upon request from the Office of Vehicle Safety Compliance, provide information identifying the tires (by make, model, brand and tire identification number) that have been certified as complying with the requirements of Standard No. 139. The manufacturer's designation of a tire as a certified tire is irrevocable.

**§ 585.55 Reporting requirements.**

(a) *General reporting requirements.* Within 60 days after the end of the production years ending August 31, 2006 and August 31, 2007, each manufacturer shall submit a report to the National Highway Traffic Safety Administration concerning its compliance with Standard No. 139 for its tires produced in that year for motor vehicles with a GVWR of 4,536 kg or less. Each report shall provide the information specified in paragraph (b) of this section and in section 585.2 of this part.

(b) *Report content.* (1) Basis for statement of compliance. Each manufacturer shall provide the number of tires for motor vehicles with a GVWR of 4,536 kg or less manufactured for sale in the United States for each of the three previous production years, or, at the manufacturer's option, for the production year for which the report is filed. A new manufacturer that has not previously manufactured these tires for sale in the United States shall report the number of such tires manufactured during the current production year.

(2) Production. Each manufacturer shall report for the production year for which the report is filed the number of new pneumatic tires for motor vehicles with a GVWR of 4,536 kg or less that meet Standard No. 139.

**§ 585.56 Records.**

Each manufacturer shall maintain records of the tire identification number for each vehicle for which information is reported under § 585.55(b)(2) until December 31, 2008.

**PART 586—[REMOVED AND RESERVED]**

■ 7. Part 586 is removed and the part is reserved.

**PART 589—[REMOVED AND RESERVED]**

■ 8. Part 589 is removed and the part is reserved.

**PART 590—[REMOVED AND RESERVED]**

■ 9. Part 590 is removed and the part is reserved.

**PART 596—[REMOVED AND RESERVED]**

■ 10. Part 596 is removed and the part is reserved.

**PART 597—[REMOVED AND RESERVED]**

■ 11. Part 597 is removed and the part is reserved.

Jeffrey W. Runge,  
Administrator.

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**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****50 CFR Part 648**

[Docket No. 041018283-4340-02; I.D. 102204C]

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**Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) Provisions; Fisheries of the Northeastern United States; Northeast (NE) Multispecies Fishery**

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